



Reconstructing Refugee Children's Civil Status through Maqasid al-Shariah in Indonesia

Anita Marwing¹, Mustaming², Abdain³, Nirwana Halide⁴

Islamic Family Law Study Program, Faculty of Syariah, State Islamic University of Palopo, Indonesia

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ABSTRACT

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ABSTRACT

This study examines the normative gap in the regulation of refugee children's civil status in Indonesia, particularly regarding birth, nasab (legal lineage), and guardianship. The issue is important because refugee children occupy a legally vulnerable position due to the weak integration of refugee policy, civil registration, child protection, and Islamic family law. Uncertainty over civil status may undermine legal identity, family relations, legal representation, and access to basic protection. This study aims to formulate a Maqasid al-Shariah-based reconstruction of the regulation of refugee children's civil status to ensure legal certainty over birth, nasab, and guardianship. It employs qualitative research with a normative-prescriptive juridical design based on documentary research. The study applies statutory, conceptual, Maqasid al-Shariah, and limited comparative approaches. Data were collected through documentary research and a systematic literature review of primary, secondary, and tertiary legal materials, including statutory regulations, international instruments, the Compilation of Islamic Law, reputable journal articles, and institutional reports. The data were analyzed through legal inventory, legal synchronization, legal gap analysis, Maqasid al-Shariah analysis, and prescriptive legal reconstruction. The findings reveal that the civil status of refugee children in Indonesia remains fragmented and has not been regulated in an integrated manner. The most significant normative gap lies in the disconnection between birth registration, recognition of nasab, and guardianship determination; therefore, birth registration alone does not ensure comprehensive legal certainty. This study contributes by proposing an integrated legal reconstruction model that connects legal identity, nasab, and guardianship within a Maqasid al-Shariah framework. It argues for a policy shift from administrative handling toward rights-based civil protection, legal certainty, and the best interests of refugee children.

*Corresponding Author at:

Islamic Family Law Study Program, Faculty of Syariah, State Islamic University of Palopo, Indonesia
E-mail address: anitamarwing@uinpalopo.ac.id

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1. INTRODUCTION

Forced cross-border mobility has placed refugee children in a highly vulnerable legal position, particularly when they are born, grow up, or spend their childhood in transit countries that do not provide permanent citizenship mechanisms. In the Indonesian context, this issue has become increasingly significant because Indonesia continues to serve as a transit country for refugees and asylum seekers from various countries, including Afghanistan, Myanmar, Somalia, Sudan, and Yemen. Institutional data indicate that, as of August 2025, there were 11,909 active refugees and asylum seekers in Indonesia, approximately 30% of whom were children (UNHCR Indonesia, 2025). Children in refugee situations face not only challenges in meeting basic needs but also problems related to identity recognition, family connectedness, and legal-status certainty. The identity of children with a refugee background is shaped through a complex interaction between experiences of forced migration, the social environment, institutional recognition, and the legal guarantees provided by the state in which they reside. (Shahimi et al., 2024).

In this study, the civil status of refugee children is not understood merely as the possession of administrative documents, but as the child's legal position within family relations and civil legal acts, encompassing birth identity, nasab or legal lineage, guardianship, care, and the protection of the child's civil interests. Accordingly, birth registration should be viewed as the initial foundation of legal protection for children, rather than the endpoint of fulfilling their civil status. A child who has obtained birth registration still requires clarity of nasab, recognition of family relations, and a lawful guardianship mechanism to ensure comprehensive legal protection.

Birth documents play an important role in proving legal identity, parent-child relationships, and the basis for claims to citizenship rights or state protection (Manby, 2020). When access to birth registration is disrupted, children may face difficulties in proving their age, origin, family relationships, and other civil rights (Dhiman & Harbers, 2024). These risks are even greater in the context of irregular migration, where legal barriers, bureaucracy, parents' migration status, gender relations, and social inequalities may simultaneously prevent children from obtaining valid legal documents (Fernandez et al., 2025).

In the Indonesian context, legal protection for refugee children remains within a normative space that is not yet fully comprehensive. Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad places greater emphasis on identification, shelter, security, and immigration supervision, and therefore does not specifically regulate the civil status of refugee children, particularly in relation to birth, nasab or legal lineage, and guardianship. Studies on refugee governance in Indonesia show that the delegation of responsibility to local governments has not always been accompanied by adequate financial support, institutional capacity, or a sufficient protection-oriented approach (Missbach & Adiputera, 2021). Meanwhile, refugee children's access to basic services such as education remains highly dependent on administrative policies, inter-agency coordination, and local socio-political conditions (Prabaningtyas et al., 2023). This condition indicates that the issue of refugee children in Indonesia cannot be adequately addressed through a temporary humanitarian approach alone, but requires a legal framework that ensures more substantive certainty over their civil status.

Recent administrative developments indicate a progressive step through the Letter of the Director General of Population and Civil Registration No. 400.8.1.7/13292/Dukcapil, dated 26 September 2024, concerning civil registration services for vital events involving refugees from abroad. This policy instructs provincial and district/municipal population and civil registration offices to provide civil registration services, particularly for births occurring in Indonesia, for foreigners without immigration documents or refugees from abroad in an accessible, prompt, accurate, and free-of-charge manner (Direktorat Jenderal Kependudukan dan Pencatatan Sipil, 2024). However, the policy remains administrative in character and has not fully addressed the substantive issue of how refugee children's birth registration should be linked to certainty of nasab or legal lineage, recognition of family relations, guardianship mechanisms, and other civil-law consequences. In the context of refugee children born in Indonesia, issues of nationality and the prevention of statelessness have begun to receive scholarly attention; however, such studies still predominantly place refugee children within the framework of the right to nationality, rather than within an integrated civil-status framework encompassing birth, nasab, and guardianship (Darmawan & Heriyanto, 2023).

Several recent studies have examined refugee children, legal identity, birth registration, education, nationality, and the risk of statelessness. Studies on refugee children in Indonesia have tended to emphasize the right to education, access to basic services, and refugee governance at the local level (Missbach & Adiputera, 2021; Prabaningtyas et al., 2023). Other studies have highlighted that children born in migration contexts are vulnerable to statelessness due to the interaction between nationality laws, birth registration procedures, parents' migration status, and socio-bureaucratic barriers (Fernandez et al., 2025; Manby, 2020). Meanwhile, research on legal identity shows that the absence of legal documents may produce multilayered exclusion, as children face difficulties in proving their identity, age, family relationships, and claims to basic rights (Dhiman & Harbers, 2024). Nevertheless, research specifically reconstructing the regulation of refugee children's civil status in Indonesia through the integration of birth, nasab or legal lineage, and guardianship remains limited. This gap constitutes the main research gap addressed in this article.

This research gap becomes even more significant when the issue of refugee children's civil status is analyzed through Maqasid al-Shariah. Recent studies show that Maqasid al-Shariah has developed as an interdisciplinary approach in law, ethics, public policy, economics, health, and socio-religious studies, with a growing publication trend in Scopus and Web of Science databases (Mohammed, 2024). In contemporary developments, Maqasid al-Shariah is no longer understood merely as a classical theory concerning the protection of religion, life, intellect, lineage, and property, but has also evolved into a paradigm for protecting humanity, dignity, justice, and social welfare (Tahir & Hamid, 2024). In Indonesian Islamic family law, the Maqasid approach has also been used to interpret family law reform in a manner more responsive to human rights, justice, the best interests of the child, equality, and public welfare (Arrasyid et al., 2024). Therefore, Maqasid al-Shariah is relevant for assessing whether the regulation of refugee children's civil status concretely ensures *hifz al-nafs*, *hifz al-nasl*, *hifz al-mal*, *hifz al-karamah*, and *maslahah*.

