

Child Support Payments Post-Divorce: A Comparison of Indonesia and Malaysia with a Technological Approach

M. Alpi Syahrin^{1✉}, Muhammad Luthfi Hamzah², Asiah Aqila³, Hellen Last Fitriani⁴

^{1, 4} Faculty of Sharia and Law Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia

² Faculty of Education and Teaching Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia

³ Faculty of Islamic Studies the National University of Malaysia, Malaysia

Corresponding: msyahrin@uin-suska.ac.id

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Abstract

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This study examines the mechanisms for child support payments post-divorce in Indonesia and Malaysia, with a technological approach proposed as a solution to enhance the effectiveness of fulfilling children's rights. The background of this research is the high divorce rates in both countries, which have implications for violations of children's rights to support. The objective of the study is to analyze the mechanisms for child support payments post-divorce in Indonesia and Malaysia, as well as to propose technology-based solutions to address challenges in the enforcement of court rulings related to child support. The research method employed is normative legal research, which involves examining various regulations and legal practices in both countries. The findings indicate that in Indonesia, although there are regulations governing child support obligations, their implementation still faces obstacles such as difficulties in executing court decisions. Meanwhile, in Malaysia, the Family Support Division (*Bahagian Sokongan Keluarga, BSK*) has played an active role in ensuring the fulfillment of child support through various monitoring and law enforcement mechanisms. This study recommends the use of technology, such as electronic payment systems and automatic salary deductions, to improve compliance with child support payments. Additional recommendations include the need for specific regulations governing child support payment mechanisms with a technological approach, as well as increasing legal awareness among the public regarding the responsibility of child support post-divorce.

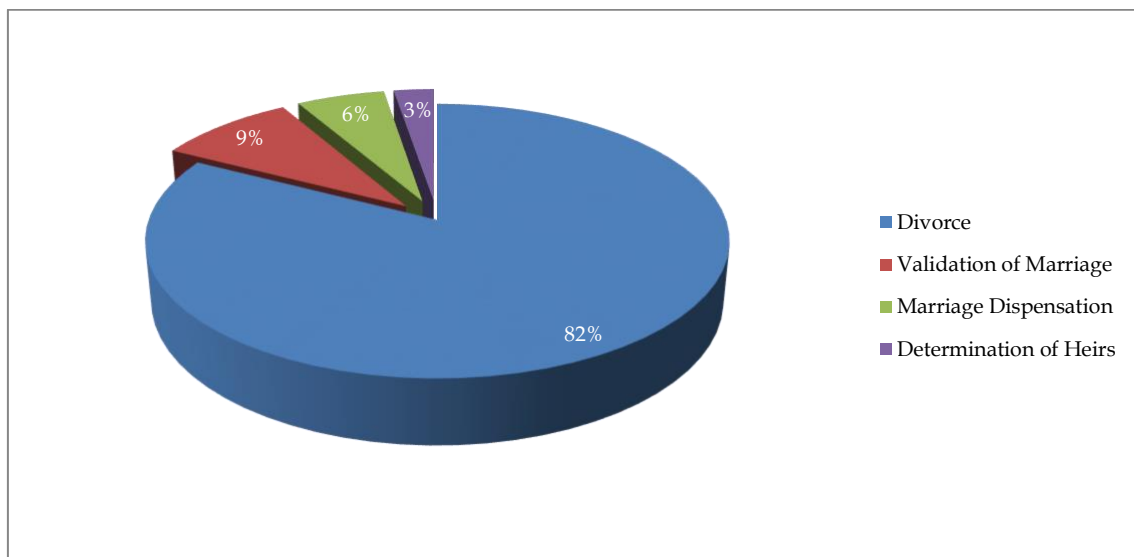
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I. Introduction

Divorce is a term used to signify the occurrence of a legal event involving the dissolution of a marriage between a husband and wife, based on legal grounds, a specific legal process, and specific legal consequences, which must be formally declared in a court hearing.¹ Divorce is considered an unfavorable act in the context of religion, although there are elements of permissibility within the framework of Sharia.² The dissolution of a marriage is a natural thing because the basic meaning of a marriage contract is a bond, or it can also be said that marriage is basically a contract.³ Essentially, a marriage is intended to last permanently and should only end due to death. However, in reality, the dissolution of a marriage is not solely caused by the death of one party but can also occur due to other reasons or circumstances. Article 38 of the Marriage Law stipulates that a marriage can be dissolved due to death, divorce, or by a court decision.⁴

