

THE DEVELOPMENT OF CHILD CUSTODY REGULATION IN INDONESIAN DIVORCE LAW

Anjar S C Nugraheni
Setiono, SH MS
Burhanuddin Harahap, PhD
Kukuh Tejomurti

ABSTRACT

Divorce in Indonesia currently ranks highest among countries in the Asia Pacific. This issue raises many problems. One of the cases is regarding the sustainability of the implementation of parent's obligation especially the child custody holder for children whose parents divorced. Based on this fact, this article will address the Indonesian regulation regarding child custody whose parents are divorced and its development. This research was conducted in the doctrinal method. The type of data used is secondary data including laws, judge's decisions, reports of foregoing research and books. The data collection tools use a literature study. The analysis techniques use interactive analysis. The results of the research showed that parental power does not end with a divorce. The Judge usually determines the mother as the custody holder for a little child while for children who have been able to make their own choices, the child can choose to join the mother or father. The development shows a shift nowadays. Many insist that the choice of custody holder is not only based on sex but must be more emphasized on the willingness and ability of the parent.

Key Words: Development, Child Custody, Divorce Law.

INTRODUCTION

The Convention on the Rights of the Child (CRC) attempted to protect child rights relating to every possible area (Ekanayaka, 2017). The implementation of this regulation in the aspect of family law includes protection of children in the family, protection of children in divorced families, protection of children who are separated from their families, etc. This protection is important to ensure the fulfillment of children's basic rights.

In a divorced family, the fulfillment of children's basic rights can be disrupted. Unfortunately, divorce rates in Indonesia are increasing annually. Nowadays, the divorce rate in Indonesia ranks highest among countries in the Asia Pacific.

These conditions generate many troubles. One of the cases is regarding the sustainability of the implementation of parent's obligation especially the child custody holder for children whose parents divorced. Determination of child custody holder for children is often a difficult issue to decide in a divorce case. (Nawi & Hashim, 2010)

The norm in Indonesian legislation, under Article 45 of Law No. 1 of 1974 concerning Marriage (Marriage Law), it is regulated that the obligation of parents to take care of the children still continues despite the marriage of both parents which breaking up due to reason, one of which is divorce. The case of divorce, Article 41 of the Marriage Law stated that any case of child custody dispute should be settled by the court.

The article remains uncertain to regulate child custody. If there is no dispute of child custody then who actually mandated by law to take care of the child after the divorce. If there is a dispute of child custody then what will be used as an indicator/consideration by the judge to determine the child custody holder by the judge.

Based on the issue, this article will address the regulation of child custody in Indonesia in the divorce case and its development till now.

METHOD

This research uses a doctrinal and comparative approach. Doctrinal approach is to study and find the philosophy, the aim, the principle and the norm form the regulations. Comparative approach is necessary to know how the role, paradigm, and law in some countries. The types of data used are secondary data namely primarily and secondary material. Data are includes the Marriage Law, Government Regulation concerning Marriage, Compilation of Islamic Law, CRC, Presidential Decree Number 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child, Jurisprudence, foregoing research and books. Data collection tools use a literature study. Validity technique uses data triangulation. Analysis technique uses interpretation and interactive analysis. Interpretation based on legal hermeneutic.

DISCUSSION

Indonesian Regulation Regarding Divorce And Custodial Parents

Based on Article 38 of the Marriage Law, a marriage in Indonesia is possible to be terminated due to death, divorce, or the decision of the court. Among the three methods, the most common cause of the legal issue and must be given an alternative solution is the termination of marriage through divorce. Divorce procedures in Indonesia are carried out in the District Court

(DC) for non-Muslim citizens, while for Muslim citizens, the divorce process is carried out in Sharia Court (SC). Divorce claims in Indonesia can be submitted by one party, either the husband or wife, which later referred to as the plaintiff. The plaintiff makes a lawsuit containing the reasons and matters requested to the judge. During the first hearing, the judge will offer peace settlement if both parties are present. If in the trial, peace has not been reached, the judge will appoint a mediator to mediate the husband and wife. If this mediation attempt fails, the proceedings of the divorce case will proceed.

