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Reconstructing *Ex Officio* Authority in *Hadhanah* Determination: Balancing *Ultra Petita* and the Best Interests of the Child under SEMA No. 1 of 2025

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Abstract: The determination of hadhanah in divorce proceedings raises a legal issue when custody is not requested by the parties, while the trial facts indicate that a custody ruling is necessary to protect the best interests of the child. This study asks how Supreme Court Circular Letter (SEMA) No. 1 of 2025 reconstructs the relationship between ultra petita and the judge's ex officio authority, and what limits apply to that authority when custody has not been requested. It aims to formulate a model for exercising ex officio authority that balances ultra petita and the best interests of the child. This normative legal research uses a statutory approach and a conceptual approach. The primary materials are legislation, the Compilation of Islamic Law, and the SEMAs; the secondary materials are books, journals, and research findings. They were collected through library research and analyzed qualitatively using descriptive-analytical and prescriptive methods. The results show that SEMA No. 1 of 2025 does not abolish ultra petita, but reconstructs its relationship with ex officio authority. The SEMA is a judicial policy instrument, so the authority must be anchored in the HIR/RBg, the statutory consequences of divorce, and child protection law. The reconstruction yields a model of limited, conditional, fact-based, and accountable judicial discretion with three layers of parameters: jurisdictional (divorce proceedings), procedural (no hadhanah claim, no agreement between the parties, and relevant facts established at trial), and substantive (the determination is necessary in the best interests of the child). Legal certainty and the right to be heard are protected through foreseeable conditions, notice and hearing of the parents, the child's voice, and reasoned decisions. Constructed scenarios illustrate the model, which is not empirically validated against decisions.
Keywords: Ex Officio, Ultra Petita, Hadhanah, Substantive Justice, Best Interests Of The Child.
Abstrak: Penetapan hadhanah dalam perkara perceraian menimbulkan persoalan hukum ketika hak pengasuhan anak tidak dimohonkan para pihak, sementara fakta persidangan menunjukkan penetapan tersebut diperlukan untuk melindungi kepentingan terbaik anak. Penelitian ini mengkaji bagaimana Surat Edaran Mahkamah

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Agung (SEMA) Nomor 1 Tahun 2025 merekonstruksi relasi antara ultra petita dan kewenangan ex officio hakim, serta apa batas kewenangan tersebut ketika pengasuhan anak tidak dimohonkan, dan bertujuan merumuskan model penggunaannya yang menyeimbangkan ultra petita dan kepentingan terbaik anak. Penelitian hukum normatif ini menggunakan pendekatan perundang-undangan dan pendekatan konseptual. Bahan primer berupa peraturan perundang-undangan, Kompilasi Hukum Islam, dan SEMA; bahan sekunder berupa buku, jurnal, dan hasil penelitian. Bahan dikumpulkan melalui studi kepustakaan dan dianalisis secara kualitatif dengan metode deskriptif-analitis dan preskriptif. Hasil penelitian menunjukkan bahwa SEMA Nomor 1 Tahun 2025 tidak menghapus ultra petita, tetapi merekonstruksi relasinya dengan kewenangan ex officio. SEMA merupakan instrumen kebijakan yudisial, sehingga kewenangan tersebut harus berpijak pada HIR/RBg, akibat hukum perceraian menurut undang-undang, dan hukum perlindungan anak. Rekonstruksi tersebut menghasilkan model diskresi yudisial yang terbatas, bersyarat, berbasis fakta, dan dapat dipertanggungjawabkan melalui tiga lapis parameter: kewenangan (perkara perceraian), prosedural (tidak ada permohonan hadhanah, tidak ada kesepakatan para pihak, dan ada fakta persidangan yang relevan), dan substantif (penetapan diperlukan demi kepentingan terbaik anak). Kepastian hukum dan hak untuk didengar dijaga melalui syarat yang dapat diprediksi, pemberitahuan dan pemeriksaan kedua orang tua, suara anak, serta putusan yang bernalar. Skenario rekaan digunakan untuk mengilustrasikan model, yang belum divalidasi secara empiris terhadap putusan.
Kata Kunci: *Ex Officio*, Ultra Petita, Hadhanah, Keadilan Substantif, Kepentingan Terbaik Anak.

A. Introduction

Hadhanah (child custody) is a crucial legal consequence of divorce, and the best interests of the child are the primary consideration in determining it. In Indonesian Islamic family law it is institutionalized through Articles 105 and 156 of the Compilation of Islamic Law (KHI), which in principle place the mother as the caregiver of a child who is not yet *mumayyiz*.[1] Their application must still take the child's concrete circumstances into account,[2] because *hadhanah* concerns the continuity of the child's care, protection, and development after divorce,[3] and cannot be applied mechanically on the basis of the parents' formal status.[4]

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[1] Iqbal Pinayungan Munthe and Nursania Dasopang, "Konsep Hadhanah Dalam Hukum Islam Dan Implementasinya Dalam Kompilasi Hukum Islam Di Indonesia," *Journal of Legal, Political, and Humanistic Inquiry* 1, no. 3 (2026): 307–17, https://doi.org/10.65310/t91a3c45.

[2] Aksa Arobi Naswa et al., "Between Normative Provisions and Social Reality: The Implementation of Child Custody Under Article 105 of the Indonesian Compilation of Islamic Law in Sialang Munggu, Pekanbaru," *USRIYYĀT: Indonesian Journal of Islamic Family Law* 1, no. 1 (2026): 59–77, https://doi.org/10.66277/uijifla.1.1.5.

[3] Kukuh Pramono Budi et al., "Adjudicating Joint Property Dispute in Islamic Jurisprudence: Balancing the Best Interests of the Child With a Focus on Residency," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 245–66, https://doi.org/10.18592/sjhp.v23i2.12278.

[4] Afif Mubaroq, Jumni Nelli, and Zulikromi Zulikromi, "Child Custody Contest : Islamic Jurisprudence and Indonesian Positive Law on Remarried Mothers" 6, no. 1 (2026): 85–95.

The issue becomes more complex when *hadhanah* is not included in the *petitum* of a divorce case, yet the facts revealed at trial indicate that a custody ruling is necessary to protect the child. Judges are in principle bound by the parties' claims, and the prohibition of *ultra petita* in Article 178 paragraph (3) of the HIR and Article 189 paragraph (3) of the RBg prevents them from ruling beyond or in excess of those claims.[5] However, a child can be directly affected by a judgment although the child takes no part in formulating the *petitum*.[6] This opens room for the judge's *ex officio* authority to provide protection that the parties have not formulated,[7] but exercising that authority case by case, without clear parameters, may produce inconsistent decisions.[8]

This tension is visible in Supreme Court policy. Religious Chamber Formulation No. 10 of SEMA No. 3 of 2015 prohibited judges from determining *hadhanah ex officio* when it had not been requested,[9] and SEMA No. 3 of 2018 retained the prohibition by treating *hadhanah* and *dwangsom* determinations without a claim as *ultra petita*.[10] SEMA No. 1 of 2025, issued on 30 December 2025, revised Formulation No. 10: where *hadhanah* is not requested in a divorce case, the judge explores the facts concerning custody, and where the parties have not agreed and the facts established at trial call for it in the best interests of the child, the judge may designate one parent as the holder of *hadhanah* and order the child to be handed over.[11] The SEMA, however, leaves open

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[5] Risma Safitri Fadhli, "Putusan Ultra Petitum Partium Perkara Perdata Ditinjau Dari Pasal 178 Ayat (3) HIR (Studi Kasus Putusan Nomor 445/Pdt.G/2018/PA. Kab. Mn)," *Jurnal Hukum Magnum Opus* 4, no. 1 (2021): 81–92.