The novelty of this article lies in its attempt to reconstruct the regulation of refugee children's civil status in Indonesia through Maqasid al-Shariah, focusing on three main aspects: birth, nasab or legal lineage, and guardianship. Unlike previous studies that tend to discuss birth registration, the right to education, nationality, or statelessness separately, this article conceptualizes refugee children's civil status as a legal construction that interconnects the registration of birth events, the recognition of family origin, and the determination of the party legally responsible for the child. Thus, the novelty of this article lies not only in the use of Maqasid al-Shariah as a normative perspective, but also in the integration of civil registration, refugee law, child protection, and Islamic family law into a more comprehensive model of legal reconstruction.

The urgency of this study is grounded in the need to prevent refugee children from remaining in a state of legal limbo that obstructs the fulfillment of their basic rights. Uncertainty over birth status may hinder access to legal identity; uncertainty over nasab may affect the recognition of family relations and personal protection; and uncertainty over guardianship may create problems of legal representation in education, health care, social protection, and other administrative processes. Therefore, this study aims to answer the question of how the regulation of refugee children's civil status in Indonesia can be reconstructed through Maqasid al-Shariah to ensure legal certainty regarding birth, nasab, and guardianship. Theoretically, this article contributes to the development of discourse on refugee law, Islamic family law, civil registration, and Maqasid al-Shariah. Practically, it is expected to provide a prescriptive basis for policymakers, civil registration authorities, courts, religious institutions, and child protection agencies in formulating regulations that are more inclusive, responsive, and oriented toward the welfare of refugee children.

2. LITERATURE REVIEW

Recent literature on the legal status of children in the context of forced migration reveals a debate between administrative and substantive approaches. The administrative approach places birth registration as the primary instrument for establishing legal identity, as birth documents provide initial evidence of a child's name, date of birth, place of birth, and parent-child relationship. However, this approach has been criticized for often stopping at the production of documents without resolving issues of cross-border legal recognition, nationality status, and the child's civil relationship with the family. Thus, legal identity is not always synonymous with legal protection, as children who already possess birth documents may still experience

status uncertainty when such documents are not recognized, are not connected to nationality, or do not adequately clarify the legal consequences of family relations (Adair & Li, 2024; Dhiman & Harbers, 2024; Manby, 2020).

A further debate emerges in studies on civil registration and vital statistics. Some studies emphasize the importance of improving coverage, timeliness, data validity, and the linkage between birth registration and health and population statistics systems. However, other studies show that increased registration coverage does not automatically guarantee equitable access for vulnerable groups, as social barriers, migration status, poverty, geographical location, conflict, and bureaucratic capacity continue to determine who can actually access birth registration. Moreover, self-reported registration data may differ from official administrative data, so claims of registration success must be interpreted with caution (Adair & Li, 2024; Adair & Lopez, 2021; Kumar et al., 2021; Reed et al., 2021). In this context, birth registration should not be understood merely as a technical act, but must be situated as a legal process that determines children's access to civil recognition.

Some literature is optimistic about the digitalization of birth registration, as it is considered capable of expanding service coverage, accelerating administrative processes, and reducing transaction costs. However, critical perspectives show that digitalization may deepen exclusion when applied to groups lacking legal status, technological access, supporting documents, digital literacy, or trust in state authorities. In the context of refugees, undocumented migrants, and stateless groups, digitalization may reinforce rigid verification logic, making it even more difficult for those most in need of protection to enter the registration system. Therefore, the central debate is not whether digitalization is necessary, but whether it is built upon an inclusive and protection-oriented legal design (Dhiman & Harbers, 2024; Razali et al., 2022).

In statelessness studies, there is a difference in emphasis between nationality-based and civil-status-based approaches. The former places nationality at the center of the issue, so refugee children are primarily understood as subjects at risk of being denied nationality. The latter takes a broader view, arguing that statelessness often begins with the failure to prove identity, family relationships, place of birth, or legal parentage. Recent literature shows that the risk of statelessness among children arises not only from nationality laws, but also from administrative procedures, gender relations, parents' migration status, and the state's inability to recognize documents issued by authorities whose legitimacy may differ or be contested (Fernandez et al., 2025; Ganohariti, 2024; Manzotti, 2023). This debate is important because it demonstrates that children's civil status cannot be reduced merely to the issue of nationality.

Studies on refugee children also reveal a debate between the paradigms of vulnerability and agency. The vulnerability paradigm emphasizes that refugee children require special protection due to trauma, status uncertainty, limited access to services, and dependence on adults or institutions. However, the agency approach criticizes this tendency, as it may position children merely as objects of protection rather than legal subjects with voices, interests, and participatory capacities. Studies on asylum procedures show that children often do not receive sufficient information, are not adequately prepared, and are not always given the opportunity to be heard according to their age and maturity. Thus, the protection of refugee children must move beyond passive protection toward active recognition of children's legal position as rights-holders (Rap, 2020, 2022, 2023).

This debate is further expanded by studies that examine the concept of refugee vulnerability from a methodological perspective. Vulnerability is often used as a policy category to determine who deserves priority protection, but this category may become problematic if it produces stereotypes, oversimplifies children's experiences, or overlooks intersectional factors such as age, gender, family status, migration status, disability, and local social conditions. In the context of refugee children, vulnerability does not stand alone; rather, it is shaped through the interaction between legal structures, administrative procedures, family circumstances, and the social environment. Therefore, the assessment of refugee children's civil status should avoid a single approach that views children only as victims, while also considering the institutional capacity of the state to provide accessible legal mechanisms (Korp & Stretmo, 2020; Mendola & Pera, 2022; Shahimi et al., 2024).

The literature on refugee governance reveals a debate between the local turn and the protection approach. On the one hand, involving local governments is seen as a way to make refugee management more contextual and responsive to conditions on the ground. On the other hand, decentralizing responsibility without a clear legal basis, budgetary support, and protection mandate may merely transfer the burden to local authorities without strengthening refugees' rights. In the Indonesian case, the literature shows that local refugee governance may result in variations in treatment across regions and does not always lead to stable legal protection. Studies on education and refugees' self-expression also demonstrate that access to basic rights often depends on practical policies, community networks, and support from international agencies, rather than on a robust construction of rights within national law (Missbach et al., 2025; Missbach & Adiputera, 2021; Prabaningtyas et al., 2023).

In Indonesian Islamic civil law, the legal position of children forms part of the broader construction of Islamic family law. Therefore, any analysis of children's status should refer to the Compilation of Islamic Law, which regulates marriage, inheritance, and family relations as the basis for determining nasab or legal lineage, guardianship, and the civil-law consequences of a child's legal status.

Within the field of Islamic family law, the main debate concerns the relationship between nasab, the best interests of the child, and the role of the state. Some studies maintain that nasab must be strictly protected because it constitutes the basis of family rights, mahram relations, maintenance, inheritance, and guardianship. However, contemporary studies show that problems involving children in modern contexts cannot always be resolved solely through classical fiqh categories, particularly in situations involving unclear documentation, reproductive technology, abandoned children, or children outside formal family structures. This debate indicates that the protection of nasab should not be oriented only toward preserving lineage purity, but must also ensure legal certainty and the protection of children's rights in complex social contexts (Arrasyid et al., 2024; Zawawi et al., 2024).