Procedures of dispute resettlement over divorce cases are conducted through the process of answering, verifying, and submitting conclusions from the parties. After hearing the opinions of both parties, the judge will give the verdict. If the plaintiff is not present at the hearing, the judge will reject the claim, but if the defendant is not present at the hearing, the judge may decide without the presence of the defendant.

As stated above, regulation regarding divorce is regulated in the Marriage Law. In addition, Indonesian citizens who are Muslim must also follow the provisions stipulated in Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI).

Regulations concerning divorce can be found in the two regulations and in particular, the regulation regarding divorce consequences can be found in Article 41 of the Marriage Law and Article 156 KHI.

According to Marriage Law, the obligation of parents is not terminated by the divorce. The obligation to educate and take care of children is carried out jointly by both parents, but the child maintenance obligation is under the responsibility of the father. This is somewhat different from the regulation in KHI. In KHI, there is a more explicit division of roles between parents, such father as the child maintenance holder while mother as the custodial parents until the child is 12 years old. After the child is 12 years old, the child can choose who is the custodial parents.

Under the proceeding of the court, the provisions are generally applied if there is an application from the parties. In SC, for children under the age of 12, child custody is usually given to mothers. While in DC, for children under the age of five, child custody is also given to the mother, but remain uncertain in regard to the age limit for children to be considered underage.

Briefly, based on the customs in the court and the provisions of the law, there is nothing wrong, but there are actually problems that should not have appeared. In Indonesia, custodial parents are identified as parents' power holders. This brings consequences for the custodial parents to carry out parental obligations such as the obligation to educate, provide safeguard property and represent children in legal acts both inside and outside the court. Custodial parents who usually carry out all parental responsibility with very little involvement from non-custodial parents. The very minimal forms of involvement such as paying/buying children's needs at certain times such as during the new school year by paying school entrance fees or buying school supplies or when the child having a birthday by buying a motorcycle, shoes, clothes, or other.

This role of parents that have been reduced in the daily life of the child, according to Nye, is the cause of deviant behavior among children (Shoemaker, 2009).

On the other hand, the custom of the court above was questioned because the indicators used to determine the custodial parents were as if only by sex. Therefore Fanani suggested that the indicator of child custody holders is not solely based on gender but rather on the ability and willingness of the parties (Fanani, 2015). This is known as a gender-neutral approach.

The obligation of a parent terminates after the child is independent or married. Child independence is interpreted differently between judges in DC and SC. In DC, a child is declared independent after he is over 18 years of age. This is based on Article 47 of Marriage Law. While in SC, the child is declared independent after the child is 21 years old. This is based on Article 98 of KHI.

With the termination of parent's obligation, parents are not obliged to provide child's needs and need not to represent the child either in court or outside of court because the child has considered competent before the law.

The regulation is quite well-arranged, but regulation in legislation is a general norm which cannot be immediately implemented if it is not converted into individual norm (Friedman, 1975).

The conversion of the general norm into individual norm could be conducted by specifically mentioning in the judge's decision. Therefore, in the judge's decision regarding divorce should contain legal certainty about the continuity of all parties' fate involved in the case, without any request. The parties involved in a divorce case are not only husband and wife but also if there are any children in the family, the child shall become a party which has different interests with the husband/father and wife/mother. Therefore, there are 3 (three) parties in a divorce case (Nugraheni, Setiono, Harahap, & Tejomurti, 2017).

