

FROM PRIVATE CUSTODY TO PUBLIC POLICY: THE POLITICS OF STATE RESPONSIBILITY FOR POST-DIVORCE ABANDONED CHILDREN (HADHANAH) IN SERANG, INDONESIA

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ABSTRACT. This article examines how *hadhanah* (child custody and care) can be reframed from a private family matter into a public policy issue, positioning the state as a responsible actor when children become abandoned after divorce. Drawing on a normative-juridical and qualitative socio-legal analysis of Islamic family law, national legislation, and municipal policy instruments, the study uses Serang City as an illustrative case of policy urgency. The findings demonstrate a systematic implementation gap between Indonesia's constitutional mandate to care for abandoned children and local-level governance practice: (1) a legal-administrative gap, where court-based custody decisions and parental obligations do not automatically trigger social welfare interventions; (2) an institutional coordination gap, marked by fragmented responsibilities among courts, social services, and child-protection agencies; and (3) a service continuity gap, in which protection responses remain reactive and episodic rather than sustained and rights-based. Based on municipal administrative data and policy documents, Serang's 2024 records identify 12,949 abandoned children, indicating a governance problem that requires an integrated response. The paper contributes to debates on post-divorce custody by demonstrating that when *hadhanah* is treated solely as a private legal dispute, accountability diffuses and child protection becomes episodic; therefore, custody governance must be redesigned so the state can, within defined limits, function as an accountable guardian-like actor through coordinated local child-protection services.

Keywords: *hadhanah*; state responsibility; child protection policy; post-divorce child abandonment; local governance

INTRODUCTION

Post-divorce child custody (*hadhanah*) is often treated as a "private" family matter in which the main arena is the courtroom, and the leading actors are the divorcing parents. Yet in practice, divorce is better understood as a contextual risk factor that can heighten children's vulnerability to neglect or effective abandonment when post-divorce caregiving arrangements break down—particularly when daily care, supervision, and financial support are not consistently provided, and when enforcement and service referral mechanisms are weak—pushing children into pathways of neglect, institutional care, or informal survival networks (Putra et al., 2025; Sbarra & Whisman, 2022).

In social reality, the consequences of divorce frequently extend beyond the courtroom and into the everyday conditions of child vulnerability. In Serang City, official social welfare data for 2024 recorded 12,949 abandoned children and 144 street children, distributed unevenly across districts, alongside only 33 registered orphanages accommodating 1,898 children (Bolang, 2025). This imbalance indicates that the majority of abandoned children remain outside sustained institutional care and depend on informal arrangements or intermittent assistance.

The number of divorce petitions filed with the Serang Religious Court (Pengadilan Agama Serang) in 2022 reached approximately 4,896 cases, consisting of 3,396 lawsuits and approximately 1,500

divorce petitions; this figure represents an increase of approximately 10% compared to the previous year (Hakim, 2022). These data highlights persistent divorce cases recorded at the Religious Court and frames this as an essential contextual driver for child welfare vulnerability.

Importantly, the study does not claim that divorce volume causes child abandonment in Serang. Instead, divorce is treated as a risk context that can increase exposure to abandonment when three conditions co-occur: (1) post-divorce caregiving and maintenance obligations are not complied with, (2) enforcement is weak or difficult to access, and (3) welfare governance lacks an integrated pathway linking custody outcomes to identification, referral, monitoring, and service support. This framing allows the article to focus on the governance question at the center of the study: how constitutional and statutory duties are translated (or fail to be translated) into municipal protection practices for children whose care collapses after divorce.

These figures matter politically because Indonesia's constitutional mandate places a clear duty on the state: "the poor and abandoned children shall be cared for by the state," complemented by children's rights to survival and protection. Normatively, Indonesia's legal architecture already recognizes the state's responsibility and defines "abandoned child" as a condition arising from parental neglect of obligations such that the child's needs are not adequately met (Joko & Hafidz, 2024).

This issue in the state's social welfare responsibilities, including prioritization of conditions such as poverty and neglect (Sitepu, 2017).