Based on data from the Directorate General of the Religious Courts of the Supreme Court of the Republic of Indonesia in 2024, the total number of cases was 559,610 cases. For more details, please see the following image:

Figure 1: Number and Type of Cases in the Religious Court of the Supreme Court of the Republic of Indonesia in 2024



Source: Religious Courts of the Supreme Court of the Republic of Indonesia in 2024⁵

Based on data from the Directorate General of the Religious Courts of the Supreme Court of the Republic of Indonesia in 2024, there were 559,610 cases recorded, consisting of 462,103 divorce cases (82%) of the total cases at the Supreme Court of the Republic of Indonesia, 50,346 (9%)

¹ Armevya Sepma and Yenni Erwita, "Pemberian Hak Nafkah Anak Pasca Perceraian di Pengadilan Agama Jambi," *Zaaken: Journal of Civil and Business Law* 1, no. 2 (2020), <https://doi.org/10.22437/zaaken.v1i2.9434>.

² Faisal Fauzan, "Peran Pranata Keuangan Dalam Eksekusi Nafkah Anak Perceraian Pegawai Negeri Sipil," *El-Ussrah* 4, no. 1 (2021): 172–81, <https://doi.org/10.22373/ujhk.v4i1.9959>.

³ Luqman Hariyadi, Darmawati, Salehudin, "Implementasi Pembayaran Nafkah Anak Pasca Perceraian Di Kabupaten Kutai Timur Kalimantan," VII.2 (2023).

⁴ Novendia Dara Cintaanito, "Problematika Penegakan Disiplin Terhadap Pegawai Negeri Sipil Yang Tidak Melaksanakan Putusan Pengadilan Terkait Biaya Penghidupan Anak Dan Mantan Istri," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 3 (2021), <https://doi.org/10.36312/jisip.v5i3.2134>.

⁵ Badan Peradilan Mahkamah Agung Republik Indonesia, "Laporan Pelaksanaan Kegiatan Mahkamah Agung Republik Indonesia," 2024, <https://cloud.badilag.net/s/E4LriRZG7Dw26eG>.

Validation of Marriage cases, 32,400 (6%) Marriage Dispensation cases and 14,761 (3%) Determination of Heirs cases. This data shows the high divorce rate in Indonesia which of course has serious implications, especially for children's rights, including the right to support. The high divorce rate in Indonesia in 2024 shows the potential for significant violations of children's rights to support. To protect children's rights, serious efforts are needed from all parties, both the government, legal institutions, and society, to ensure that child support obligations are met and children do not become victims of family breakdown.

In 2024, the Indonesian Child Protection Commission (KPAI) actively monitored the fulfillment of children's rights (PHA) and special child protection (PKA) from the national to regional levels. KPAI received 1,637 complaints related to child protection and rights during the period from January to October, with 67% of them concerning the fulfillment of children's rights.⁶ Children whose parents separate or divorce are at high risk of poverty, with poverty rates almost three times as high as those for children living with both biological parents.⁷

A divorce can only be legally conducted in court, as the court serves as the legal forum that can issue a decision for the involved parties.⁸ The importance of child support payments must not be overlooked, as it represents a form of parental responsibility toward their children, even if the marriage between the parents has ended. Through child support payments, children can continue to have clear access to essential facilities in their lives, including food, clothing, adequate shelter, proper education, and healthcare. A crucial obligation that must not be neglected by a father is ensuring the provision of child support so that his children can receive their rights as children. A father is obligated to provide support for his son from birth until the age of 18 or until the child is capable of supporting himself.⁹ A father's responsibility towards his child cannot be canceled even though he has divorced his wife or has remarried. It can also be understood that when the child is still small (not yet an adult), then his maintenance becomes the mother's right, but the costs are borne by the father.¹⁰

The Indonesian government, as a rule of law state, is obligated to provide legal protection to all its citizens without exception. Legal protection is a fundamental human right possessed by every Indonesian citizen. The right of every Indonesian citizen to receive legal protection is regulated under Article 28 D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.¹¹ Law Number 23 of 2002 concerning Child Protection, which has been updated to Law Number 35 of 2014, also emphasizes the importance of maximum protection for children in

⁶ Komisi Perlindungan Anak Indonesia, "Komisi Perlindungan Anak Indonesia," <https://www.kpai.go.id/publikasi/laporan-tahunan-kpai-jalan-terjal-perlindungan-anak-ancaman-serius-generasi-emas-indonesia>, 2025.