Another problem is in formal law. In making a decision, the judge must comply with the provisions and principles in formal law. One principle in Indonesian formal law is the principle of passive judges who determine that the scope of the dispute is determined by the parties. The implementation of this principle is if the parties only submit a divorce application and do not submit a request for custody, then the judge will only give a decision regarding the granting or not being granted the divorce and will not give any decision regarding custody. While on the other hand, many people do not demand child custody in their divorce lawsuit. The fate of children is left without any clarity and certainty of law. In this case, if there is research which finds that the judge's decision about divorce does not contain legal certainty about children's rights, it is understandable based on procedural

justice. However, based on substantial justice, this is unfair in the sense of justice, especially for children and in general, for the community.

Opinions stating that if there is a dispute over child custody, the claim can be submitted after the decision of the parents' divorce. However, this is not in accordance with the principle in formal law, such as the principle of simple, fast and low cost, and the principle of best interest for the child. In order to implement the simple, fast, and low-cost principles, decisions should about child custody be established along with decisions about the parents' marital status.

In the view based on the principle of the best interest for children, as stipulated in Article 3 of the CRC ratified by Indonesia through Presidential Decree No. 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child, the determination of custodial parents is decided along with the divorce decision which show strong point of the child's law position.

Comparative Analysis with Other Jurisdictions

In Australia, divorce submissions are carried out online and can be submitted jointly or by one of the parties. Submissions can be made after the party has a certificate from an alternative practitioner of registered family dispute resolution as proof he/she has tried to resolve disputes in non-litigation but failed. If the application to divorce is submitted jointly, it is called a joint application and both parties are referred to as joint applicants, whereas if it is only submitted by one party it is called the sole applicant and the party submitting is called the applicant while the other party is called the respondent. If the respondent does not agree to divorce then he/she can fill the response to divorce. If one of the parties in the joint applicant's object of a fact then he can also answer using the response to divorce.

If the joint application for divorce is requested, the parties need not present at the hearing. If it is a sole application request and there is a child under the age of 18, the applicant must attend the trial. If the respondent does not send a response to divorce or he responds but does not object to the divorce application then the respondent does not need to be present at the hearing, if the respondent answers and he gives information contrary to the request then he must attend the trial. (Australia, 2016)

The divorce decision in Australia only contains the termination of marriage and does not at the current time contain the property of marriage or the maintenance of children. However, before being able to submit a divorce application, the party who filed must fill in some information first. It is encompassed legal advice, children, services, addresses (can't locate your spouse), an attendant at court, etc.

The child information requested is related to the parent's plan about the child (parenting plan). The contents of this parenting plan include the house where the child lives if not in school, care arrangements, education: level and progress (schooling - grade and progress), the health of the child, communication with the father/mother and if there is no contact, why? (contact with father/mother and if no contact, why?), who bears the maintenance of the child? (financial support provided by the father/mother if not, why not?). This information is to be filled in part F of the divorce request. The judge will not grant a divorce request if there is no proper parenting plan for child/children. (Australia, 2018)

After the divorce application is approved, if the parties want to make arrangements regarding the issue of child/childcare, they can make a consent order and submit it to the court or request for a court order if no agreement is reached. (Government, 2019) More detailed arrangements regarding child custody in the Australian legal system can be found on the 2006 Family Law Amendment Act. This law is an amendment of the Family Law Reform Act 1995 which is a change from Law Number 53 of 1975 concerning family law (Family Law Act 1975/FLA).

Australian family law establishes child-related regulation based on the concept of "*All matters pertaining to children are determined to be 'live with' and 'spend time with'*". If there is a dispute regarding the parenting plan, should the Court which legally obliged to decide with whom the child lives and with whom to spend time based on the best interest of the child/ren. (Lawyers, 2015)

Courts decide on child custody, child shelter, and the continuation of the residence rights of children and ongoing financial support of children. This applies equally to children born to official parent marriages, cohabitation, same-sex couples or adoptive). (Trotman, n.d.)