Internationally, Indonesia is also guided by the UN Convention on the Rights of the Child (CRC), which obliges states to ensure children's rights through appropriate measures and to operationalize the "best interests of the child" as a primary consideration in actions affecting children (Convention on the Rights of the Child, 1990). In other words, when a post-divorce situation yields child neglect, the problem is no longer merely a dispute between private parties; it becomes a test of public governance, social protection design, and enforcement capacity.

Existing scholarship helps clarify parts of this puzzle but tends to fragment the analysis across separate domains. One stream of research focuses on normative legal protections after divorce, emphasizing that regulations exist but are often constrained by social, economic, and cultural factors (Nurhaida, 2025). Another stream examines post-divorce protection and enforcement dynamics in Sharia courts, showing how judicial decisions and sociological conditions shape women's and children's protection after divorce (Kasim et al., 2022). A related body of work highlights the persistent issue of child support enforcement, noting that legal obligations exist. Still, the practical enforcement and standards can be inconsistent, undermining children's welfare outcomes (Nafhani et al., 2025). Beyond divorce, empirical public health and social research indicates that child neglect in Indonesia is associated with household and socio-economic determinants—suggesting that neglect is structurally patterned, not only an individual moral failure (Berliana et al., 2019). Meanwhile, local Indonesian scholarship has also discussed the standards and governance aspects of neglected-children protection, indicating recurring implementation gaps at the institutional levels (Nastia et al., 2023).

However, what is still underdeveloped—especially for local Indonesian contexts such as Serang—is an integrated explanation of *hadhanah* as a public policy problem and a matter of democratic accountability: how constitutional and statutory mandates are translated into municipal programs, budgets, inter-agency coordination, and service delivery pathways for children who become abandoned after divorce. *Hadhanah* refers to the concept of providing comprehensive protection for children (Boukhari, 2010). *Hadhanah* means close or intimate, and it describes the effort to embrace and protect children so they remain close and loved. Terminologically, it is defined as the act of caring for

and safeguarding young children, both boys and girls, because they are not yet able to live independently (Iqbal, 2023). The purpose of *hadhanah* is to ensure the welfare of children and the fulfillment of their rights through care and guardianship (Mohd et al., 2025; Nasution & Nasution, 2021; Rohmah et al., 2024).

There is a "wide gap" between constitutional mandate and empirical reality, and argues that protection needs to be more concrete than administrative formality. That statement is an important starting point, but it requires stronger analytical scaffolding: what precisely constitutes "state responsibility" in post-divorce abandonment cases; which institutions must act; what mechanisms connect family-law outcomes to social welfare interventions; and where, exactly, are the bottlenecks?

This article therefore, advances an originality claim by shifting the center of gravity from "custody as a private dispute" to "custody as public policy"—a politics of responsibility in which the state's role is evaluated not only through legal texts but through operational instruments. The Serang case is analytically relevant because the draft provides concrete indicators of social vulnerability (abandoned children counts and poverty trends) and a divorce context that plausibly increases risk exposure. Moreover, the CRC's guidance on children's participation rights and best interests can be used to test whether local governance arrangements genuinely place the child at the center of post-divorce interventions.

This study's research problem centres on three interlinked tensions—between legal mandates and policy execution (strong constitutional/statutory duties but persistent abandonment indicating weak implementation capacity and accountability), between family-law decisions and social welfare systems (court-centred custody and child-support norms that do not automatically trigger protection services, producing governance gaps in identification, referral, monitoring, and enforcement), and between private morality narratives and structural determinants (individual blame that obscures systemic drivers and institutional design flaws). While existing scholarship has examined post-divorce child protection, Sharia court dynamics, and child maintenance enforcement, there remains limited case-based policy analysis of how municipal governance operationalizes state responsibility for post-divorce abandoned children, an especially urgent gap in Serang where the reported scale of child abandonment suggests that legal mandates alone are insufficient.

The study is designed as a qualitative socio-legal and public policy inquiry (not a quantitative explanatory test) which develops an analytical proposition: when custody is treated solely as a private dispute managed through court decisions without robust linkages to social welfare governance, post-divorce abandonment risks increase, and accountability becomes diffuse—weakening children’s rights protection in practice.