Contemporary studies on Maqasid al-Shariah demonstrate a shift from a normative-doctrinal approach toward ethical, systemic, and public-policy-oriented approaches. Maqasid is used not only to explain the objectives of Islamic law, but also to assess whether a norm is capable of protecting life, lineage, property, dignity, and human welfare in contemporary contexts. A key debate in this literature concerns how Maqasid can be operationalized within positive legal design: whether it functions merely as a moral principle or can serve as a prescriptive analytical framework for reconstructing legal norms. Recent studies tend to support the use of Maqasid as a methodology for legal reform; however, its application to refugee children, civil status, nasab, and guardianship remains very limited (Arrasyid et al., 2024; Mohammed, 2024; Tahir & Hamid, 2024).

From these debates, it is evident that studies on refugee children remain fragmented into several clusters: birth registration, legal identity, statelessness, refugee governance, child participation, and Islamic family law. Each cluster makes an important contribution, but few studies bring them together within a single construction of civil status. The birth registration literature is strong in administrative terms, but does not adequately address nasab and guardianship. The statelessness literature is strong in relation to nationality, but does not sufficiently explain the consequences for family law. The refugee children literature is strong in protection and participation, but has not yet constructed the child's relationship with the family law system. Meanwhile, the literature on Maqasid and nasab is normatively strong, but has not been specifically applied to refugee children in transit countries such as Indonesia.

Based on these debates, four main gaps can be identified. First, there is a conceptual gap because previous studies have not developed a definition of refugee children's civil status as an integrated framework encompassing birth, nasab, and guardianship. Second, there is a normative gap because existing literature has focused more on birth registration or nationality, but has not examined the gap in civil-law consequences after a refugee child's birth has been registered. Third, there is an integrative gap because studies on refugee law, civil registration, child protection, and Islamic family law have largely developed separately. Fourth, there is a methodological gap because Maqasid al-Shariah has not been widely used as a prescriptive framework for systematically reconstructing the regulation of refugee children's civil status.

Accordingly, this study is highly relevant because it offers a contribution that has not been adequately addressed by current literature. It does not merely add to discussions on birth registration or statelessness, but develops a model of legal reconstruction that connects legal identity, nasab, guardianship, and legal certainty for refugee children within a normative-prescriptive framework. Maqasid al-Shariah provides a strong theoretical foundation because it enables child protection to be understood through *hifz al-nafs*, *hifz al-nasl*, *hifz al-mal*, *hifz al-karamah*, and *maslahah*. Therefore, this study has scholarly significance because it fills conceptual, normative, and methodological gaps in refugee law, Islamic family law, and the administration of children's civil status.

3. METHODOLOGY

This study employs qualitative research with a normative-prescriptive juridical design. This design was chosen because the study focuses on the analysis of legal norms, regulatory gaps, and the reconstruction of refugee children's civil status in Indonesia, particularly concerning birth, nasab or legal lineage, and guardianship. The prescriptive orientation is used because this study does not merely explain the weaknesses of existing norms, but also formulates a more ideal regulatory model based on Maqasid al-Shariah.

The approaches used include statutory, conceptual, Maqasid al-Shariah, and limited comparative approaches. The statutory approach is used to examine national regulations related to refugees, civil registration, child protection, marriage, and Islamic family law. The conceptual approach is used to construct the concepts of refugee children's civil status, legal identity, legal certainty, nasab, and guardianship. The Maqasid al-Shariah approach is used to assess normative gaps based on the principles of *hifz al-nasl*, *hifz al-nafs*, *hifz al-mal*, *hifz al-karamah*, and *maslahah*. The limited comparative approach is used to situate the issue of refugee children in Indonesia within international protection standards.

The research data were collected through documentary research and a systematic literature review. The data sources consist of primary, secondary, and tertiary legal materials. Primary legal materials include national statutory regulations, the Compilation of Islamic Law, and international legal instruments relevant to children's rights and refugee protection. Secondary legal materials include reputable journal articles, academic books, previous studies, and institutional reports on refugees, children, birth registration, legal identity, and Maqasid al-Shariah. Tertiary legal materials are used to clarify the legal terms and concepts employed in this study.

The literature selection was conducted systematically using keywords such as refugee children, civil status, birth registration, legal identity, guardianship, nasab, Islamic family law, Maqasid al-Shariah, and refugee law in Indonesia. The selected literature consists of sources relevant to refugee children's civil status, particularly birth, nasab, and guardianship. The validity of the legal materials was ensured through source triangulation, legal material validation, and analytical consistency. Triangulation was conducted by comparing national regulations, international instruments, academic literature, institutional reports, and principles of Islamic law. Legal material validation was carried out by assessing source authority, normative hierarchy, legal validity, substantive relevance, and the recency of the literature.

The data were analyzed through qualitative-normative analysis, including legal inventory, legal synchronization, legal gap analysis, Maqasid al-Shariah analysis, and prescriptive legal reconstruction. Legal inventory was used to map regulations related to birth, nasab, and guardianship of refugee children. Legal synchronization was used to assess consistency among regulations, while legal gap analysis was used to identify substantive, procedural, and protection-related gaps. The results of this analysis were then examined through Maqasid al-Shariah to formulate a reconstruction of refugee children's civil status regulation that ensures legal certainty. This study does not involve human subjects or use the personal data of refugee children; therefore, the entire analysis is based on legal documents and accountable academic literature.

4. RESULT AND DISCUSSION

4.1. Fragmentation of the Regulation of Refugee Children's Civil Status in Indonesian Law

The inventory of legal materials shows that the regulation of refugee children's civil status in Indonesia has not yet been placed within a unified legal regime. The available norms remain dispersed across several legal regimes, namely refugee law, civil registration law, child protection law, marriage law, and Islamic family law. Presidential Regulation No. 125 of 2016 serves as the main legal basis for handling refugees from abroad and remains in force; however, its regulatory orientation places greater emphasis on treating refugees as an administrative-immigration issue rather than as civil-law subjects with specific needs concerning birth, *nasab* or legal lineage, and guardianship. The regulation governs the handling of refugees from abroad, while its substantive provisions are more closely related to identification, shelter, security, and immigration supervision.

On the other hand, the Population Administration Law affirms that the state is obliged to provide protection and recognition of personal status and legal status in relation to every population event and vital event. This norm is important because birth constitutes a vital event that serves as the entry point for recognizing a child's legal identity. However, in the context of refugee children, the norm has not explicitly established a specific mechanism linking refugee status, birth registration, family relations, and guardianship.

Fragmentation is also evident in Islamic family law. The Compilation of Islamic Law was disseminated through Presidential Instruction No. 1 of 1991 and consists of Book I on Marriage, Book II on Inheritance, and Book III on Waqf. The Compilation is relevant for discussing *nasab*, guardianship, and family relations, but it does not explicitly regulate the position of refugee children as subjects of Islamic family law in Indonesia.

Table 1. Fragmentation of Norms on Refugee Children's Civil Status in Indonesia

Legal Regime	Scope of Regulation	Limitations Concerning Refugee Children
Refugee law	Handling of refugees from abroad, coordination, shelter, security, and immigration supervision	Has not yet established a specific regime governing the civil status of refugee children
Population administration	Recognition of personal status and legal status in relation to population events and vital events	Not yet fully integrated with the specific needs of refugee children whose parents often face documentary constraints
Child protection law	Principles of child protection and the best interests of the child	Does not specifically regulate refugee children as children in cross-border situations and without certainty of residence status
Marriage law	Validity and registration of marriage	Does not specifically address refugee marriages constrained by documents from the country of origin, residence permits, or official registration requirements
Islamic family law / Compilation of Islamic Law	Marriage, <i>nasab</i> or legal lineage, guardianship, inheritance, and family relations	Does not regulate the status of refugee children in the context of cross-national <i>nasab</i> and guardianship

The table shows that the issue of refugee children cannot be addressed through a single legal instrument. Refugee law views refugees primarily as objects of administrative handling; population administration views children through the registration of vital events; while Islamic family law views children through family relations, *nasab* or legal lineage, and guardianship. The main problem arises because these legal regimes have not been systematically connected. As a result, refugee children's civil status exists in an intermediate legal space: they may be born and live in Indonesia, but their family legal status cannot always be easily incorporated into the national civil registration and family law systems.