Custody rights in Australia are distinguished between physical custody and legal custody. Physical custody is the right to live and spend time with children. While legal custody is the right to make decisions related to children's interests such as decisions about education, religion, schools to be followed, health services needed/taken, etc. With this meaning, there are several variations of care, namely sole custody for physical and legal custody, single custody for physical but joint for legal custody, single custody for legal but joint for physical custody and joint custody care for both physical and legal custody. (Proceedings, 2009).

Sole custody is when parents have sole control over their child or children. Sole custody is given to one parent when the court considers the other parent is inappropriate, unwilling, or not exist.

Joint custody is given by the judge if both parents are present and have the desire to care for their child or children. In practice, it can be done by giving visiting rights or the child spends several days a week in one parent's house and the rest of the week in the other parent's house. At joint physical and legal custody, shared decision making and shared care time occur.

The duration of time that parents and children spend is a consideration to determine the number of child rights to be paid by the parent. The longer time with the child, the less to bear the right of maintenance for the child. The relationship between the duration of care with the number of child rights that must be borne can be seen in the table below.

Table 1. The relation between the percentage of care and cost percentage in Australia

Percentage of Care	Cost percentage
0 to less than 14%	Nil
14% to less than 35%	24%
35% to less than 48%	25% plus 2% for each percentage point over 35
48% to 52%	50%
More than 52% to 65%	51% plus 2% for each percentage point over 53%
More than 65% to 86%	76%
More than 86% to 100%	100%

Source: <http://guides.dss.gov.au/child-support-guide/2/4/2#coststable>

Remarks: rounding is carried out as follows, if the number behind the comma is greater than 50 then it is rounding down while if the number behind the comma is smaller than the number 50 then rounding is upwards. Examples:

- A percentage of care of 11% equates to a cost percentage of 0%.
- A percentage of care of 19% equates to a cost percentage of 24%.
- A percentage of care of 40% equates to a cost percentage of 35%.
- A percentage of care of 50% equates to a cost percentage of 50%.
- A percentage of care of 81% equates to a cost percentage of 76%.
- A percentage of care of 88% equates to a cost percentage of 100%

From the table above it can be seen that equalizing time with children with the obligation to provide income. Time with children 0% -14% means that is equivalent to the payment of a 0% income. Time with a child between 86% -100% means that it is equivalent to the payment of a 100% child income. Thus for parents who are with children for 21-24 hours / day, they do not have the obligation to support children. Whereas parents who are with their children for 0 - 3.5 hours / day, he is obliged to pay 100% of the child's income.

If the custodial parent has died, the remaining parent shall be a substitute for the child custody holder except if there is an objection submitted for this matter. If the parent who is still alive is declared inappropriate then the child is under guardianship. (Wayne-Spindler, 2016).

DIALECTICS ABOUT CUSTODY OF ACADEMICS

The problematic determination of child custody holders in Muslim countries (Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Tunisia, UAE, Yemen, Bangladesh, Brunei, Iran, Malaysia, Maldives, Pakistan, Afghanistan, Somalia, Indonesia, Nigeria, Bosnia-Herzegovina, Kazakhstan, Kyrgyzstan, Tajikistan, Turkey, Turkmenistan and Uzbekistan, Albania and Azerbaijan) also generally discussed by Aayesha Rafiq stating that there are variations regulation of child custody holder during divorce. At the end of the article, Rafiq suggested creating common regulation in the Muslim countries (common regulation for the entire Muslim world), based on Islamic principles and similar practices. (Rafiq, 2014)

While in western countries, especially in Italy, Vezzetti said that before 2006, the custom in Europe in any case of divorce, the mother shall have the right of the child custody. This is psychological and physically affecting the child. Under Law Number 54 of 2006, shared custody was introduced. Although there are various obstacles in the implementation, however at the end of the article, Vezzetti concluded that the shared custody is the best management of custody for children, no need to be questioned and should be mainstreamed. (Vezzetti, 2012)

The existence of a shared/joint custody will form a family that has 2 (two) houses (a binuclear family system) to accommodate the bond between children and parents who are not live in the same home anymore.