[6] Moh. Ali, "Measuring Ex Offico Judge Righta and Application of the Ultra Petitum Partium Principiple in Deciding Cases in Religious Courts," *Journal of Law and Legal Reform* 5, no. 1 (2024): 383–408.

[7] Mutia Diliana Afkariah, Ikhwan Hamdani, and Ade Irma Imamah, "Efektivitas Implementasi Perma Dan Sema Tentang Perceraian Dan Nafkah Anak Di Pengadilan Agama Cibinong Kelas Ia," *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 7, no. 2 (2026): 273–89, https://doi.org/10.36701/bustanul.v7i2.3190.

[8] Khairul Anam and Jamiliya Susantin, "Ex Officio Authority of Judges in Divorce Suit Decisions: An Analyis of Article 41 of Law Number 1 of 1974 on Marriage in the Pamekasan Religious Court," *Hakam : Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 10, no. 1 (2026): 215–32, https://doi.org/10.33650/jhi.v10i1.14592.

[9] Yudha Sri Wulandari, "Nafkah Madhiyah Anak Pasca Perceraian: Studi Komparatif Hukum Perdata Dan Hukum Islam Di Indonesia," *The Juris* 10, no. 1 (2026): 1–8, https://doi.org/10.56301/juris.v10i1.2246.

[10] Linda Firdawaty, Siti Mahmudah, and Rozana Isa, "The Implementation of Dwangsom in the Execution of Hadhanah Matters and Its Relationship to the Ultra Petita Basis," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 2 (2023): 203–14, https://doi.org/10.25217/jm.v8i2.3648.

[11] Mahkamah Agung, *Surat Edaran Mahkamah Agung Nomor 1 Tahun 2025 tentang Pemberlakuan Hasil Rumusan Rapat Pleno Kamar Mahkamah Agung Tahun 2025 sebagai Pedoman Pelaksanaan Tugas bagi Pengadilan*, 30 December 2025, Religious Chamber formulation revising Formulation No. 10 of SEMA No. 3 of 2015; Asep Nursobah, "Sah! MA Berlakukan 24 Rumusan Kamar Hasil Pleno Kamar 2025 sebagai Pedoman Pelaksanaan Tugas Pengadilan," Kepaniteraan Mahkamah Agung, 2 January 2026, https://kepaniteraan.mahkamahagung.go.id/id/registry-news/2856-sah-ma-

how far these conditions constrain that authority, which risks turning it into an unchecked power.

Previous studies fall into four strands: *ultra petita* in procedural law,[12] the limits of judicial activity in civil cases,[13] *ex officio* authority in religious courts,[14] and the best interests of the child in custody determination.[15] Table 1, in Section C, compares the studies closest to this article with its contribution. These studies treat *ultra petita* and *ex officio* authority in general terms; those on *hadhanah* and the best interests of the child supply the substantive standard but rarely connect it to the limit set by the *petitum*; and those on SEMA No. 1 of 2025 establish that the authority has expanded, but not the conditions under which it may be used. What is missing is a framework of parameters that explains when, and to what extent, a judge may exercise *ex officio* authority over *hadhanah* that has not been requested, without making that power limitless.

This article therefore asks two questions: (1) how does SEMA No. 1 of 2025 reconstruct the relationship between the *ultra petita* principle and the judge's *ex officio* authority in custody rulings, and (2) what are the limits of that authority when custody has not been requested by the parties? It positions *ultra petita* as a limiting principle and the best interests of the child as the substantive basis; examines how the SEMA, the HIR/RBg, and child protection law together support the authority;[16] and identifies the safeguards that protect legal certainty and the right to be heard. Its contribution is a three-layer model of limited, conditional, fact-based, and accountable *ex officio* authority, comprising a jurisdictional, a procedural, and a substantive parameter, which is illustrated with constructed scenarios.

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berlakukan-24-rumusan-kamar-hasil-pleno-kamar-2025-sebagai-pedoman-pelaksanaan-tugas-pengadilan.

[12] De Musfa, Nurul Huda, and Ahmad Syaufi, "Asas Ultra Petita Dalam Perspektif Keadilan," *Jurnal Pendidikan Tambusai* 8, no. 2 (2024).

[13] Hasriyanti, Mulyadi Golap, and Akhmad Faqih Mursid, "Batas Kewenangan Hakim Dalam Rekonstruksi Gugatan Perdata: Antara Asas Hakim Pasif Dan Independensi Kekuasaan Kehakiman Dalam Sengketa Tanah," *Datuk Sulaiman Law Review DalRev* 3, no. 1 (2022): 43–50.

[14] Alamsyah et al., "Islamic Judicial Activism in Determining Child Maintenance: Ex Officio Authority and Peaceful Settlement in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 671–99, https://doi.org/10.29240/jhi.v10i2.12755.

[15] Achmad Kadarisman, Alfarid Fedro, and Zainal Arifin, "Best Interest of the Child in Islamic Family Law: Integrating Maqāṣid Al-Sharīʿah and Double Movement Theory in Ḥaḍānah Cases," *Jurnal Al-Dustur* 8, no. 2 (2025): 145–62, https://doi.org/10.30863/aldustur.v8i2.10459.

[16] *Convention on the Rights of the Child*, arts. 3(1) and 12, ratified by Keputusan Presiden Nomor 36 Tahun 1990; Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak, art. 2.

B. Research Methods

This study is normative legal research using a statutory approach and a conceptual approach. The primary legal materials comprise Article 178 paragraph (3) of the HIR and Article 189 paragraph (3) of the RBg, the Compilation of Islamic Law, Law No. 1 of 1974 on Marriage, Law No. 14 of 1985 on the Supreme Court, Law No. 12 of 2011 on the Formation of Legislation, Law No. 35 of 2014 on Child Protection, the Convention on the Rights of the Child, and SEMA No. 3 of 2015, SEMA No. 3 of 2018, and SEMA No. 1 of 2025, while the secondary legal materials consist of books, scholarly journals, and relevant research findings. The legal materials were collected through library research and analyzed qualitatively using descriptive-analytical and prescriptive methods. The descriptive-analytical analysis compares the Religious Chamber formulations in the three SEMAs, examines their legal status and relationship with the HIR/RBg and child protection law, and elaborates the concepts of *ultra petita*, *ex officio*, and the best interests of the child. The prescriptive analysis formulates the three-layer parameter model, which is then illustrated with constructed scenarios, because this study does not undertake a systematic analysis of decisions applying SEMA No. 1 of 2025, issued on 30 December 2025.