⁷ Jooyoung Kong et al., "The Long-Term Effects of Formal Child Support," *Journal of Marriage and Family* 86, no. 4 (August 1, 2024): 1034-52, <https://doi.org/10.1111/jomf.12998>.

⁸ Ahmad Nur Faizin, "Pelaksanaan Putusan Perceraian Atas Nafkah Istri Dan Anak Di Pengadilan Agama," *Negara Dan Keadilan* 8, no. 2 (2020), <https://doi.org/10.33474/hukum.v8i2.4643>.

⁹ Agus Anwar Pahutar, "Kesadaran Hukum Dalam Menafkahi Anak Pasca Putusan Pengadilan," n.d., <http://jurnal.iain-padangsidempuan.ac.id/index.php/elqanuniy/index>.

¹⁰ Asmuni, Pagar Hasibuan and Ahmad Zuhri Rangkuti, "The Implementation of Child Livelihood Payment after Divorce Occurs in the Perspective of the Shafi` School of Fiqh and Positive Law (Post-Court Judgment Analysis Study in North Sumatra)", 2019.

¹¹ "Undang-Undang Dasar Negara Republik Indonesia 1945," n.d.

all situations.¹² Therefore, legal protection of children's rights is one of the state's duties as affirmed in the constitution. The obligations that must be fulfilled are the rights that children must receive post-divorce. This is as regulated in Article 4 of Law No. 23 of 2002. These rights are the realization of the obligations of both parents, as stated in Article 1 of Law No. 9 of 1979 concerning Child Welfare, where the primary and foremost responsibility for child welfare lies with the parents.¹³

Divorce cases that include child support provisions are typically found in unilateral divorce (*ceraai talak*) cases, where the husband acts as the petitioner filing the case in court, while the wife is the respondent. In such cases, if the wife attends the court hearing, she usually files a counterclaim (*rekonvensi*). Among the counterclaims submitted, one of them is a request for hadhanah expenses (child support). The Religious Court determines the amount of child support based on the petitioner's income.¹⁴

Following the dissolution of marriage due to divorce, particularly concerning children and their educational expenses, Article 41 of the Marriage Law regulates in paragraphs (a) and (b), as follows:¹⁵

- a. Both the mother and father remain obligated to care for and educate their children, solely based on the best interests of the child. If there is a dispute regarding custody of the children, the Court will make a decision.
- b. The father is responsible for all costs of maintenance and education required for the child. If the father is, in reality, unable to fulfill this obligation, the Court may determine that the mother shares in bearing these costs.

The issue of enforcing or executing a court ruling that obligates the defendant / reconvention defendant (the child's father) to pay or bear the child support of at least a certain amount of Rupiah every month until the child turns 21 years old or becomes independent, is quite difficult to enforce or implement by the Religious Court, represented by the court bailiff, if the execution respondent (the child's father) is unwilling to voluntarily comply with the court ruling.¹⁶ The complexity of formal execution procedures for the general public, the high cost of execution compared to the amount of child support set by the panel of judges per month, is highly disproportionate. As a result, many rulings that include child support provisions cannot be enforced and become meaningless, as they do not bind the defendant (the father) to comply with them diligently, for the sake of the children who are victims of their parents' divorce. Many defendants (fathers) are still aware of their responsibility to provide child support monthly, but not in the amount specified in the court ruling issued by the Religious Court. In the end, it is the ex-wife (the child's mother) who must work tirelessly and strive to earn a living to meet her child's needs, while the father feels free from the responsibility of ensuring the child's well-being, especially since many of these fathers are preoccupied with their new lives with their new wives

¹² Asmak Ul Hosnna et al., "Legal Protection of Children's Rights in Conflict With The Law From Power Intervention," *Kosmik Hukum* 25, No. 1 (May 2024): 78-94, <https://doi.org/https://dx.doi.org/10.30595/kosmikhukum.v25i1.24967>.