Robert Bauserman's research produced the same findings as Vezzetti. Bauserman stated that children in joint physical or legal custody were better adjusted for the settings, but there were no different from those in intact families. (Bauserman, 2002) Linda Nielsen stated that joint physical custody has a good influence on children. (Nielsen, 2018)

The research by Fransson et al. stated that the reason for parents to implement joint physical custody after divorce for their children aged 0-4 years is due to the awareness of the equal rights and responsibilities of parents and children's wishes in the best interests of children. (Fransson, 2016)

Research with a focus on joint custody turns out the results which do not always support this theory. There are studies that oppose the joint custody theory or at least describe the weaknesses of this theory. Dianne Post stated that the existence of joint custody has turned out to be more beneficial for the father than for the best interests of the child. This is evident from the fact that with the willingness of the father to take the time to conduct joint custody, they ask for a reduction in the obligation to give the child the right amount of child maintenance based on equal obligations and responsibilities between father and mother. As a result, the mother has an obligation to provide more maintenance for the child. In her conclusion, Dianne stated that "*Even with highly committed and motivated parents, joint custody is not for all children*". The application of joint custody must be selective,

not to children whose parents have a history of violence/neglect/neglect of children. (Postt, 2013) The same opinion was also expressed by Silverman et al (Silverman, 2004).

Another researcher who opposed joint custody was Abhradeep Maiti. Through his publication, Maiti stated that he does not find growing up in a joint custody law regime to be beneficial for children. Using 50 years of census data for the United States' population, Maiti shows that growing up in the custody regime leads to lower educational attainment and worse labor market outcomes. Maiti results are robust to different model specifications and apply to both males and females. (Maiti, 2015)

From the dialectic above, there is no unanimous agreement and which model is better and should be applied in all cases of sole custody or joint custody. Each model carries its consequences.

THE DEVELOPMENT OF CHILD CUSTODY REGULATIONS IN INDONESIA

Observing the various turmoils and problems in the community, each year the Supreme Court as the highest judicial power in Indonesia holds an annual meeting to discuss and provide solutions to these problems. The annual meeting was conducted in accordance with the division of chamber of the judges based on the competency and enactment of the decisions. There are 4 chambers, namely criminal chamber, civil chamber, religious chamber, and chamber of state administration. The decision of Supreme Court judges from the civil chamber and criminal chambers binds judges in the scope of DC. The decision of the judges from religious chamber binds judges in the scope of religious justice and judge decisions from state administration chamber bind judges in the court of state administration.

Especially in terms of child custody after divorce, there are several policies of the Supreme Court, as follows:

From the formulation of a plenary meeting of Supreme Judges of the civil chamber, there are 2 (two) provisions concerning child custody namely in Supreme Court Circular number 7 of 2012 and Supreme Court Circular number 1 of 2017. Supreme Court Circular number 7 of 2012/XII determines that based on Article 47 and Article 50 Marriage Law, the existence of divorce does not make the responsibility of the parents terminated and does not rise guardianship, and the Judge must appoint one of the two parents as the party who maintains and educates the child. While Supreme Court Circular number 1 of 2017 stipulates that underage custody can be given to the father as long as it has a positive impact on the child and pays attention to the interest of the child.

From the formulation of the plenary meeting of the Supreme Judge of Religious Chamber, there are also 2 (two) provisions concerning child custody, namely in Supreme Court Circular number 3 of 2015 and Supreme Court Circular 1 of 2017. Supreme Court Circular number 3 of 2015 point 10 (ten) stated that the stipulation of custody rights insofar not submitted in a claim/petition, the Judge may not determine as *ex officio* who is the custody holder of the child. While Supreme Court Circular number 1 of 2017 stated that the provision of custody rights with the inclusion of granting access rights to non-custodial parents.