This study aims to (1) analyze the legal and policy construction of state responsibility for post-divorce abandoned children (*hadhanah*) in Serang, Indonesia; (2) map the institutional arrangements and governance chain linking divorce/custody outcomes to social welfare protection (identification, referral, services, monitoring, and enforcement); and (3) propose policy-relevant recommendations to reposition *hadhanah* from a private custody issue into an accountable public policy framework consistent with constitutional mandates and child rights principles.

METHOD

This study is based on primary and secondary legal materials and is designed as a qualitative socio-legal case study. The approach combines (1) a normative-juridical (doctrinal) reading of Islamic and Indonesian legal sources and (2) municipal-level policy implementation mapping to explain how *hadhanah* (post-divorce custody/care) can shift from a private family matter into a public policy and local governance responsibility in Serang City, Indonesia. This study is a document-based qualitative socio-legal analysis that uses Serang City as a bounded policy case to map how state responsibility for post-divorce child abandonment is translated from legal mandates into municipal governance arrangements. The approach combines (1) a normative-juridical (doctrinal) reading of Islamic and Indonesian legal sources and (2) governance mapping of municipal policy instruments, administrative categories, and institutional pathways relevant to child protection (e.g., identification, referral, service access, monitoring, and accountability).

The case study logic is therefore analytical rather than evaluative: Serang is used to illustrate how a local government operationalizes (or fails to operationalize) constitutional and statutory duties through policy design and coordination mechanisms, not to measure program effectiveness or outcomes through field-based impact evaluation. In line with case study guidance in empirical legal research, the case is used to retain context sensitivity and to

support theory-informed interpretation of how law works through administrative institutions and local policy instruments (Argyrou, 2017).

Data Sources

This study draws on three data categories. First, primary legal materials include Qur’anic verses and Hadith relevant to child care (*hadhanah*), the 1945 Constitution of the Republic of Indonesia (Articles 28B and 34), Law No. 4 of 1979 on Child Welfare, Law No. 11 of 2009 on Social Welfare, Law No. 23 of 2002 as amended by Law No. 35 of 2014 on Child Protection, Law No. 1 of 1974 as amended by Law No. 16 of 2019 on Marriage, and Minister of Social Affairs Regulation No. 1 of 2020 on Child Care.

Second, secondary legal and policy materials include peer-reviewed journal articles, scholarly monographs, and official government publications on Islamic family law, child protection, and welfare governance. Third, contextual municipal data are used to illustrate the Serang case, including: (a) Serang City social welfare statistics for 2024 on abandoned and street children; (b) Serang Religious Court divorce case statistics for 2022–2024; and (c) Central Statistics Agency (BPS) data on population, district distribution, and orphanage capacity. These data are not used for causal testing but to situate the legal-policy analysis within a concrete governance context. Document analysis is used as a systematic procedure for selecting, appraising, and synthesizing written sources (Bowen, 2009).

Data analysis technique

The study applies qualitative content analysis to interpret the concept of *hadhanah* and the scope of state responsibility embedded in Islamic legal sources and Indonesian constitutional-statutory frameworks. Content analysis systematically derives meaning from legal and policy texts through careful coding and categorization (Hsieh & Shannon, 2005). Following established qualitative content analysis guidance, the procedure includes: (1) organizing and reducing texts (screening and compiling relevant legal/policy documents); (2) coding and categorization (identifying key constructs such as custodial duty, neglect/abandonment, best interests of the child, state obligations, service referral, and accountability); and (3) descriptive-analytical interpretation to compare and synthesize how these constructs are framed across sources and how they translate into governance mechanisms (Elo & Kyngäs, 2008).

To operationalize the “public policy” dimension, the analysis extends beyond doctrinal interpretation

by mapping the implementation chain at the municipal level—how custody norms and child welfare mandates connect to service delivery (case identification, referral pathways, inter-agency coordination, and accountability). This socio-legal mapping aligns with calls to use case-based inquiry in legal research to illuminate how law operates through institutions and administrative practices (Argyrou, 2017).