C. Discussion and Research Results

Positioning the Study among Previous Research

Table 1 compares the studies closest to this article, in terms of focus, contribution, and limitation, with the contribution of this article.

Table 1. Previous studies and the position of this article

Study	Focus	Contribution	Limitation relative to this article
Ali (2024)[17]	*Ex officio* rights of judges and the *ultra petita* principle in religious courts	Measures the use of *ex officio* rights against the *ultra petita* limit	General to religious court cases; no custody-specific parameters
Ase (2019);[18] **Al Pani et al. (2023)**[19]	*Ex officio* right to designate the holder of *hadhanah*, including at the Kediri Religious Court	Present the right as protection and certainty for the child and show how it operates in practice	Predate SEMA No. 1 of 2025; practice at one court; no general parameters

[17] Ali, "Measuring Ex Offico Judge Righta and Application of the Ultra Petitum Partium Principiple in Deciding Cases in Religious Courts."

[18] Muhammad Fadhly Ase, "Ex-Officio Rights of the Judges in Signating the Holder of Currency: Hadhanah in Directions of Divorce at the Religious Court as an Efforts of Legal Protection and Administration of Legal Certainity for Children," *International Journal of Nusantara Islam* 7, no. 2 (2019): 252–60.

[19] Muhammad Al Pani, Miftahus Sholehuddin, and Noorjehan Safia Niaz, "Implementation of Ex Officio Rights of Judges of the Kediri District Religious Court: An Analysis of Non-Cumulation of Divorce and Child Custody Rights," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 2 (2023): 163–74, https://doi.org/10.25217/jm.v8i2.4119.

Study	Focus	Contribution	Limitation relative to this article
Alfikri et al. (2026)[20]	SEMA No. 1 of 2025 as a shift from *ultra petita* to *ex officio*	Argues for a paradigm shift, grounds the binding force of the SEMA, and treats the best interests of the child as the operational norm	Emphasizes the shift and its legitimacy; a tiered set of testable parameters is not presented
Amina and Sa'adah (2026);[21] **Aisyi et al. (2026)**[22]	Best interests of the child in *ex officio* decisions; child protection after divorce	Link the best interests of the child to *ex officio* decisions	Centered on the substantive dimension; procedural conditions and the *ultra petita* limit are not the main focus
This article	Reconstruction of the relationship between *ultra petita* and *ex officio* authority in *hadhanah* determination under SEMA No. 1 of 2025	Three-layer parameter model; analysis of the legal status of the SEMA; scenario-based testing	Awaits testing on published decisions applying the SEMA

Ultra Petita and *Ex Officio* Authority in *Hadhanah* Cases

Ultra petita refers to a judgment on something that was not requested or that exceeds the *petitum*. The prohibition rests on the principle that the scope of examination in a civil case is in principle determined by the parties, and it safeguards legal certainty and prevents the unmeasured exercise of judicial power.[23] Its boundary is not always simple: a judgment that appears to exceed the *petitum* may still be connected to material facts that were alleged and proven at trial, so the issue is not whether the judge is active or passive but whether the activity stays within the scope of the dispute and creates no entirely new object of relief.[24] In procedural law the limit derives from Article 178 paragraph (3) of the HIR and Article 189 paragraph (3) of the RBg, while paragraph (1) of the same articles obliges the judge to complete the legal grounds that the parties have not put forward.[25] The prohibition therefore concerns the relief claimed, not the legal reasoning applied to it.

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[20] Ahmad Faiz Shobir Alfikri et al., "Dari Ultra Petita ke Ex Officio: Reorientasi Kewenangan Hakim dalam Penetapan Hadhanah Pasca SEMA Nomor 1 Tahun 2025," *Journal of Islamic Law and Wisdom* 2, no. 1 (2026): 41–60, https://doi.org/10.30983/jilaw.v1i1.11103.

[21] Siti Amina and Sri Lum'atus Sa'adah, "Operasionalisasi Prinsip The Best Interest Of The Child Dalam Putusan Ex Officio: Studi Harmonisasi Fikih Klasik Dan Psikologi Kontemporer," *Rausyan Fikr Journal* 5, no. 1 (2026): 1–10.

[22] Rahazatul Aisyi, Riyan Ramdani, and Ahmad Maula Hadi, "Perlindungan Hak Anak Pasca Perceraian Melalui Kewenangan Ex Officio Hakim Dalam Perspektif Best Interest of the Child," *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 8 (2026): 669–83, https://doi.org/10.47476/assyari.v8i2.11943.

[23] De Musfa, Nurul Huda, and Ahmad Syaufi, "Asas Ultra Petita Dalam Perspektif Keadilan," *Jurnal Pendidikan Tambusai* 8, no. 2 (2024).

[24] Hasriyanti, Mulyadi Golap, and Akhmad Faqih Mursid, "Batas Kewenangan Hakim Dalam Rekonstruksi Gugatan Perdata: Antara Asas Hakim Pasif Dan Independensi Kekuasaan Kehakiman Dalam Sengketa Tanah," *Datuk Sulaiman Law Review DalRev* 3, no. 1 (2022): 43–50.

[25] *Herzien Inlandsch Reglement* (HIR), art. 178 paras. (1) and (3); *Rechtsreglement voor de Buitengewesten* (RBg), art. 189 paras. (1) and (3).

Ex officio authority is the authority inherent in the judicial office to determine certain legal consequences on the basis of authority granted by law, even though the parties have not requested them; in family cases it has developed primarily to protect vulnerable parties, including the rights of the child after divorce.[26] It cannot be equated with *ultra petita*: it draws its legitimacy from the judicial office and resolves legal consequences that remain connected to the case, whereas *ultra petita* is a judgment beyond the limits of procedural law without an adequate basis within the scope of the case.[27] Conversely, it is not a freedom to disregard procedural law, because broad discretion without clear standards can produce inconsistent judgments.[28]

Hadhanah gives this authority a rational basis. It encompasses the care, upbringing, education, and protection of the child after divorce, and Articles 105 and 156 of the KHI regulate it as a consequence of the dissolution of marriage.[29] Because divorce does not extinguish the obligations of both parents toward the child,[30] its determination cannot rest on the parents' formal standing alone. Before 2025, however, SEMA No. 3 of 2015 and SEMA No. 3 of 2018 made a *hadhanah* claim the condition for any determination, which separated the dissolution of the marriage from certainty about the child's care and could leave a child, who has no procedural standing, without a determination.[31]

The Basis of Judicial Authority: SEMA, HIR/RBg, Child Protection Law, and *Ultra Petita*

A SEMA is not among the types of legislation listed in Article 7 paragraph (1) of Law No. 12 of 2011, although Article 8 recognizes regulations issued by the Supreme

[26] Sunniyatul Kholidiya and M. Amir Mahmud, "Analisis Putusan Hak Asuh Anak Pasca Perceraian Dalam Perspektif Hukum Keluarga Islam," *IJILE: International Journal of Islamic Law and Economics* 1, no. 1 (2026): 36–49.