The fragmentation of the regulation of refugee children's civil status occurs because Indonesian law still places refugees primarily within the framework of administration, security, and temporary handling, rather than within the framework of civil rights inherent in individuals as legal subjects. This is consistent with Sadjad's finding that Presidential Regulation No. 125 of 2016 tends to represent refugees as a group in "transit", passive, and in need of administrative handling, rather than as rights-holders requiring substantive legal protection (Sadjad, 2021). Therefore, although the regulation provides a legal basis for the presence and handling of refugees, it has not conceptually shifted the position of refugees from objects of policy to subjects of civil rights. This condition explains why the status of refugee children is not automatically protected comprehensively in relation to birth, nasab, and guardianship, as these three aspects fall outside the main orientation of refugee regulation, which remains predominantly administrative.

This finding can also be explained through the theory of legal identity, which positions birth registration as the initial gateway to a person's recognition before the law. In the context of migration and displacement, legal identity functions not only as an administrative document but also as a prerequisite for accessing other rights, including family protection, education, health care, and citizenship status. Elmolla emphasizes that birth registration frameworks that are not rights-based often fail to protect refugee children because the state treats registration merely as an administrative procedure rather than as part of fulfilling children's rights (Elmolla, 2020). Similarly, Razali, Duraisingam, and Lee show that the lack of synchronization between immigration policy and the birth registration system can hinder refugees, migrants, and stateless groups from accessing legal identity (Razali et al., 2022). Thus, this study shows that fragmentation occurs because the population administration regime has not been fully connected with the refugee regime and family law.

This fragmentation is further reinforced because, in refugee situations, documentation issues are not merely technical but are also linked to structural vulnerability. Refugee children often live in conditions where family documents are lost, damaged, incomplete, unrecognized by the authorities of the host state, or unverifiable due to conflict in the country of origin. Ungar and Seymour found that refugee children face serious obstacles in obtaining, maintaining, and transferring identity, education, and health records during cross-border migration processes (Ungar & Seymour, 2024). Madon and Schoemaker also show that digital identity systems or humanitarian registration do not automatically resolve protection problems unless they are connected to state governance, national legal recognition, and public service mechanisms (Madon & Schoemaker, 2021). Therefore, although refugee children may possess registration data from international organizations, such data do not necessarily produce civil status recognized within Indonesia's national legal system.

Viewed through the perspective of Maqasid al-Shariah, this fragmentation reveals a gap between positive law, which remains administrative in character, and the objectives of Islamic law, which emphasize substantive human protection. Maqasid al-Shariah assesses not only the existence of rules but also whether such rules are capable of protecting life, lineage, dignity, property, and human welfare. El-Mesawi explains that Maqasid al-Shariah relates to the normative objectives of Islamic law in safeguarding basic human needs and universal humanitarian values (El-Mesawi, 2020). Shukri and Azalan also show that the Maqasid approach can serve as a more inclusive framework for governance and public policy in plural societies (Shukri & Azalan, 2023). Thus, the fragmentation of refugee children's regulation becomes a normative problem because birth, nasab or legal lineage, and guardianship should not be treated as separate administrative issues, but as an integrated framework for protecting children's civil status.

Based on these theories and previous studies, the findings of this study are logically grounded: the regulation of refugee children's civil status in Indonesia is fragmented because each legal regime operates according to a different logic. Refugee law operates through the logic of temporary handling, population administration through the logic of document registration, and Islamic family law through the logic of family relations, nasab, and guardianship. When no connecting norm explicitly integrates these three logics, refugee children remain in an incomplete legal position. Therefore, the finding of fragmentation is not merely the result of insufficient regulation, but of the absence of a normative design that integrates the protection of legal identity, family relations, and legal representation of refugee children within a single civil-status framework.

4.2. Kekosongan Norma Kelahiran, Nasab, dan Perwalian Anak Pengungsi

Legal gap analysis shows that the normative gap is not singular, but appears in three forms: substantive gaps, procedural gaps, and gaps in legal protection. In relation to birth, recent developments indicate administrative strengthening through the Letter of the Director General of Population and Civil Registration dated 26 September 2024 concerning civil registration services for vital events involving refugees from abroad. The letter instructs provincial and district/municipal Population and Civil Registration Offices to provide civil registration services, particularly for births occurring in Indonesia, to foreigners without immigration documents or refugees from abroad in an accessible, prompt, accurate, and free-of-charge manner. It also opens space for coordination with UNHCR.

However, this finding does not eliminate all legal problems. The 2024 instruction of the Directorate General of Population and Civil Registration reflects an administrative response to the birth of refugee children, but it remains insufficient to resolve civil status comprehensively. First, the instrument places greater emphasis on the registration of vital events, particularly birth, rather than on the reconstruction of the child's family status. Second, it does not comprehensively address the relationship between birth registration and the recognition of *nasab* or legal lineage and guardianship. Third, because it takes the form of an administrative instruction, the continuity and uniformity of its implementation still depend on the capacity and understanding of local Population and Civil Registration Offices.

This condition is consistent with findings from civil society organizations showing that children of refugee parents face difficulties in obtaining birth certificates due to barriers in fulfilling administrative document requirements. SUAKA notes that refugees are not always able to provide documents such as family cards, parental identity documents, passports, residence permits, or proof of marriage, which are commonly required in the civil registration system.

Table 2. Legal Gap Analysis of Birth, Legal Lineage, and Guardianship of Refugee Children

Aspect of Civil Status	Existing Norms or Practices	Normative Gap	Legal Consequences
Birth	Population administration recognizes vital events; the 2024 instruction of the Directorate General of Population and Civil Registration opens access to birth registration services for refugees without immigration documents	There is no statutory norm or specific regulation establishing a permanent mechanism for the birth registration of refugee children	Children may face uncertainty over legal identity if implementation varies across regions
Legal lineage (<i>nasab</i>)	Islamic family law places <i>nasab</i> as an essential element of the parent-child relationship	There is no specific mechanism for recognizing the <i>nasab</i> of refugee children when the parents' marriage is unregistered or family documents are incomplete	The child's legal relationship with the father, family, and lineage may become uncertain
Guardianship	Family law and child protection law recognize the need for a guardian for children who lack legal capacity	There is no specific procedure for appointing a guardian for refugee children who are unaccompanied, separated from their parents, or whose parents lack legal documents	Children may lose legal representation in administrative, educational, health-care, and civil protection matters
Family protection	The CRC guarantees children's rights to a name, nationality, identity, and family relations	There is no integrated national regulation linking birth registration, <i>nasab</i> , and guardianship for refugee	Child protection remains administrative rather than a comprehensive protection of civil status

Aspect of Civil Status	Existing Norms or Practices	Normative Gap	Legal Consequences
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children

The table shows that the most serious normative gap no longer lies only in birth registration, but in the linkage between birth, nasab or legal lineage, and guardianship. If a birth is registered but the child's relationship with the parents is not clearly recognized, the child's civil status remains incomplete. Likewise, if the child is registered but there is no guardianship mechanism for unaccompanied children, the child remains vulnerable in everyday legal relations. In cases involving Muslim refugee children, the Religious Court holds a strategic position as a forum for legal resolution in ensuring certainty regarding the child's origin, guardianship, and family civil relations, insofar as these matters fall within the scope of Islamic civil law.