RESULT AND DISCUSSION

***Hadhanah*: State Responsibility for Post-Divorce Abandoned Children in Indonesia**

Child care, especially for neglected children, has a strong legal basis in the Indonesian national legal system. Child care is a big responsibility for parents or guardians and requires patience, commitment, and a deep understanding of children's needs and development. Through good care, children can grow and develop into independent, responsible individuals who contribute positively to society. A divorce between a husband and a wife has specific consequences for care and guardianship. Although divorce is not a new phenomenon, just as marriages occur all the time, so do separations.

Debates over children and their protection persist over time because children embody a society's future: they are not only the next generation but also prospective agents of sustainable development and long-term guardians of a country's social continuity. In the Indonesian context, this moral-political importance is translated into a dense legal architecture that frames child protection not as a discretionary act of charity, but as a state obligation. A hierarchical review of the governing framework shows that at least five core legal instruments (and one key ministerial regulation) operationalize the constitutional mandate and shape the state's responsibilities toward children affected by divorce and those who become neglected or abandoned. Together, these instruments establish a normative chain linking (1) constitutional duty, (2) statutory definitions of abandonment and child welfare rights, (3) state responsibility for social welfare implementation, (4) child protection goals and standards, and (5) parental obligations post-divorce under marriage law, strengthened by (6) an operational standard for child care emphasizing permanence and sustainability.

At the apex, the 1945 Constitution (UUD 1945) embeds the state's duty toward children as a foundational element of social citizenship. Article 34 explicitly mandates that the poor and neglected children are cared for by the state (Undang-Undang

Dasar Republik Indonesia 1945, 1945). In contrast, Article 28B confirms every child's right to survival, growth, and development and to protection from violence and discrimination. This constitutional positioning is crucial in political terms because it frames the care of abandoned children as a public responsibility grounded in the state's legitimacy, rather than merely a private family burden or a contingent program priority (Hamzah & Tinambunan, 2023). It also provides the constitutional logic for treating post-divorce child neglect as a governance issue: when parental care fails, the state remains duty-bound to guarantee the child's rights.

Second, Law No. 4 of 1979 on Child Welfare translates this constitutional mandate into definitional clarity and entitlement claims. It defines an abandoned child as one whose parents, for any reason, have neglected their obligations such that the child's spiritual, physical, and social needs are not adequately fulfilled. In addition, the law affirms children's right to welfare, care, nurturing, and guidance, grounded in love and affection—whether within the family or through special care facilities—to enable normal growth and development (Kusuma & Amal, 2022). Politically and administratively, this law provides an early statutory foundation for viewing abandonment as a condition triggered by failed caregiving obligations, thereby legitimizing state intervention when family-based care fails.

Third, Law No. 11 of 2009 on Social Welfare strengthens the state's institutional responsibility by declaring that the state is responsible for implementing social welfare. This provision is decisive for shifting *hadhanah* into the realm of public policy because it connects child abandonment to the broader social welfare system: once a child's needs are not met, the problem is no longer only legal (custody disputes) but also administrative (eligibility, service pathways, financing, and delivery). Thus, the law implies that child protection outcomes depend not only on court decisions but also on how the municipal welfare apparatus operates (Simatupang et al., 2023).

Fourth, Law No. 23 of 2002, as amended by Law No. 35 of 2014 on Child Protection, consolidates the rights-based framework and further defines abandoned children as those whose physical, mental, spiritual, and social needs are not adequately met. It also articulates the aims of child protection: ensuring the fulfillment of children's rights to live, grow, develop, and participate optimally with human dignity, and to protect them from violence and discrimination, cultivating Indonesian children of high quality, noble character, and prosperity (Ilham, 2023; Sukamto et al., 2023). For the article's argument,

this is critical because it frames child protection as an outcomes-oriented public commitment: not merely preventing harm, but enabling optimal development and participation. This strengthens the claim that post-divorce abandonment is a failure of rights realization and, therefore, a governance performance issue.