[27] Muhammad Al Pani, Sholehuddin, and Safia Niaz, "Implementation of Ex Officio Rights of Judges of the Kediri District Religious Court: An Analysis of Non-Cumulation of Divorce and Child Custody Rights."

[28] Alamsyah et al., "Islamic Judicial Activism in Determining Child Maintenance: Ex Officio Authority and Peaceful Settlement in Indonesian Religious Courts."

[29] Naswa et al., "Between Normative Provisions and Social Reality: The Implementation of Child Custody Under Article 105 of the Indonesian Compilation of Islamic Law in Sialang Munggu, Pekanbaru."

[30] Adila Syaidatun Nisa et al., "Rekonstruksi Hak Hadhanah Dalam Hukum Keluarga Islam: Analisis Yuridis Pemberian Hak Asuh Anak Kepada Ayah Pasca Perceraian," *Journal of Legal, Political, and Humanistic Inquiry* 1, no. 3 (2026): 171–79, https://doi.org/10.65310/4bbczr85.

[31] Viorizza Suciani Putri, Sonny Dewi Judiasih, and Hazar Kusmayanti, "The Best Interest of the Child in Islamic Family Law: Declarative and Enforceable Custody Protection in Indonesia and Malaysia," *International Journal of Nusantara Islam* 14, no. 1 (2026): 273–90, https://doi.org/10.15575/ijni.v14i1.54393.

Court when mandated by higher legislation or formed on the basis of its authority.[32] Scholars differ on where a SEMA stands in this system and how far it binds,[33] and Alfikri et al. ground the binding force of SEMA No. 1 of 2025 in Article 8 of Law No. 12 of 2011 and Article 79 of the Supreme Court Law.[34] This article takes a narrower position: the SEMA is a judicial policy instrument through which the Supreme Court exercises its authority to supervise and give directions to the courts,[35] not legislation in the formal sense. It carries strong practical authority within the chamber system, but it cannot amend the HIR/RBg or override a statute, and judges remain bound by law under the principle of judicial independence. Its legitimacy therefore has to be found in norms of higher rank.

The central question is how a determination beyond the *petitum* can be reconciled with Article 178 paragraph (3) of the HIR. Paragraph (1) alone does not answer it, because it concerns legal grounds, not relief. The answer lies in the nature of the relief. *Hadhanah* is not an independent claim that the judge invents; it is a consequence of divorce that the law itself regulates. Article 41 letter (a) of Law No. 1 of 1974 keeps both parents obliged to maintain and educate their children solely in the interest of the child and entrusts the court with deciding disputes over custody, and the KHI attaches the care of children to the dissolution of marriage.[36] *Ex officio* authority over other consequences of divorce, such as maintenance during the *iddah*, rests on a similar structure.[37] SEMA No. 1 of 2025 extends this structure to *hadhanah* by treating the parties' failure to agree as the point at which a legal determination becomes necessary. Read this way, the SEMA neither creates a competence nor suspends the HIR; it clarifies that determining a consequence prescribed by law is not an excess of the claims, so long as the determination stays within the divorce case and within the child's need for protection.

Child protection law supplies the substantive standard and a further procedural duty. Article 3 paragraph (1) of the Convention on the Rights of the Child expressly

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[32] Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan, arts. 7 and 8.

[33] Hendra Catur Putra, "Kedudukan SEMA dalam Sistem Hierarki Perundang-Undangan di Indonesia," *ELQONUN: Jurnal Hukum Ketatanegaraan* 1, no. 2 (2023): 130–43, https://doi.org/10.19109/elqonun.v1i2.21727; Maulana Rihdo et al., "Kedudukan Surat Edaran Mahkamah Agung (SEMA) dalam Perspektif Akademisi: Kekuatan Hukum, Ketetapan dan Konsistensi, Pengaruh terhadap Putusan Hukum," *USRAH: Jurnal Hukum Keluarga Islam* 4, no. 2 (2023): 230–40, https://doi.org/10.46773/usrah.v4i2.791.

[34] Alfikri et al., "Dari Ultra Petita ke Ex Officio."

[35] Undang-Undang Nomor 14 Tahun 1985 tentang Mahkamah Agung, arts. 30, 32, and 79, as amended.

[36] Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, art. 41 letters (a) and (c).

[37] Instruksi Presiden Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam, arts. 105, 149, and 156.

addresses courts of law and makes the best interests of the child a primary consideration, Article 12 gives the child the right to be heard in proceedings that affect him or her, and Law No. 35 of 2014 incorporates the best-interests principle into Indonesian law.[38] These provisions explain why the conditions of the SEMA must be applied as conditions of law and not as administrative preferences. They also show that the right to be heard has two bearers: the parents, under the general principle that no one should be judged unheard, and the child, whose view the KHI already takes into account when it lets a *mumayyiz* child choose between the parents.[39]

Table 2 summarizes how the four norms relate. The relationship is a division of labor rather than a hierarchy of competing rules: the HIR/RBg and *ultra petita* fix the outer limit, the statutory regime of divorce supplies the competence, child protection law supplies the standard and the child's voice, and the SEMA supplies the operating conditions. Under the 2025 formulation the absence of a claim no longer automatically closes off a custody determination; the starting point shifts from the mere existence of a claim toward a possible need for child protection revealed at trial,[40] and Supreme Court officials describe such a determination as outside the *ultra petita* category.[41] What is reconstructed is therefore the boundary of *ultra petita* in *hadhanah*, not its existence: a determination without a *petitum* is judged by its source of authority, its factual basis, the absence of agreement, and the purpose of protecting the child.

Table 2. The four norms supporting *ex officio* authority over *hadhanah*

Norm	What it contributes	Limit it imposes
HIR Art. 178 and RBg Art. 189	The *ultra petita* rule (para. 3) and the duty to complete legal grounds (para. 1)	No relief beyond the claims unless the relief is a consequence prescribed by law
Law No. 1 of 1974 Art. 41 and the KHI	*Hadhanah* and child maintenance as consequences of divorce; the court decides custody disputes	The competence exists only within a divorce case
CRC Arts. 3(1) and 12; Law No. 35 of 2014	Best interests of the child as a primary consideration; the child's right to be heard	The authority must be justified by the child's interests, shown through facts

[38] *Convention on the Rights of the Child*, arts. 3(1) and 12, ratified by Keputusan Presiden Nomor 36 Tahun 1990; Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak, art. 2.

[39] Instruksi Presiden Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam, arts. 105, 149, and 156.

[40] Alfikri et al., "Dari Ultra Petita ke Ex Officio."

[41] Asep Nursobah, "Kaidah-Kaidah Hukum Rumusan Kamar yang Diubah," Kepaniteraan Mahkamah Agung, 4 April 2026, https://kepaniteraan.mahkamahagung.go.id/id/artikel-hukum/2951-kaidah-kaidah-hukum-rumusan-kamar-yang-diubah-asep-nursobah.