In Islamic family law, nasab forms the basis of the legal relationship between children and parents. Therefore, limitations in marriage documents or identity documents of refugee parents should not automatically eliminate legal protection for the child's origin. Accordingly, the state needs to provide a more flexible evidentiary mechanism, including parental statements, data from assisting organizations, UNHCR records, or court determinations, so that the protection of refugee children's nasab can be ensured.

The findings show that the normative gap concerning birth, nasab, and guardianship of refugee children occurs because Indonesia's legal framework still separates the registration of vital events, the recognition of family relations, and child protection. This separation means that birth registration does not automatically produce comprehensive protection of civil status. In legal identity theory, birth registration is not merely an administrative procedure, but an instrument of legal recognition that connects a child with a name, origin, family, nationality, and access to basic services. Elmolla emphasizes that birth registration in the refugee context should be understood through a rights-based approach because failure to register a birth may affect other children's rights, including identity, family, and legal protection (Elmolla, 2020). Thus, the finding of this study is logically grounded: when the law only opens space for birth registration without regulating its further relationship with nasab and guardianship, the civil status of refugee children remains incomplete.

This normative gap also arises because refugee children often experience documentary precarity, a condition in which individuals are unable to meet formal documentation requirements not because of personal negligence, but because of forced migration, conflict, loss of documents, or lack of access to the authorities of the country of origin. Cheong and Baltazar found that stateless persons, undocumented migrants, and vulnerable communities often face multilayered barriers in accessing maternal health services and birth registration due to lack of documents, costs, distance, fear of authorities, and legal-status uncertainty (Cheong & Baltazar, 2021). Razali, Duraisingam, and Lee also show that barriers to birth registration for refugees, migrants, and stateless groups cannot be resolved solely through digitalization or technical simplification if the core problems of legal status and basic documents have not been normatively addressed (Razali et al., 2022). These findings reinforce the conclusion that administrative instructions, including simplified access to birth registration, remain insufficient if they are not followed by norms that provide a permanent legal basis and integrated procedures for refugee children.

Regarding nasab, the normative gap occurs because family law systems generally assume that the parent-child relationship can be proven through registered marriage, family documents, or the official identity of parents. This assumption becomes problematic when applied to refugees, as not all refugee couples are able to present marriage documents or documents proving family origin from their country of origin. In this context, birth registration should not merely record the event of birth, but should also be linked to the recognition of the child's legal relationship with the parents. If the state only registers the birth without providing a flexible mechanism for proving nasab, refugee children remain vulnerable to losing certainty over their legal relationship with their father, mother, and extended family. This condition is consistent with Ungar and Seymour's study, which shows that refugee children require portable identity systems that not only store individual data but also preserve the continuity of family, education, health, and legal-status information throughout the migration process (Ungar & Seymour, 2024).

The normative gap in guardianship arises because positive law has not yet provided a specific procedure for refugee children who are unaccompanied by their parents, separated from their families, or living in family situations that cannot be verified through documents. Yet children in refugee situations require not only physical protection, but also legal representation to access education, health care, social assistance, administrative services, and child protection mechanisms. Silva, McQuaid, Rojas Perez, and Paris show that unaccompanied migrant children face multilayered vulnerabilities because they enter destination countries without parents or guardians, without stable legal status, and with complex traumatic experiences (Silva et al., 2022). Thus, the absence of a specific guardianship mechanism makes the protection of refugee children dependent on ad hoc administrative measures rather than on certain and consistent legal guarantees.

In the Indonesian context, these findings can also be explained by the character of refugee policy, which remains predominantly humanitarian-administrative rather than rights-based legal protection. Sadjad shows that Presidential Regulation No. 125 of 2016 provides a legal framework for the presence of refugees, but still represents refugees as foreigners “from abroad” who need to be handled, rather than as rights-holders requiring substantive legal protection (Sadjad, 2021). Dewansyah and Nafisah also emphasize that although the right to asylum has a constitutional basis, Indonesia’s approach to refugees still operates more within the logic of humanitarianism and immigration control than within a rights-based approach (Dewansyah & Nafisah, 2021). This explains why existing regulations more easily govern shelter, supervision, and coordination, but remain insufficiently developed in formulating the civil status of refugee children.

Accordingly, the findings on normative gaps concerning birth, nasab, and guardianship are not caused by a complete absence of rules, but by the absence of connecting norms that integrate refugee law, population administration, child protection, and family law. Population administration law may register births, but it does not necessarily resolve nasab. Islamic family law recognizes the importance of nasab and guardianship, but it has not explicitly responded to the condition of refugee children. Child protection law recognizes the best interests of the child, but it does not yet provide a specific mechanism when the child is in refugee status. Therefore, this study reveals a structural legal gap, namely a gap arising from the lack of integration among several legal regimes that are equally relevant to the civil status of refugee children.

Theoretically, this condition can be understood through the Maqasid al-Shariah approach, particularly the protection of lineage, life, dignity, and the welfare of children. The Maqasid approach requires law not to stop at the existence of formal norms, but to assess whether such norms genuinely protect basic human needs. Shukri and Azalan explain that Maqasid al-Shariah can serve as an inclusive policy framework because it emphasizes the objectives of law in safeguarding social welfare and human dignity in plural societies (Shukri & Azalan, 2023). Therefore, the normative gaps concerning birth, nasab, and guardianship of refugee children can be considered inconsistent with Maqasid because they threaten the protection of identity, family relations, legal representation, and the best interests of the child. Ultimately, this study confirms that legal reconstruction should not be directed solely at birth registration, but must integrate birth registration, recognition of nasab, and guardianship determination into a single framework for protecting the civil status of refugee children.

4.3. Legal Uncertainty over the Civil Status of Refugee Children

Legal uncertainty concerning refugee children arises because Indonesia has not become a party to the 1951 Refugee Convention and the 1967 Protocol, and has not yet established a national refugee status determination system. UNHCR states that, because Indonesia does not have a national refugee status determination system, UNHCR continues to carry out its mandate for the protection and determination of refugee status in Indonesia. This condition affects the position of refugee children, as the refugee status of their parents does not automatically generate a clear national scheme concerning the children’s civil status.

From the perspective of legal certainty, there are three layers of problems. First, there is normative uncertainty, as no national legal norm explicitly regulates the civil status of refugee children as a specific category. Second, there is procedural uncertainty, as birth registration procedures have begun to be opened through administrative instructions, but mechanisms for recognizing nasab or legal lineage and determining guardianship have not yet been specifically regulated. Third, there is institutional uncertainty, as the

protection of refugee children involves multiple institutions, including the Population and Civil Registration Office, the Ministry of Law, the Ministry of Social Affairs, Religious Courts, Religious Affairs Offices, local governments, and UNHCR, yet no coordination mechanism specifically governs the civil status of refugee children.

This uncertainty is inconsistent with the standards of children's rights under the Convention on the Rights of the Child. Article 7 of the CRC affirms that every child must be registered immediately after birth, has the right to a name, has the right to acquire a nationality, and, as far as possible, has the right to know and be cared for by his or her parents. Article 8 of the CRC further affirms the child's right to preserve his or her identity, including name, nationality, and family relations as recognized by law. Therefore, the civil status of refugee children should not be understood merely as an administrative registration matter, but as part of children's rights to legal identity and family relations.