Fifth, the Marriage Law (Law No. 1 of 1974 as amended by Law No. 16 of 2019) clarifies parental obligations after divorce and anchors the custody dimension of *hadhanah* in positive law. Article 41 stipulates that both mother and father remain obligated to care for and educate their children solely in the child's best interests; if disputes arise over custody, the court shall decide. This rule is politically essential for two reasons. First, it confirms that divorce does not dissolve parental duties, so abandonment after divorce represents a breach of legal responsibility rather than a "natural" consequence of marital dissolution. Second, it highlights a structural limitation: court decisions on custody may settle legal disputes but do not automatically secure daily care, enforce obligations, or ensure access to welfare services—creating the conditions for the article's central reframing from private custody to public responsibility.

Finally, the Minister of Social Affairs Regulation No. 1 of 2020 on Child Care provides an operational definition that is especially relevant for policy implementation: child care is an effort to fulfill the child's need for love, attachment, safety, and well-being, which is permanent and sustainable for the best interests of the child. This regulation is crucial for bridging the gap between normative duty and administrative practice. It defines child care not as an episodic response, but as a sustained and stable arrangement—an expectation that aligns with the article's argument that state responsibility must be institutionalized through service continuity, not reduced to short-term relief or temporary placements. In public policy terms, the regulation invites an evaluative question central to the Serang case: when children are left abandoned after divorce, does the municipal system provide care that is permanent and sustainable (consistent with the best interests), or does it operate mainly through reactive, fragmented interventions?

Taken together, these constitutional, statutory, and regulatory provisions establish a coherent normative chain: the state is constitutionally obligated to care for neglected children; abandonment is legally defined as unmet needs due to neglected obligations; social welfare delivery is a responsibility of the state; child protection aims to secure development and dignity; parental duties persist after divorce;

and child care must be stable and sustainable. This hierarchy supports the article's overarching argument that *hadhanah* cannot be confined to private custody disputes. Instead, when divorce leads to abandonment, *hadhanah* becomes a public policy arena in which state responsibility is tested through local governance's capacity to translate legal mandates into continuous protection, welfare services, and accountable implementation.

State Protection for Abandoned Children: Serang's Local Governance Response and the Implementation Gap

Serang City—established as an autonomous municipality under Law No. 32/2007—functions as the capital of Banten Province on the western edge of Java, with a territory of approximately 266.18 km² covering six districts (Serang, Kasemen, Walantaka, Curug, Cipocok Jaya, Taktakan) and 67 urban villages, and a recorded population of 734,866 in 2024 (BPS, 2024). Within this socio-demographic setting—often identified as a predominantly Muslim "Kota Santri" environment—child protection becomes a politically salient marker of welfare governance: the extent to which municipal authority converts constitutional and statutory mandates into tangible safeguards for children whose care collapses after divorce.

Nationally, the vulnerability is not marginal: the population profiles indicating a large child cohort (0–14 years) and Susenas-based indicators showing that while most children live with both biological parents, a non-trivial share live with a single biological parent or do not live with either, alongside indicators of inadequate caregiving among toddlers. These national patterns provide the structural backdrop for interpreting Serang's local problem not as an exception but as an intensified local manifestation of wider caregiving and family transition risks.

Empirically, Serang's municipal burden is stark. The manuscript records 12,949 abandoned children and 144 street children in 2024, with distribution across districts that signals a concentrated and uneven landscape of need, as described in Table 1.

In the Serang Religious Court (Pengadilan Agama Serang), exhibits a high divorce volume, including around 4,896 divorce-related filings in 2022 and substantial filings in the first eight months of 2024. This article does not claim that divorce volume directly causes child abandonment in Serang. Instead, divorce is treated as a contextual risk environment that can increase vulnerability when post-divorce caregiving and maintenance obligations are not complied with, enforcement is weak, and municipal welfare pathways do not link custody outcomes

to identification, referral, and follow-up services. Accordingly, the co-occurrence of high divorce filings and large numbers of children categorized as abandoned/street-connected is interpreted here as a governance challenge and service-burden context, not a causal relationship.