Norm	What it contributes	Limit it imposes
SEMA No. 1 of 2025	Operating conditions: explore the facts; no agreement; facts established at trial; best interests; designate and order handover	Policy guidance only; it cannot override statute; the determination is discretionary ("may")

The Best Interests of the Child as a Substantive Basis for *Hadhanah* Determination

The best interests of the child place the child's needs, safety, development, and welfare as the primary consideration in every legal action concerning children, as formulated in Article 3 paragraph (1) of the Convention on the Rights of the Child[42] and in Law No. 35 of 2014.[43] In *hadhanah* the principle cannot be reduced to which parent is formally entitled to provide care: relying only on normative categories such as the child's age or the order of parental priority does not always yield arrangements that fit the child's concrete circumstances.[44] The principle is both a principle of protection and an assessment standard that tests legal choices by their impact on the child's life,[45] and it is contextual, so judges must explain why an arrangement is most suitable given the child's welfare, psychological condition, caregiving environment, and the parents' capacity.[46]

In the context of *ex officio* authority the principle works in two directions: it justifies proactive judicial action when the child's interests are at stake, and it constrains that action, because an act that cannot be shown to serve the child's interests lacks a substantive basis. Substantive justice is thus measured not only by the conformity of the ruling with the *petitum* but by real protection for the child, and the principle must become an operational parameter visible in how the judge finds and assesses the facts, not merely a phrase in the reasoning.[47] Facts established at trial are the concrete basis: status as father or mother, the child's age, and biological relationship

[42] Budi et al., "Adjudicating Joint Property Dispute in Islamic Jurisprudence: Balancing the Best Interests of the Child With a Focus on Residency."

[43] Nabila Hasna Putri, Palmawati Tahir, and Muhamad Muslih, "Konsistensi Hukum Hadhanah Di Indonesia: Studi Yuridis Normatif Terhadap Putusan Pengadilan," *Qanun: Jurnal Hukum Keluarga Islam* 1, no. 2 (2023): 111, https://doi.org/10.51825/qanun.v1i2.24727.

[44] Rika Saraswati, "Accommodating the 'Best Interests of the Child'in Custody Disputes in the Indonesian System/s of Family Law," *International Journal of Law, Policy and the Family* 35, no. 1 (2021).

[45] Lunggi Agusta and Athina Kartika Sari, "Analisis Hukum Atas Kepentingan Terbaik Bagi Anak Dalam Penetapan Hadhanah Anak Di Bawah 12 Tahun," *Cessie: Jurnal Ilmiah Hukum* 3, no. 4 (2025): 130–55.

[46] Achmad Kadarisman, Alfarid Fedro, and Zainal Arifin, "Best Interest of the Child in Islamic Family Law: Integrating Maqāṣid Al-Sharīʿah and Double Movement Theory in Ḥaḍānah Cases," *Jurnal Al-Dustur* 8, no. 2 (2025): 145–62, https://doi.org/10.30863/aldustur.v8i2.10459.

[47] Siti Amina and Sri Lum'atus Sa'adah, "Operasionalisasi Prinsip The Best Interest Of The Child Dalam Putusan Ex Officio: Studi Harmonisasi Fikih Klasik Dan Psikologi Kontemporer," *Rausyan Fikr Journal* 5, no. 1 (2026): 1–10.

do not by themselves answer who can best provide care, whereas who has been caring for the child, the quality of the child's relationship with each parent, health and safety conditions, residence, educational needs, and psychological condition do.[48] A local examination conducted *ex officio* in one custody case illustrates how such facts can be obtained.[49]

Three Parameters of Limited *Ex Officio* Authority in *Hadhanah* Determination

Based on the foregoing, this study formulates the *ex officio* authority in the determination of *hadhanah* after SEMA No. 1 of 2025 as a model of limited, conditional, fact-based, and accountable judicial discretion that is directed toward the best interests of the child. The model consists of three interrelated layers of parameters that must be passed before a judge uses that authority.

The first layer is the jurisdictional parameter: a divorce suit or petition is being examined. The authority under SEMA No. 1 of 2025 is not granted for family cases in general; it is incidental to divorce cases and is not an independent authority to initiate a *hadhanah* case.[50]

The second layer is the procedural parameter, which has three elements. First, the parties have not filed a *hadhanah* claim; this merely triggers an examination and is not an automatic reason to issue a ruling. Second, there is no agreement between the parties on custody, because it is the matter left unresolved by agreement that requires a legal determination;[51] this must be distinguished from a mere difference in the parents' wishes. Third, there are facts established at trial concerning the child's condition and interests; only facts related to the child's need for protection can serve as a basis.[52]

The third layer is the substantive parameter: the determination of *hadhanah* is truly necessary in the best interests of the child. The SEMA does not authorize determining custody merely because the judge has the opportunity to do so; the principle calls for an assessment of the child's concrete circumstances, not a formal preference for one parent.[53] This parameter is tested through reasoning that shows

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[48] Agusta and Sari, "Analisis Hukum Atas Kepentingan Terbaik Bagi Anak Dalam Penetapan Hadhanah Anak Di Bawah 12 Tahun."

[49] Ramdani Wahyu Sururie and Fahadil Amin Al Hasan, "Pelaksanaan Pemeriksaan Setempat (Descente) Pada Perkara Hak Asuh Anak," *Jurnal Yudisial* 15, no. 2 (2023): 187–205, https://doi.org/10.29123/jy.v15i2.500.

[50] Alfikri et al., "Dari Ultra Petita ke Ex Officio."

[51] Alamsyah et al., "Islamic Judicial Activism in Determining Child Maintenance: Ex Officio Authority and Peaceful Settlement in Indonesian Religious Courts."

[52] Sururie and Al Hasan, "Pelaksanaan Pemeriksaan Setempat (Descente) Pada Perkara Hak Asuh Anak."

[53] Saraswati, "Accommodating the 'Best Interests of the Child'in Custody Disputes in the Indonesian System/s of Family Law."

what facts were found, how they were proven, and why they lead to designating one parent. Without that connection the use of *ex officio* authority becomes arbitrary; where facts are lawfully revealed, there is no agreement, and a determination is needed in the best interests of the child, the authority has a strong basis.[54]

Passing the three layers also fixes the scope of the authority: the ruling stays confined to designating the holder of *hadhanah* and ordering the child to be handed over, as formulated in the SEMA, and does not open the way to relief the parties never put before the court. How the authority is to be exercised is addressed in the next subsection. The layers form a sequential series of tests, as illustrated in Figure 1.