4.4. Maqasid al-Shariah Analysis of Refugee Children's Civil Status

Based on the Maqasid al-Shariah approach, the normative gap in the civil status of refugee children is not merely an administrative issue, but also a matter concerning the protection of the objectives of Islamic law. Maqasid literature places the protection of religion, life, intellect, lineage, and property as the primary objectives of Islamic law. In the context of this study, the most relevant principles are *hifz al-nasl*, *hifz al-nafs*, *hifz al-mal*, *hifz al-karamah*, and *maslahah*.

First, birth registration is related to *hifz al-nafs* and *hifz al-karamah*. Children without birth documents risk facing difficulties in accessing basic services and are vulnerable to being treated as legally invisible subjects. From the Maqasid perspective, the protection of life does not only mean protecting children from physical death, but also ensuring their survival through the recognition of legal identity and access to social protection.

Second, the recognition of *nasab* or legal lineage is directly related to *hifz al-nasl*. *Nasab* is not merely a biological concept, but also a legal construction that determines the child's relationship with parents, family, guardians, custody rights, and other potential civil rights. If refugee children are born from unregistered marriages or to parents who face difficulties in proving marriage documents, the state needs to provide alternative evidentiary mechanisms so that the protection of the child's *nasab* is not lost due to administrative barriers.

Third, guardianship is related to *hifz al-nafs*, *hifz al-nasl*, and *maslahah*. Unaccompanied refugee children or those separated from their parents require legal representation to access services, protection, education, health care, and administrative decisions. Within the Maqasid framework, the state has a responsibility to prevent harm arising from the absence of a guardian. Therefore, guardianship mechanisms should be developed not merely as judicial procedures, but as child protection instruments that are prompt, safe, and oriented toward the best interests of the child.

4.5. Reconstruction of the Regulation of Refugee Children's Civil Status Based on Maqasid al-Shariah

Based on the findings above, the reconstruction of the regulation of refugee children's civil status should be directed toward the establishment of a legal model that integrates birth registration, recognition of *nasab* or legal lineage, and guardianship determination. This reconstruction does not necessarily have to begin with the enactment of a new law, but can be implemented gradually through the strengthening of Presidential Regulation No. 125 of 2016, the formulation of cross-ministerial technical regulations, or the development of a joint national guideline involving the Population and Civil Registration Office, the Ministry of Law, the Ministry of Social Affairs, the Ministry of Religious Affairs, Religious Courts, local governments, and UNHCR.

The first reconstruction concerns the strengthening of birth registration for refugee children. The 2024 instruction of the Directorate General of Population and Civil Registration has already provided an important

administrative basis by opening access to the registration of vital events for refugees without immigration documents. However, to better ensure legal certainty, this instruction should be elevated into a more permanent, uniform, and binding technical norm applicable across all regions. The registration mechanism should allow the use of alternative evidence, such as birth certificates issued by health facilities, statements from assisting organizations, UNHCR registration data, or declarations of responsibility from parents or guardians.

The second reconstruction concerns the recognition of refugee children's *nasab* through flexible evidentiary mechanisms. In refugee situations, not all parents are able to bring marriage certificates, passports, or family documents from their country of origin. Therefore, the parent-child relationship needs to be proven through an approach that is not merely formalistic. Proof of *nasab* may be established through birth documents, parental statements, UNHCR records, documents from assisting organizations, statements from religious figures, or court determinations where necessary. The guiding principle is that the parents' documentary limitations should not eliminate the protection of the child's *nasab*.

The third reconstruction concerns the establishment of a specific guardianship mechanism for refugee children. Unaccompanied refugee children, children separated from their parents, or children living in unclear family situations require a legally recognized guardian. This mechanism may be implemented through court determination, supported by assessments from child protection institutions and refugee-assisting organizations. In the case of Muslim children, Religious Courts may be given a role in matters relating to guardianship under Islamic family law, while for non-Muslim children or interfaith cases, the appropriate court mechanism may be applied. The main principles should be the best interests of the child, protection from exploitation, and the guarantee of legal representation.

Tabel 3. Model Rekonstruksi Berbasis Maqasid al-Shariah

Civil Status Issue	Legal Problem	Principle of Maqasid al-Shariah	Direction of Reconstruction
Birth	Birth registration has begun to be opened, but it has not yet been fully institutionalized in permanent and uniform norms	Hifz al-nafs and hifz al-karamah	Establishing a national mechanism for the birth registration of refugee children through alternative evidence and coordination between the Population and Civil Registration Office and UNHCR
Nasab / legal lineage	Marriage or the parent-child relationship is difficult to prove due to documentary limitations	Hifz al-nasl	Regulating flexible proof of <i>nasab</i> through alternative documents, parental statements, records from assisting organizations, or court determinations
Guardianship	Unaccompanied children do not yet have a prompt and clear special guardianship mechanism	Hifz al-nafs, hifz al-nasl, and maslahah	Establishing a guardianship determination procedure for refugee children based on the best interests of the child and child protection assessments
Protection of property and future interests	It is unclear who represents the child in civil-law matters	Hifz al-mal	Granting legal authority to guardians to protect children's administrative, educational, health-care, and civil-law interests

The table shows that legal reconstruction cannot be achieved by improving only one aspect. If only birth registration is improved, children may still experience uncertainty regarding *nasab* or legal lineage and guardianship. If only *nasab* is recognized without a lawful guardian, children may still face difficulties in everyday legal acts. Therefore, reconstruction must be integrated: birth provides initial legal identity, *nasab* provides recognized family relations, and guardianship provides legal representation for the child.

The main finding of this study is that the civil status of refugee children in Indonesia is affected by a structural and fragmented normative gap. Recent administrative developments through the 2024 instruction of the Directorate General of Population and Civil Registration indicate progress in birth registration, but remain insufficient to ensure legal certainty regarding nasab and guardianship. From the perspective of Maqasid al-Shariah, this gap contradicts the protection of lineage, life, dignity, property, and the welfare of children. Therefore, the reconstruction of the regulation of refugee children's civil status should be directed toward an integrated legal model that ensures birth registration, recognition of nasab, and guardianship determination in a clear, prompt, non-discriminatory manner based on the best interests of the child.

The reconstruction of refugee children's civil status regulation needs to be integrated because birth registration alone is insufficient to ensure children's legal certainty. In legal identity theory, birth constitutes the initial gateway to legal recognition, but a child's identity only becomes substantively meaningful when it is connected to family relations, nationality, protection, and access to basic services. Therefore, a rights-based approach requires birth registration not to be treated merely as an administrative procedure, but as a legal protection instrument that connects children with other civil rights (Elmolla, 2020). This finding explains why legal reconstruction must simultaneously cover three aspects: birth, nasab, and guardianship.

The reconstruction model through alternative evidence is also necessary because refugee children live in conditions of documentary precarity, namely documentary limitations caused by forced migration, conflict, loss of documents, or disrupted access to the authorities of the country of origin. Previous studies show that refugees, undocumented migrants, and stateless persons are often hindered from accessing birth registration because administrative requirements do not correspond to the realities of their vulnerability (Cheong & Baltazar, 2021). A similar point is found in the study by Razali, Duraisingam, and Lee, which emphasizes that birth registration reform cannot be merely technical, but must address legal, documentary, and access-related barriers faced by vulnerable groups (Razali et al., 2022). Therefore, proof of birth, nasab or legal lineage, and guardianship for refugee children must be constructed flexibly without compromising legal certainty.