Table 1. Abandoned and Street Children in Serang in 2024

Subdistrict	Abandoned Children	Street Children
Curug	2.079	5
Walantaka	1.862	1
Cipocok Jaya	50	36
Kasemen	3.579	26
Serang	2.448	75
Taktakan	2.931	1
Amount	12.949	144

At the level of political interpretation, these co-occurring indicators turn *hadhanah* from a private-custody outcome into a governance challenge: post-divorce care obligations may exist normatively, but the municipal system must decide how to recognize, prioritize, and operationalize interventions when children are left without effective caregivers. This shifts the policy logic from a narrow “family law” framing toward a broader welfare-state framing, where abandonment is treated as a multi-causal outcome requiring a cross-sectoral response (social protection, education, family services), rather than only the adjudication of custody disputes.

Against this problem scale, Serang’s formal alternative-care infrastructure is limited. The Serang Central Statistics Agency (BPS) data lists 33 orphanages with 1,898 residents in 2024 (1,104 boys; 794 girls). The ratio of children categorized as abandoned/street-connected to the available residential-care population indicates a structural coverage gap: far more children are likely to be outside sustained formal care than within it.

This gap is central to the article’s political argument because it demonstrates that “state protection” cannot be assessed solely through the presence of institutions or the issuance of regulations; it must be evaluated through reach, continuity, and system capacity—whether the city can ensure that children who are not in institutional care still receive protection, services, and monitoring (Anitasari & Sampurna, 2025).

In response, the study identifies two strands of municipal action: regulatory production and operational handling. On the regulatory side, Serang has enacted local instruments that signal a governance commitment to child protection and child-friendly development, including regional regulations and mayoral regulations on child protection, as well as the institutionalization of women’s and child protection

units. These instruments matter politically because they represent the municipality’s formal claim to capacity and responsibility—an administrative commitment to translate national mandates into local rules, organizational structures, and action plans. However, the manuscript simultaneously characterizes implementation as partial: existing efforts are described as not yet comprehensive, insufficiently planned, and inadequately budgeted and integrated into programs.

A concrete illustration is the social assistance event on 23 September 2025, when the Mayor distributed basic-needs packages to 145 recipients, including 75 abandoned children, which was publicly framed as evidence that development success is measured not only by infrastructure but also by concrete care for vulnerable groups.

Within the political economy of local governance, such events can function as symbolic responsiveness. Yet, the implies that episodic assistance does not substitute for an institutionalized protection system capable of sustained case management and continuity of care.

Operationally, the municipal social service approach as largely reactive as: Dinas Sosial searches for family/address data and investigates the motives for street abandonment, then applies two primary interventions—family reunification (returning the child to parents/family) or placement in orphanages when no caregiver is available.

This implementation pattern clarifies how the “state” becomes present in children’s lives: not as an automatic, universal safety net, but through discretionary interventions after abandonment is already visible. The political consequence is an implementation gap between legal completeness and practical delivery. The written regulations regarding children affected by divorce and state responsibility are essentially “complete” as guidance. Yet, they become problematic in execution and remain misaligned with the realities of rights fulfillment on the ground.

Read together with the coverage mismatch (13,093 vulnerable children versus 1,898 residents in formal care), Serang’s case suggests that municipal child protection is currently structured more as case handling (reunify or place) than as a comprehensive governance chain that ensures stability, monitoring, and long-term welfare for all affected children.

Ultimately, Serang illustrates the article’s central claim: *hadhanah* shifts from private custody to public policy when caregiving failure becomes widespread and when parental post-divorce obligations do not translate into effective care. In this setting, “state

protection” is not simply a constitutional slogan; it is contested and made visible through municipal decisions about regulation, budgeting, institutional capacity, and the practical pathways by which children are traced, returned, placed, or otherwise supported. The evidence presented in the manuscript, therefore, positions Serang as a case where the politics of welfare responsibility hinges on whether local government can move beyond partial, reactive interventions toward a planned, sustainable, and adequately financed system that ensures abandoned children are genuinely “cared for by the state” in practice—not only in law.