From the above conditions, there is a striking difference between settlement in DC and SC. In DC, there is a regulation that in every divorce case it is obligatory for the judge to give a decision regarding custody and giving custody to the father is possible as long as it is based on the best interests of the child. While in SC, if the decision on custody of the child without no request by the party, is not permitted and if there is a lawsuit about child custody, it shall be accompanied by the provision of access rights to non-custodial parents. From the above resume, it can be concluded that in DC there has been a gender-neutral approach, while in SC it is still in the traditional approach.

The different provisions that apply in DC and SC are not appropriate for the development of family law in Indonesia due to the double standards in handling divorce cases. Even though there is 4 (four) chamber in the Supreme Court but there is no proper provision that differs from one chamber to another in handling the same case which in this case is a divorce case.

Looking at this matter, the authors propose, first, the judge must give a decision about the party who has the right to hold child custody in a divorce case, requested or not requested by the parties. This is to guarantee the fulfillment of children's rights and provide legal certainty for the child. Without the clarity of the legal status of the child, the consequences that there will be no parents who feel they have an obligation to care for their children has possibly occurred. When they have spare time, he would take care of the child but when they are busy or do not have time or already has a new family they do not feel obliged to take care of the child and entrust the child to be cared for by someone else, for example, the child's grandmother or aunt or the boarding school. By paying for the rights of maintenance of the child, the parents already feel fulfilled in carrying out their obligations.

Second, the determination of the party that has the right of child custody child must be based on the willingness and ability of the party. The will could be seen from the intention of the party to take care of the child. The ability could be seen based on intellectual, emotional and spiritual aspects. Intellectual aspect means the party chosen the ability to take care of and educate the children as well as mentally healthy. Emotional ability means that the parent has characteristics that can be a role model for the child. While spiritual ability means that the party can provide spiritual guidance/education based on the child's religion because religion is not just knowledge but more about everyday attitudes and behavior.

Third, even though there is an appointment of a party that holds child custody, it does not mean that the party then becomes the sole custodian of their children who is obliged to carry out all the obligations of their parents to their children. There are remains care along with the division of roles between father and mother who hold custody but important decisions related to the life of

the child must be decided alongside and the obligation of the child's maintenance must still be fulfilled by the father. Even though the father who holds custody does not mean the mother must provide the maintenance for the child. Still, the father is obliged to provide the maintenance. Therefore, the author recommends joint custody with a permanent division of roles where the father is the main provider for the child and mother as the main custody holder. In other words, joint custody with legal custody held by the father while the physical custody is held by the mother.

Fourth, there should be no differences in the provisions that apply in DC and SC both in the form of provisions concerning who holds child custody, indicators and the validity period of parental obligations.

CONCLUSION

According article 41 of the Marriage Law and article 156 KHI, parental obligations does not end with a divorce. The Judge usually determines the mother as the custody holder for a little child while for children who have been able to make their own choices, the child can choose to join the mother or father. In SC, for children under the age of 12, while in DC, for children under the age of five. From the discussion above, it can be concluded that there are differences in Indonesian between the settlement of divorce cases in DC and SC.

In its development, the norm issued by the Supreme Court as the highest institution in the judiciary also widened the difference. In DC, the Judge must appoint one of the two parents as the custodial parents, while in SC, without application form the parties, the judge may not appoint custodial parents. For determine custodial parents, in DC there has been a gender-neutral approach, while in SC it is still in the traditional approach.

Therefore, I suggest, a judge must create a decision about the party who holds child custody in a divorce case, requested or not requested by the parties, even though there is an appointment of the party who holds the child custody but that does not mean that the party becomes the sole custodian immediately, the determination of the party to care for the child must be based on the willingness and ability of the party, and there must be no difference in the provisions that apply in DC and SC.