The reconstruction of guardianship is important because refugee children, particularly those who are unaccompanied or separated from their families, require legal representation to access education, health care, administration, and protection from exploitation. Studies on unaccompanied migrant children show that the absence of parents or guardians increases children's legal, psychological, and social vulnerability within the receiving state's system (Silva et al., 2022). In addition, research on the portability of refugee children's identity emphasizes that children need a system capable of maintaining the continuity of identity, education, health, and family data throughout cross-border movement (Ungar & Seymour, 2024). Therefore, a legally recognized guardian becomes an essential element in connecting the child's identity with factual protection in everyday life.

From the perspective of Maqasid al-Shariah, the findings of this study are logically grounded because law should not be assessed merely by the existence or absence of formal norms, but by its capacity to preserve human welfare. The reconstruction of birth relates to *hifz al-nafs* and *hifz al-karamah*, the reconstruction of nasab relates to *hifz al-nasl*, while the reconstruction of guardianship relates to *hifz al-nafs*, *hifz al-nasl*, and *maslahah*. The Maqasid approach can function as a basis for inclusive policy in plural societies because it emphasizes the protection of human dignity, social welfare, and the strengthening of public institutions (Shukri & Azalan, 2023). Thus, reconstruction based on Maqasid al-Shariah is not merely a theological argument, but a normative framework to ensure that refugee children are treated as legal subjects who possess identity, family relations, guardians, and comprehensive civil-law protection.

Overall, the findings show that legal reconstruction is necessary because the existing legal regimes still operate separately: population administration focuses on birth registration, family law focuses on nasab and guardianship, while refugee policy focuses on administrative handling. Studies on Presidential Regulation No. 125 of 2016 also show that refugee policy in Indonesia remains stronger in the logic of management than in the protection of substantive rights (Sadjad, 2021). Therefore, an integrated model that connects birth, nasab, and guardianship constitutes a normative response to this fragmentation, while also strengthening the legal certainty of refugee children within the framework of child protection and Maqasid al-Shariah.

5. CONCLUSION

This study finds that the civil status of refugee children in Indonesia has not yet been regulated in an integrated manner. Its regulation remains dispersed across the regimes of refugee law, population administration, child protection, marriage law, and Islamic family law. The main problem is not merely the absence of rules, but the absence of connecting norms that integrate birth registration, recognition of nasab or legal lineage, and guardianship of refugee children. Another important finding is that birth registration, although it has begun to receive support through administrative policies, is not sufficient to ensure legal certainty for refugee children. A birth certificate serves only as the initial gateway to protection and does not automatically resolve issues of nasab and guardianship. In Islamic family law, however, nasab determines the child's legal relationship with parents, family, guardians, and other civil rights.

This study also finds that guardianship of refugee children is the weakest aspect of regulation. Unaccompanied refugee children or those separated from their parents require a lawful guardian to represent their legal, educational, health-care, and social protection interests. Without a clear guardianship mechanism, refugee children remain in a condition of legal uncertainty.

From the perspective of Maqasid al-Shariah, these normative gaps are inconsistent with the principles of *hifz al-nafs*, *hifz al-nasl*, *hifz al-mal*, *hifz al-karamah*, and *maslahah*. Therefore, legal reconstruction should be directed toward three main pillars: birth registration, recognition of nasab, and guardianship determination. Accordingly, the novelty of this study lies in its proposed legal reconstruction model that integrates legal identity, nasab, guardianship, and Maqasid al-Shariah to ensure legal certainty and substantive protection for refugee children in Indonesia.

6. RECOMMENDATIONS AND POLICY IMPLICATIONS

Based on the findings of this study, the reconstruction of refugee children's civil status should be directed toward the establishment of an integrated protection model that connects birth registration, recognition of nasab or legal lineage, and guardianship determination. Refugee children should not be treated merely as objects of administrative handling, but must be recognized as legal subjects with rights to identity, family relations, guardianship, and legal certainty.

First, the government needs to strengthen the legal basis for the birth registration of refugee children through a national guideline that applies uniformly across all regions. This mechanism should accept alternative evidence, such as birth certificates from health facilities, UNHCR data, statements from assisting organizations, or declarations from parents or guardians.

Second, a flexible mechanism for recognizing nasab should be established while still ensuring legal certainty. The documentary limitations of refugee parents should not eliminate the child's legal relationship with the father, mother, and family.

Third, the state needs to formulate a specific guardianship procedure for refugee children, particularly those who are unaccompanied or separated from their parents. Guardianship should function as legal representation to access education, health care, administrative services, and social protection.

Fourth, cross-institutional coordination is needed among the Population and Civil Registration Office, the Ministry of Law, the Ministry of Social Affairs, the Ministry of Religious Affairs, courts, local governments, refugee-assisting organizations, and UNHCR. Such coordination is essential to prevent the protection of refugee children from being implemented partially.

In terms of policy, this study recommends a shift in state orientation from administrative handling toward rights-based civil protection. Maqasid al-Shariah can serve as an ethical and normative foundation to ensure

that the protection of birth, nasab, and guardianship of refugee children aligns with hifz al-nafs, hifz al-nasl, hifz al-karamah, and maslahah.

7. LIMITATIONS AND FUTURE RESEARCH

This study has limitations because it employs a normative-prescriptive juridical design based on documentary research; therefore, it does not capture the empirical experiences of refugee children, parents, assisting organizations, or implementing officials in the field. This study also focuses only on three aspects of civil status, namely birth, nasab or legal lineage, and guardianship, and therefore does not examine other civil rights such as inheritance, children's property, gifts, wills, and access to legal aid.

In addition, this study uses Maqasid al-Shariah as the main normative framework and has not extensively compared it with other theories, such as human rights theory, statelessness, citizenship, or substantive justice. Comparative analysis with other countries also remains limited. Future research may be directed toward empirical socio-legal studies through interviews with the Population and Civil Registration Office, courts, Religious Affairs Offices, refugee-assisting organizations, child protection institutions, and international organizations. Further studies may also expand the analysis to other civil rights and conduct comparisons with transit countries or Muslim-majority countries to develop a more applicable model of refugee child protection for Indonesia.

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REFERENCES

- Adair, T., & Li, H. (2024). A global and regional assessment of the timing of birth registration using {DHS} and {MICS} survey data. *Journal of Population Research*, 41, 4. <https://doi.org/10.1007/s12546-023-09317-8>
- Adair, T., & Lopez, A. D. (2021). How reliable are self-reported estimates of birth registration completeness? Comparison with vital statistics systems. *PLOS ONE*, 16(6), e0252140. <https://doi.org/10.1371/journal.pone.0252140>
- Arrasyid, F., Pagar, P., & Tanjung, D. (2024). Islamic family law reform in Indonesia through Supreme Court circulars: A Maqasid Sharia perspective. *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam*, 6(2). <https://doi.org/10.30659/jua.v6i2.29236>
- Cheong, A. R., & Baltazar, M. A. K. (2021). Too precarious to walk: An integrated "three delays" framework for modeling barriers to maternal health care and birth registration among stateless persons and irregular migrants in Malaysia. *Genus*, 77, 18. <https://doi.org/10.1186/s41118-021-00129-3>
- Darmawan, F. D., & Heriyanto, D. S. N. (2023). Invoking international human rights law to prevent statelessness of international refugee children born in Indonesia. *Prophetic Law Review*, 5(1), 22–41. <https://doi.org/10.20885/PLR.vol5.iss1.art2>
- Dewansyah, B., & Nafisah, R. D. (2021). The constitutional right to asylum and humanitarianism in Indonesian law: {"}Foreign refugees{"} and {PR} 125/2016. *Asian Journal of Law and Society*, 8(3), 536–557. <https://doi.org/10.1017/als.2021.8>
- Dhiman, A., & Harbers, I. (2024). Legal identity at the margins: The impact of violent conflict on birth registration in India. *Citizenship Studies*, 27(7), 779–798. <https://doi.org/10.1080/13621025.2024.2321714>
- Direktorat Jenderal Kependudukan dan Pencatatan Sipil. (2024). *Surat Direktur Jenderal Kependudukan dan*

Pencatatan Sipil Nomor 400.8.1.7/13292/Dukcapil tentang Pelayanan Pencatatan Peristiwa Penting bagi Pengungsi dari Luar Negeri.