From a policy implementation lens, this pattern is predictable: when problems are multi-actor and multi-level, implementation outcomes depend on how ambiguity, authority, and coordination are managed—often more than on legal text itself (Matland, 1995). In Serang, the study hints at fragmentation: the city’s response appears to rely on partial, episodic actions (e.g., a social aid distribution event) rather than a continuous case management system with clear accountability. This is where *hadhanah* shifts from a private-custody doctrine to public administration: if custody decisions and parental obligations do not trigger a municipal protection workflow, the state’s constitutional duty becomes *symbolic compliance* rather than operational responsibility.

International evidence on child safeguarding repeatedly stresses that adequate protection requires inter-agency collaboration with shared protocols, feedback loops, and clarity of roles—especially when cases sit between “family/private” and “public welfare: (Herlihy, 2016). Without that, referral and monitoring break down, and children fall into the “administrative shadow” between courts, social services, and community structures. A socio-legal approach is relevant here because it treats law not as a closed system but as a practice embedded in institutions, incentives, and local capacity—exactly the terrain your Serang narrative describes (Razaq et al., 2025).

From Constitutional Duty to Street-Level Practice: Municipal Governance Gap in Protecting Post-Divorce Abandoned Children

The Serang City case clarifies a central political dynamic in Indonesian child governance: a dense and coherent rights-and-duty framework does not automatically produce continuous protection on the ground. Legally, *hadhanah* and the protection of neglected children are framed through a hierarchical “normative chain” that begins with the constitutional mandate to care for neglected children

and is elaborated through statutory definitions of abandonment, welfare-state responsibility for social welfare delivery, and post-divorce parental obligations, then operationalized through standards of sustainable child care. This architecture is consistent with a rights-based understanding of child protection, in which the “best interests of the child” must be treated as a primary consideration in decision-making, including when outcomes are determined through administrative discretion rather than judicial orders.

This mismatch matters politically because it exposes “state protection” as a governance performance question: the issue is not whether norms exist, but whether local systems can translate those norms into a complete chain of detection, referral, service access, monitoring, and continuity of care for children who never enter institutional care. In implementation studies, such gaps are often explained by how ambiguity in operational responsibilities and resource constraints reshape outcomes, producing fragmented delivery even under strong formal mandates (Matland, 1995; Wardiyanto et al., 2025).

At the municipal level, Serang City has undertaken several formal policy measures to address child vulnerability. These include adopting regional and mayoral regulations on child protection and institutionalizing women’s and child protection units within the local bureaucracy. Such instruments signal an official recognition of child protection as a municipal responsibility and align Serang’s regulatory framework with national mandates. In practice, however, these policies are implemented primarily through reactive and case-based interventions.

For example, municipal social services typically respond after abandonment becomes visible by tracing family identity, attempting reunification, or placing children in orphanages when no caregiver is available. In addition, obvious social assistance activities—such as the mayor’s distribution of basic-needs packages to abandoned children in September 2025—demonstrate political concern but remain episodic rather than embedded within a continuous case-management system. These policy actions illustrate that the governance challenge in Serang is not the absence of regulation, but the limited institutionalization of prevention, monitoring, and long-term care mechanisms capable of translating constitutional duty into sustained protection at the street level.

The study’s depiction of how Serang operationalizes protection suggests a reactive pathway: the social service apparatus traces identity/family addresses and motives, then relies on two

main options—family reunification or placement in orphanages when no family is available. This pattern resembles a “case-handling” logic rather than a preventive, integrated system. In child safeguarding research, adequate protection in complex cases depends heavily on inter-agency collaboration with shared leadership, standard tools, and continuous collective development—conditions that reduce coordination failures and prevent children from falling through institutional seams (Horwath & Morrison, 2011; Tian et al., 2025). Where collaboration is weak or episodic, municipalities often default to visible, short-cycle interventions, which may be politically legible but insufficient to ensure the stability of care.

The high divorce filings in Serang’s religious court notes that the region is among the higher-burden jurisdictions in Banten, while also acknowledging that no study in the manuscript establishes a direct causal correlation between divorce volume and child abandonment counts, and that economic and educational factors are portrayed as more dominant drivers. This is consistent with broader empirical findings on child neglect in Indonesia that treat neglect as multidimensional and shaped by household-level factors beyond individual parental morality narratives (Berliana et al., 2019; Tecim et al., 2024).