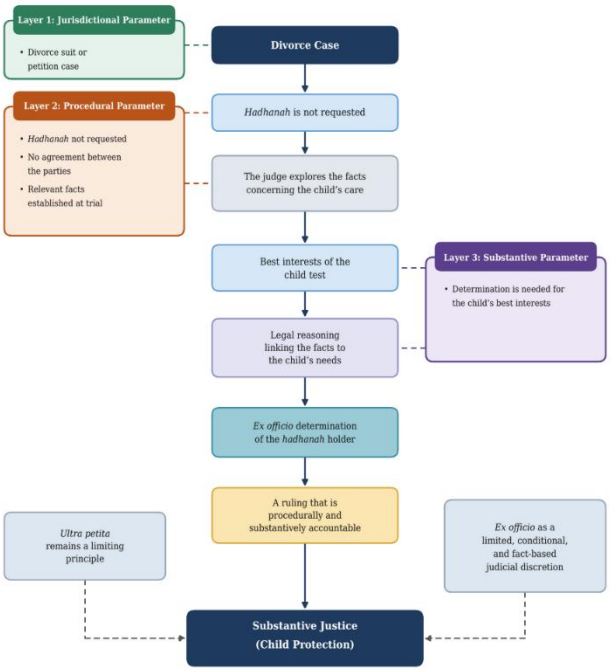


Figure 1.
Model of the Reconstruction of the Judge's *Ex Officio* Authority in the Determination of *Hadhanah* Based on Substantive Justice through Three Parameter Layers

The model shows that *ex officio* authority does not operate directly from "*hadhanah* not requested" to "the judge determines *hadhanah*." The absence of a *petitum* is a circumstance that prompts the judge to explore the facts about the child's custody, and the results of that exploration determine whether there are sufficient grounds for using the authority.

Exercising the Authority with Legal Certainty and the Right to Be Heard

An authority that reaches beyond the *petitum* is legitimate only if it is exercised in a way that the parties can foresee and answer. This article proposes four safeguards that are built into the use of the authority rather than added to it afterwards. First,

[54] Aisyi, Ramdani, and Hadi, "Perlindungan Hak Anak Pasca Perceraian Melalui Kewenangan Ex Officio Hakim Dalam Perspektif Best Interest of the Child."

foreseeability: because the conditions are fixed in advance, namely a divorce case, no claim, no agreement, facts established at trial, and the child's best interests, a party can know when the court may turn to custody, and similar facts should lead to comparable outcomes. Second, notice and hearing: before the judge relies on facts concerning the child, the parties should be told that custody will be examined and be given the opportunity to respond and to present evidence, so that the determination does not come as a surprise to either parent; a ruling based on facts that one parent could not answer would replace one procedural problem with another. Third, the child's voice: where the child is old enough to express a view, the judge should hear it in an appropriate manner, in line with Article 12 of the Convention on the Rights of the Child and with the weight the KHI already gives to the choice of a *mumayyiz* child. Fourth, reasoned and reviewable decisions: the operative part must be accompanied by reasoning that links the facts found, the assessment of the child's condition, and the choice of caregiver, so that the determination can be examined on appeal.

These safeguards also answer the main legal risks. A party may argue on appeal or in cassation that the judge exceeded the claims, and exceeding authority is a recognized ground of cassation;[55] a record showing that the facts were explored at the hearing, that the conditions of the SEMA were met, and that the reasoning was explicit is the strongest answer to that argument. Because a SEMA cannot override the HIR/RBg, the authority must be justified as an application of Article 178 paragraph (1) of the HIR, Article 41 of Law No. 1 of 1974, and child protection law, and not as an independent source of power. Because the SEMA is permissive, certainty depends on the consistency of the reasons for acting or not acting, which is why guidance on what counts as facts established at trial and on how the best interests of the child are assessed is needed. Finally, limiting the ruling to designating the holder of *hadhanah* and ordering handover keeps the determination enforceable and prevents it from becoming a vehicle for other relief.

Testing the Model: Illustrative Application and Its Limits

The empirical testing of the proposed model against judicial decisions remains beyond the scope of this article. Because SEMA No. 1 of 2025 was issued only on 30 December 2025, this study does not undertake a systematic analysis of decisions applying the new provision. Accordingly, Table 3 presents four constructed scenarios to illustrate how the proposed parameters may guide judicial reasoning. These scenarios are analytical illustrations, not actual court decisions, and therefore do not constitute empirical validation of the model.

[55] Law No. 14 of 1985 on the Supreme Court, art. 30, as amended.

Table 3. Illustrative application of the three-layer parameters (constructed scenarios)

Scenario	Jurisdictional	Procedural	Substantive	Result
S1. Divorce granted; neither party claims custody; both parents state at trial that the child will live with the mother	Met	Not met (agreement exists)	Not reached	No *ex officio* determination; the agreement is recorded
S2. Divorce granted; no claim and no agreement; witnesses and a local examination show that the child, aged five, is held by one parent who blocks contact and has no stable arrangement for the child's care	Met	Met (no claim, no agreement, relevant facts)	Met (determination needed for the child's stability and safety)	The judge may designate the holder of *hadhanah* and order handover, reasoning from the facts to the choice of caregiver
S3. As S2, but the examination concentrated on the parents' dispute and no facts about the child's condition were established	Met	Not met (no relevant facts about the child)	Not reached	The judge explores further facts; without them, no determination
S4. A proceeding other than divorce (for example, a property dispute) in which a custody problem appears	Not met	Not reached	Not reached	No authority; custody must be brought by a claim in an appropriate case

The scenarios show three things. First, the layers work as sequential filters: S1 and S4 fail early, so the SEMA does not become a general warrant to decide matters outside a divorce case or against the parties' own settlement. Second, the facts requirement is decisive: S2 and S3 differ only in whether facts about the child were established. Third, the scenarios expose points that the SEMA leaves open, namely what counts as "no agreement," which facts are relevant, and how the child's interests are to be evidenced.

Conceptual Contribution and Implications

The studies that discuss the expansion of *ex officio* authority after SEMA No. 1 of 2025 establish that the SEMA marks a shift from *ultra petita* toward *ex officio* authority and has binding force,[56] and that the best interests of the child can be operationalized in *ex officio* decisions.[57] Table 4 sets out, element by element, what this article adds.

[56] Alfikri et al., "Dari Ultra Petita ke Ex Officio."

[57] Siti Amina and Sri Lum'atus Sa'adah, "Operasionalisasi Prinsip The Best Interest Of The Child Dalam Putusan Ex Officio: Studi Harmonisasi Fikih Klasik Dan Psikologi Kontemporer," *Rausyan Fikr Journal* 5, no. 1 (2026): 1–10.

Table 4. Conceptual elements: previous research and this article

Element	Previous research, as reflected in Table 1	This article
Status of *ultra petita*	Treated as giving way to *ex officio* authority	Retained as the outer limit; only its boundary in *hadhanah* is reconstructed, since relief prescribed by law is not an excess of the claims
Structure of the authority	Expansion of the judge's authority; an active-protective judge	A sequential three-layer test (jurisdictional, procedural, substantive) that the authority must pass
Role of the best interests of the child	An operative norm that justifies the shift	A dual function: it justifies action and constrains it, and must be proven through facts and reasoning
Basis of the authority	Binding force of the SEMA, argued from the hierarchy of legislation	Anchored in the HIR/RBg, Law No. 1 of 1974, and child protection law; the SEMA is policy guidance, not the source of competence
Safeguards	Not developed as a framework in the studies reviewed	Foreseeable conditions, notice and hearing of the parents, the child's voice, and reasoned decisions
Testability	Conceptual or doctrinal	Layered tests applied to constructed scenarios; open to testing on decisions

For theory, the model offers a way to understand bounded judicial discretion in family law that avoids two extremes: strict procedural formalism, under which the child's interests depend on how the parents drafted their claims, and open-ended activism, under which the best interests of the child justify any departure from procedure. It does so by separating the competence (statutory), the standard (child protection law), and the operating conditions (the SEMA), and by treating procedural limits and substantive justice as mutually constraining rather than opposed.