REFERENCES

- Australia, F. court of. (2016). Divorce. Retrieved from <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/family-law-matters/separation-and-divorce/divorce/divorce>
- Australia, F. court of. (2018). How do I apply for a Divorce?. Retrieved from <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/how-do-i/divorce/apply-for-a-divorce/apply-for-divorce>
- Bauserman, R. (2002). Child adjustment in joint-custody versus sole-custody arrangements: A meta-analytic review. *Journal of Family Psychology, 16*(1), 91–102. <https://doi.org/10.1037/0893-3200.16.1.91>
- Ekanayaka, E. M. Y. G. (2017). Ensuring The Rights Of The Girl Child By Amending 'The Minimum Age Of Marriage' Under Muslim Law In Sri Lanka. *International Journal of Business, Economics, and Law, 14*(4), 43–48.
- Fransson, E. et. a. (2016). Why Should They Live More With One Of Us When They Are Children To Us Both? Parents' Motives For Practicing Equal Joint Physical Custody For Children Aged 0–4. *Children and Youth Services Review, (66)*, 154–160.
- Government, A. (2019). Child Support Guide.
- Lawyers, C. (2015). What are Australia's Child Custody Laws? Retrieved from <https://www.cmlaw.com.au/blog/post/what-are-australias-child-custody-laws/>
- Maiti, A. (2015). Effect of joint custody laws on children's future labor market outcomes. *International Review of Law and Economics, 43*, 22–31. <https://doi.org/10.1016/j.irl.2015.04.001>
- Nawi, N. F., & Hashim, N. M. (2010). Child Custody and Maintenance Decisions : A Case Study of Selected High Workshop on Marital Dissolution in Asia Child Custody and Maintenance Decisions : A Case Study of Selected High Court Judgments in Malaysia from 1998-2008 Nor Fadzlina Nawi Universiti, (May), 0–17.
- Nielsen, L. (2018). Joint versus sole physical custody : Outcomes for children independent of family income or parental conflict independent of family income or parental conflict. *Psychology, Educational, 9418*. <https://doi.org/10.1080/15379418.2017.1422414>
- Nugraheni, A. S. C., Setiono, Harahap, B., & Tejomurti, K. (2017). Should We Change The Divorce Law in Indonesia To Advocate Children Rights? *The 2017 International Conference on Globalization of Law and Local Wisdom*. Sukoharjo: PDIH FH UNS.
- Postt, D. (2013). Arguments against Joint Custody Arguments Against Joint Custody. *Journal, Berkeley, 4*(2).
- Proceedings, L. (2009). Guidelines for Child Custody Evaluations in Family, 2009, 863–867. <https://doi.org/10.1037/a0021250>
- Rafiq, A. (2014). Child Custody in Classical Islamic Law and Laws of Contemporary Muslim World (An Analysis), 4(5), 267–277.
- Trotman, A. (n.d.). CHILD CUSTODY. Retrieved November 30, 2017, from <https://www.armstronglegal.com.au/family-law/child-custody/>
- Vezzetti, V. (2012). Joint Custody: The Interest of the Child in Different Family Structures. *Journal of the Italian Society of Preventive And Social Pediatrics, 3*.
- Wayne-Spindler, K. M. (2016). What Happens with Child Support After a Parent Death? Retrieved from <https://www.linkedin.com/pulse/what-happens-child-support-after-parent-death-wayne-spindler>

Anjar S C Nugraheni
Faculty of Law
Universitas Sebelas Maret, 57126, Jawa Tengah, Indonesia
Email: anjarsri@staff.uns.ac.id

Setiono, SH MS
Faculty of Law
Universitas Sebelas Maret, 57126, Jawa Tengah, Indonesia
Email: setiono@staff.uns.ac.id

Burhanuddin Harahap, PhD
Faculty of Law
Universitas Sebelas Maret, 57126, Jawa Tengah, Indonesia
Email: burhanuddin@staff.uns.ac.id

Kukuh Tejomurti
Faculty of Law
Universitas Sebelas Maret, 57126, Jawa Tengah, Indonesia
Email: kukuhmurtifhuns@staff.uns.ac.id