In policy terms, the implication is that post-divorce abandonment should be understood less as an automatic “after-effect” of divorce, and more as a governance risk that intensifies when legal custody norms and child support expectations do not trigger welfare-state responses (case identification, benefit eligibility, enforcement interfaces, and service follow-up) (Methling, 2025). Scholarship on post-divorce child support and maintenance enforcement similarly highlights how judicial decisions can articulate obligations without guaranteeing realization, leaving caregivers—often single mothers—facing constraints in enforcement capacity and access to support systems (Fardindaputri & Hasanudin, 2025).

Decentralization research on children’s rights in Indonesia repeatedly finds that local regulations can signal commitment while still encountering implementation barriers (capacity, budgeting, coordination, and monitoring), making decentralization a contested arena for rights fulfillment rather than a guaranteed pathway to better outcomes. In that sense, Serang’s case can be read as a political contest over the meaning of welfare responsibility: whether child protection is treated as symbolic responsiveness (high-visibility events) or as system-building (case-management continuity for those outside institutions).

Finally, the large gap between identified vulnerable children and institutional capacity raises a critical discussion about care models. When orphanage capacity is structurally limited relative to need, reliance on institutional placement alone cannot plausibly deliver the “permanent and sustainable” care standard embedded in child-care governance. Comparative evidence suggests that kinship care can be a viable out-of-home option in maltreatment contexts (Borenstein et al., 2025; Winokur et al., 2014) has become increasingly important as a government-sanctioned response to child protection concerns. This hybrid of public and private care (known in Australia as formal or statutory kinship care, and in the UK and USA as kinship foster care). However, outcomes vary and depend on support and oversight structures—again returning the problem to governance capacity rather than legal articulation alone.

Read through this lens, Serang illustrates the article’s thesis: *hadhanah* becomes “public” not simply because of the state claims constitutional duty, but because municipal systems must decide—through budgeting, inter-agency coordination, enforcement interfaces, and care alternatives—whether children’s post-divorce vulnerabilities will be governed as rights to continuous protection or managed as intermittent cases after abandonment becomes visible.

CONCLUSION

This study concludes that post-divorce *hadhanah* in Serang should be understood as a governance and public policy responsibility, not merely a court-settled private custody matter, because Indonesia’s constitutional–statutory framework already establishes a clear state duty toward neglected children. Yet, the persistence and scale of abandonment in Serang indicate that legal mandates do not automatically translate into continuous protection without an operational municipal governance chain (from identification and referral to services, monitoring, and enforcement). In line with the study’s socio-legal and public policy proposition, the key finding is that treating custody as a private dispute, without robust linkages to social welfare administration, increases post-divorce vulnerability and diffuses accountability, producing an implementation gap where protection becomes reactive and episodic rather than rights-based and sustained.

Therefore, the article’s originality and contribution lie in repositioning *hadhanah* as a test of municipal

policy capacity and accountability—including coordination across agencies, budgeting choices, enforcement interfaces, and viable care alternatives—so that the state can, within defined limits, function as a guardian-like actor when parental duties fail. Future work should extend this case-based mapping into comparative multi-city analysis and develop measurable indicators for “continuity of care” to evaluate whether local systems are moving from symbolic responsiveness toward institutionalized child-protection governance.

This research is document-based and does not directly observe service quality, frontline decision-making, or the lived experiences of children and caregivers; future studies should extend the analysis through fieldwork (e.g., interviews, case tracing, and service-pathway observation) to assess implementation quality and outcomes. Municipal child protection should institutionalize enforceable mechanisms and coordination protocols that connect post-divorce custody/maintenance obligations with social welfare action—through inter-agency case management, more transparent accountability for follow-up, and measurable continuity-of-care indicators (e.g., referral completion, service access over time, and monitoring frequency) to ensure abandoned children receive sustained protection rather than one-off assistance.

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