- El-Mesawi, M. E.-T. (2020). Maqasid al-Shariah: Meaning, scope and ramifications. *Al-Shajarah*, 25(2), 263–295. <https://doi.org/10.31436/shajarah.v25i2.1141>
- Elmolla, J. H. (2020). Birth registration in crisis: Exploring a rights-based approach to birth registration through the experience of Syrian refugees. *International Journal of Refugee Law*, 31(4), 541–566. <https://doi.org/10.1093/ijrl/eez043>
- Fernandez, B., McGee, T., Albarazi, Z., Brennan, D., & Block, K. (2025). At risk of statelessness: Children born in Lebanon to migrant domestic workers. *International Migration Review*, 59(1), 502–528. <https://doi.org/10.1177/01979183231186794>
- Ganohariti, R. (2024). (Non)recognition of legal identity in aspirant states: Evidence from Abkhazia, South Ossetia and Transnistria. *Citizenship Studies*, 27(7), 817–834. <https://doi.org/10.1080/13621025.2024.2321716>
- Korp, H., & Stretmo, L. (2020). The predicament of the child refugee: Understanding health and wellbeing in the daily life of refugee children and youth. *International Journal of Qualitative Studies on Health and Well-Being*, 15(sup2), 1843268. <https://doi.org/10.1080/17482631.2020.1843268>
- Kumar, K., Navaneetham, K., & Saikia, N. (2021). Determinants of birth registration in India: Evidence from NFHS 2015–16. *PLOS ONE*, 16(9), e0257014. <https://doi.org/10.1371/journal.pone.0257014>
- Madon, S., & Schoemaker, E. (2021). Digital identity as a platform for improving refugee management. *Information Systems Journal*, 31(6), 929–953. <https://doi.org/10.1111/isj.12353>
- Manby, B. (2020). Legal identity for all and statelessness. *The Statelessness & Citizenship Review*, 2(2), 248–271. <https://doi.org/10.35715/SCR2002.113>
- Manzotti, C. (2023). Nationality status determination in asylum procedures under the CEAS and the potential impact of the New Pact on Migration and Asylum. *International Journal of Refugee Law*, 35(2), 193–212. <https://doi.org/10.1093/ijrl/eead006>
- Mendola, D., & Pera, A. (2022). Vulnerability of refugees: Some reflections on definitions and measurement practices. *International Migration*, 60(5), 108–121. <https://doi.org/10.1111/imig.12942>
- Missbach, A., & Adiputera, Y. (2021). The role of local governments in accommodating refugees in Indonesia: Investigating best-case and worst-case scenarios. *Asian Journal of Law and Society*, 8(3), 490–506. <https://doi.org/10.1017/als.2021.5>
- Missbach, A., Joniad, J. N., & Adiputera, Y. K. (2025). Refugee journalism in Indonesia: Self-representation, resistance, and writing across borders. *Journal of Refugee Studies*, 38(2), 388–400. <https://doi.org/10.1093/jrs/fead074>
- Mohammed, T. A. S. (2024). A scientometric study of Maqasid al-shariah research: Trending issues, hotspot research, and co-citation analysis. *Frontiers in Research Metrics and Analytics*, 9, 1439407. <https://doi.org/10.3389/frma.2024.1439407>
- Prabaningtyas, R. A. R. F., Pudjiastuti, T. N., Alami, A. N., Farhana, F., & Arfan. (2023). Access to education for refugee children in Indonesia during the COVID-19 pandemic: Challenges and adaptation strategies. *Advances in Southeast Asian Studies*, 16(1). <https://doi.org/10.14764/10.ASEAS-0089>
- Rap, S. E. (2020). The right to information of (un)accompanied refugee children: Improving refugee children's legal position, fundamental rights' implementation and emotional well-being in the Netherlands. *The International Journal of Children's Rights*, 28(2), 322–351. <https://doi.org/10.1163/15718182-02802003>
- Rap, S. E. (2022). A test that is about your life: The involvement of refugee children in asylum application proceedings in the Netherlands. *Refugee Survey Quarterly*, 41(2), 298–319. <https://doi.org/10.1093/rsq/hdac004>
- Rap, S. E. (2023). Can my mother come? Asylum interviews with unaccompanied and separated children seeking asylum in the Netherlands. *Frontiers in Human Dynamics*, 5, 1191707. <https://doi.org/10.3389/fhumd.2023.1191707>
- Razali, R. M., Duraisingam, T. J., & Lee, N. N. X. (2022). Digitalisation of birth registration system in Malaysia: Boon or bane for the hard-to-reach and marginalised? *Journal of Migration and Health*, 6, 100137. <https://doi.org/10.1016/j.jmh.2022.100137>
- Reed, S., Shabani, J., Boggs, D., Salim, N., Ng'unga, S., Day, L. T., Peven, K., Kong, S., Ruysen, H., Jackson, D., Shamba, D., Lawn, J. E., & EN-BIRTH Study Group. (2021). Counting on birth registration: Mixed-methods research in two EN-BIRTH study hospitals in Tanzania. *BMC Pregnancy and*

- Childbirth*, 21, 236. <https://doi.org/10.1186/s12884-020-03357-1>
- Sadjad, M. S. (2021). What are refugees represented to be? A frame analysis of the Presidential Regulation No. 125 of 2016 concerning the treatment of refugees ``from abroad''. *Asian Journal of Law and Society*, 8(3), 451–466. <https://doi.org/10.1017/als.2021.3>
- Shahimi, F., Block, K., & Alisic, E. (2024). Sense of identity among young people with refugee backgrounds: A scoping review. *Children and Youth Services Review*, 157, 107378. <https://doi.org/10.1016/j.childyouth.2023.107378>
- Shukri, S., & Azalan, M. A. M. (2023). The application of maqasid al-shariah in multicultural Malaysia: Developing strong institutions for interethnic unity. *Contemporary Islam*, 17, 433–450. <https://doi.org/10.1007/s11562-023-00528-7>
- Silva, M. A., McQuaid, J., Rojas Perez, O. F., & Paris, M. (2022). Unaccompanied migrant youth from Central America: Challenges and opportunities. *Current Opinion in Psychology*, 47, 101415. <https://doi.org/10.1016/j.copsyc.2022.101415>
- Tahir, T., & Hamid, S. H. A. (2024). Maqasid Al-Syariah transformation in law implementation for humanity. *International Journal Ihya' 'Ulum Al-Din*, 26(1), 119–131. <https://doi.org/10.21580/ihya.26.1.20248>
- Ungar, M., & Seymour, A. (2024). Access without borders: A scoping review to identify solutions to creating portable identity, education and health records for refugee children. *Journal of International Migration and Integration*, 25, 1989–2017. <https://doi.org/10.1007/s12134-024-01156-7>
- UNHCR Indonesia. (2025). *Indonesia fact sheet: August 2025*.
- Zawawi, M., Mohd, A., & Hussain, B. (2024). Nasab (filialion) of children in assisted reproductive technology ({ART}) under the {Shari'ah} discourse. *IIUM Law Journal*, 32(1), 27–64. <https://doi.org/10.31436/iiumlj.v32i1.911>