For judicial practice, the model gives judges a sequence of questions to ask and to record: whether the case is a divorce case, whether there is a claim or an agreement, what facts about the child were established and how, whether the determination is necessary in the child's interests, and whether the parties and the child were heard. The same sequence gives parties and appellate courts a standard for reviewing such rulings, and it gives the Supreme Court a basis for the technical guidelines that the SEMA still lacks, namely indicators of facts established at trial and of the best interests of the child.

D. Conclusion

This study shows that SEMA No. 1 of 2025 does not abolish the principle of *ultra petita*, but reconstructs its relationship with the judge's *ex officio* authority in *hadhanah* determination. Because the SEMA is a judicial policy instrument rather than legislation, the authority must be anchored in Article 178 paragraph (1) of the HIR, Article 41 of Law No. 1 of 1974, and child protection law; within that anchor, *ultra petita* remains

the outer limit, whereas *ex officio* authority gives judges limited room to explore the facts and rule on *hadhanah* even in the absence of a specific request. The reconstruction takes the form of three layers of parameters: the jurisdictional parameter, namely that a divorce case is being examined; the procedural parameter, namely the absence of a *hadhanah* request, the absence of an agreement between the parties, and relevant facts established at trial; and the substantive parameter, namely that the determination is necessary in the best interests of the child. *Ex officio* authority is therefore a form of limited, conditional, fact-based, and accountable judicial discretion, exercised with foreseeable conditions, notice and hearing of the parents, the child's voice, and reasoned decisions. Because this study does not analyze decisions applying the SEMA, the model remains a normative proposal. The study recommends that the Supreme Court issue technical guidelines on the indicators of facts established at trial and of the best interests of the child, and suggests that future research test the model on Religious Court decisions issued after the SEMA took effect.

References

Afkariah, Mutia Diliana, Ikhwan Hamdani, and Ade Irma Imamah. "Efektivitas Implementasi Perma Dan Sema Tentang Perceraian Dan Nafkah Anak Di Pengadilan Agama Cibinong Kelas Ia." *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 7, no. 2 (2026): 273–89. https://doi.org/10.36701/bustanul.v7i2.3190.

Agusta, Lunggi, and Athina Kartika Sari. "Analisis Hukum Atas Kepentingan Terbaik Bagi Anak Dalam Penetapan Hadhanah Anak Di Bawah 12 Tahun." *Cessie: Jurnal Ilmiah Hukum* 3, no. 4 (2025): 130–55.

Aisyi, Rahazatul, Riyan Ramdani, and Ahmad Maula Hadi. "Perlindungan Hak Anak Pasca Perceraian Melalui Kewenangan Ex Officio Hakim Dalam Perspektif Best Interest of the Child." *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 8 (2026): 669–83. https://doi.org/10.47476/assyari.v8i2.11943.

Alamsyah, Asrianti Sukirman, Oyo Sunaryo Mukhlas, and Aden Rosadi. "Islamic Judicial Activism in Determining Child Maintenance: Ex Officio Authority and Peaceful Settlement in Indonesian Religious Courts." *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 671–99. https://doi.org/10.29240/jhi.v10i2.12755.

Alfikri, Ahmad Faiz Shobir, Maziya Rahma Wahda, Ahmad Zulfi Wahyudi, and M. Azam Rahmatullah. "Dari Ultra Petita ke Ex Officio: Reorientasi Kewenangan Hakim dalam Penetapan Hadhanah Pasca SEMA Nomor 1 Tahun 2025." *Journal of Islamic Law and Wisdom* 2, no. 1 (2026): 41–60. https://doi.org/10.30983/jilaw.v1i1.11103.

Ali, Moh. "Measuring Ex Offico Judge Righta and Application of the Ultra Petitum Partium Principiple in Deciding Cases in Religious Courts." *Journal of Law and Legal Reform* 5, no. 1 (2024): 383–408.

Al Pani, Muhammad, Miftahus Sholehuddin, and Noorjehan Safia Niaz. "Implementation of Ex Officio Rights of Judges of the Kediri District Religious Court: An Analysis of Non-Cumulation of Divorce and Child Custody Rights." *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 2 (2023): 163–74. https://doi.org/10.25217/jm.v8i2.4119.

Amina, Siti, and Sri Lum'atus Sa'adah. "Operasionalisasi Prinsip The Best Interest Of The Child Dalam Putusan Ex Officio: Studi Harmonisasi Fikih Klasik Dan Psikologi Kontemporer." *Rausyan Fikr Journal* 5, no. 1 (2026): 1–10.

Anam, Khairul, and Jamiliya Susantin. "Ex Officio Authority of Judges in Divorce Suit Decisions: An Analyis of Article 41 of Law Number 1 of 1974 on Marriage in the Pamekasan Religious Court." *Hakam : Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 10, no. 1 (2026): 215–32. https://doi.org/10.33650/jhi.v10i1.14592.

Ase, Muhammad Fadhly. "Ex-Officio Rights of the Judges in Signating the Holder of Currency: Hadhanah in Directions of Divorce at the Religious Court as an Efforts of Legal Protection and Administration of Legal Certainity for Children." *International Journal of Nusantara Islam* 7, no. 2 (2019): 252–60.

Budi, Kukuh Pramono, Ghansham Anand, Shintya Yulfa Septiningrum, Nur Ezan Rahmat, and Xavier Nugraha. "Adjudicating Joint Property Dispute in Islamic Jurisprudence: Balancing the Best Interests of the Child With a Focus on Residency." *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 245–66. https://doi.org/10.18592/sjhp.v23i2.12278.

Convention on the Rights of the Child. Ratified by Keputusan Presiden Republik Indonesia Nomor 36 Tahun 1990.

Fadhli, Risma Safitri. "Putusan Ultra Petitum Partium Perkara Perdata Ditinjau Dari Pasal 178 Ayat (3) HIR (Studi Kasus Putusan Nomor 445/Pdt.G/2018/PA. Kab. Mn)." *Jurnal Hukum Magnum Opus* 4, no. 1 (2021): 81–92.

Firdawaty, Linda, Siti Mahmudah, and Rozana Isa. "The Implementation of Dwangsom in the Execution of Hadhanah Matters and Its Relationship to the Ultra Petita Basis." *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 8, no. 2 (2023): 203–14. https://doi.org/10.25217/jm.v8i2.3648.

Hasna Putri, Nabila, Palmawati Tahir, and Muhamad Muslih. "Konsistensi Hukum Hadhanah Di Indonesia: Studi Yuridis Normatif Terhadap Putusan Pengadilan." *Qanun: Jurnal Hukum Keluarga Islam* 1, no. 2 (2023): 111. https://doi.org/10.51825/qanun.v1i2.24727.

Hasriyanti, Mulyadi Golap, and Akhmad Faqih Mursid. "Batas Kewenangan Hakim Dalam Rekonstruksi Gugatan Perdata: Antara Asas Hakim Pasif Dan Independensi Kekuasaan Kehakiman Dalam Sengketa Tanah." *Datuk Sulaiman*

Law Review DalRev 3, no. 1 (2022): 43–50.

Herzien Inlandsch Reglement (HIR). Staatsblad 1941 No. 44.

Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam.

Kadarisman, Achmad, Alfarid Fedro, and Zainal Arifin. "Best Interest of the Child in Islamic Family Law: Integrating Maqāṣid Al-Sharīʿah and Double Movement Theory in Ḥaḍānah Cases." *Jurnal Al-Dustur* 8, no. 2 (2025): 145–62. https://doi.org/10.30863/aldustur.v8i2.10459.

Kholidiya, Sunniyatul, and M. Amir Mahmud. "Analisis Putusan Hak Asuh Anak Pasca Perceraian Dalam Perspektif Hukum Keluarga Islam." *IJILE: International Journal of Islamic Law and Economics* 1, no. 1 (2026): 36–49.

Mahkamah Agung Republik Indonesia. *Surat Edaran Mahkamah Agung Nomor 1 Tahun 2025 tentang Pemberlakuan Hasil Rumusan Rapat Pleno Kamar Mahkamah Agung Tahun 2025 sebagai Pedoman Pelaksanaan Tugas bagi Pengadilan*. 30 December 2025.

Mahkamah Agung Republik Indonesia. *Surat Edaran Mahkamah Agung Nomor 3 Tahun 2015 tentang Pemberlakuan Hasil Rumusan Rapat Pleno Kamar Mahkamah Agung Tahun 2015 sebagai Pedoman Pelaksanaan Tugas bagi Pengadilan*.

Mahkamah Agung Republik Indonesia. *Surat Edaran Mahkamah Agung Nomor 3 Tahun 2018 tentang Pemberlakuan Hasil Rumusan Rapat Pleno Kamar Mahkamah Agung Tahun 2018 sebagai Pedoman Pelaksanaan Tugas bagi Pengadilan*.

Mubaroq, Afif, Jumni Nelli, and Zulikromi Zulikromi. "Child Custody Contest : Islamic Jurisprudence and Indonesian Positive Law on Remarried Mothers" 6, no. 1 (2026): 85–95.

Munthe, Iqbal Pinayungan, and Nursania Dasopang. "Konsep Hadhanah Dalam Hukum Islam Dan Implementasinya Dalam Kompilasi Hukum Islam Di Indonesia." *Journal of Legal, Political, and Humanistic Inquiry* 1, no. 3 (2026): 307–17. https://doi.org/10.65310/t91a3c45.

Musfa, De, Nurul Huda, and Ahmad Syaufi. "Asas Ultra Petita Dalam Perspektif Keadilan." *Jurnal Pendidikan Tambusai* 8, no. 2 (2024).

Naswa, Aksa Arobi, Yernati Ulfazah, Putri Hasmanita, and Al Kausar. "Between Normative Provisions and Social Reality: The Implementation of Child Custody Under Article 105 of the Indonesian Compilation of Islamic Law in Sialang Munggu, Pekanbaru." *USRIYYĀT: Indonesian Journal of Islamic Family Law* 1, no. 1 (2026): 59–77. https://doi.org/10.66277/uijifla.1.1.5.

Nisa, Adila Syaidatun, Fitria Adzuhri Mahyudin, Tufatul Kholisoh, Muhammad Hapipi Roif, Rafli Ramdan, and Ahmad Fahrul Fauji. "Rekonstruksi Hak Hadhanah Dalam Hukum Keluarga Islam: Analisis Yuridis Pemberian Hak Asuh Anak

Kepada Ayah Pasca Perceraian." *Journal of Legal, Political, and Humanistic Inquiry* 1, no. 3 (2026): 171–79. https://doi.org/10.65310/4bbczr85.

Nursobah, Asep. "Kaidah-Kaidah Hukum Rumusan Kamar yang Diubah." Kepaniteraan Mahkamah Agung, 4 April 2026. https://kepaniteraan.mahkamahagung.go.id/id/artikel-hukum/2951-kaidah-kaidah-hukum-rumusan-kamar-yang-diubah-asep-nursobah.

Nursobah, Asep. "Sah! MA Berlakukan 24 Rumusan Kamar Hasil Pleno Kamar 2025 sebagai Pedoman Pelaksanaan Tugas Pengadilan." Kepaniteraan Mahkamah Agung, 2 January 2026. https://kepaniteraan.mahkamahagung.go.id/id/registry-news/2856-sah-ma-berlakukan-24-rumusan-kamar-hasil-pleno-kamar-2025-sebagai-pedoman-pelaksanaan-tugas-pengadilan.

Putra, Hendra Catur. "Kedudukan SEMA Dalam Sistem Hierarki Perundang-Undangan Di Indonesia." *ELQONUN: Jurnal Hukum Ketatanegaraan* 1, no. 2 (2023): 130–43. https://doi.org/10.19109/elqonun.v1i2.21727.

Putri, Viorizza Suciani, Sonny Dewi Judiasih, and Hazar Kusmayanti. "The Best Interest of the Child in Islamic Family Law: Declarative and Enforceable Custody Protection in Indonesia and Malaysia." *International Journal of Nusantara Islam* 14, no. 1 (2026): 273–90. https://doi.org/10.15575/ijni.v14i1.54393.

Rechtsreglement voor de Buitengewesten (RBg). Staatsblad 1927 No. 227.

Rihdo, Maulana, Ishaq Maulana Sudur, Ahsandy Ramadhan Suardi, Satriya Pamungkas, and Fauziyah Putri Meilinda. "Kedudukan Surat Edaran Mahkamah Agung (SEMA) Dalam Perspektif Akademisi: Kekuatan Hukum, Ketetapan Dan Konsistensi, Pengaruh Terhadap Putusan Hukum." *USRAH: Jurnal Hukum Keluarga Islam* 4, no. 2 (2023): 230–40. https://doi.org/10.46773/usrah.v4i2.791.

Saraswati, Rika. "Accommodating the 'Best Interests of the Child' in Custody Disputes in the Indonesian System/s of Family Law." *International Journal of Law, Policy and the Family* 35, no. 1 (2021): ebab011. https://doi.org/10.1093/lawfam/ebab011.

Sururie, Ramdani Wahyu, and Fahadil Amin Al Hasan. "Pelaksanaan Pemeriksaan Setempat (Descente) Pada Perkara Hak Asuh Anak." *Jurnal Yudisial* 15, no. 2 (2023): 187–205. https://doi.org/10.29123/jy.v15i2.500.

Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan.

Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan.

Undang-Undang Republik Indonesia Nomor 14 Tahun 1985 tentang Mahkamah Agung.

Undang-Undang Republik Indonesia Nomor 35 Tahun 2014 tentang Perubahan atas

Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak.

Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman.

Wulandari, Yudha Sri. "Nafkah Madhiyah Anak Pasca Perceraian: Studi Komparatif Hukum Perdata Dan Hukum Islam Di Indonesia." *The Juris* 10, no. 1 (2026): 1–8. https://doi.org/10.56301/juris.v10i1.2246.