¹³ Undang-Undang Republik Indonesia Nomor 4 Tahun 1979 Tentang Kesejahteraan Anak," n.d.

¹⁴ Betra Sarianti, "Tingkat Kepatuhan Ayah Membayar Nafkah Anak Pasca Perceraian," vol. 27, 2018, www.bps.go.id.

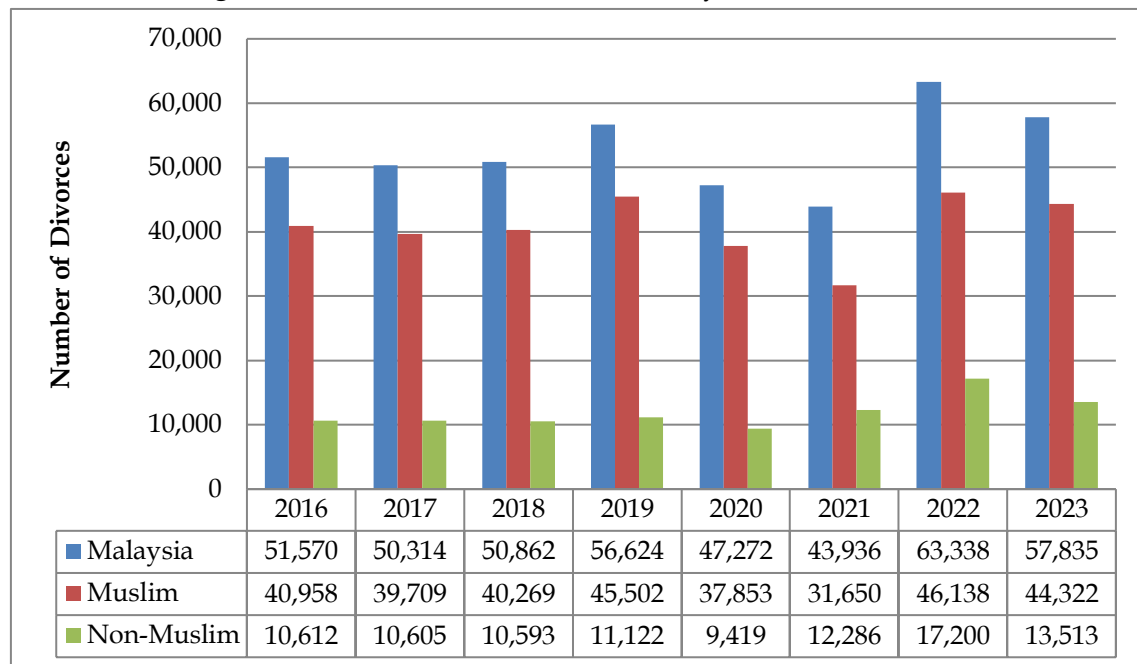
¹⁵ Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan" .

¹⁶ H.A.Choiri, "Penjaminan Harta Ayah Terhadap Kelalaian Pembayaran Nafkah Anak Pasca Perceraian," Mahkamah Agung Republik Indonesia, 2015.

in their new households.¹⁷ The fulfilment of Child Support payments following divorce is important to ensure children's wellbeing.¹⁸

In Malaysia, the issue of divorce and its implications on child support obligations has increasingly gained attention among the public. The rising divorce rate year after year has raised concerns, particularly regarding the socioeconomic impact on families, especially children. One critical aspect that often arises post-divorce is the failure or reluctance of one party, usually the father, to pay child support as mandated by the court. This phenomenon not only places financial strain on the mother or primary caregiver but can also adversely affect the well-being and future of the children. In light of this, for a clearer picture of divorce statistics in Malaysia, the following can be observed:

Figure 2: Number of Divorce Cases in Malaysia from 2016 to 2023



Sumber: The Office of Chief Statistician Malaysia Department of Statistics Malaysia, 2024¹⁹

Based on this, the divorce rates in Indonesia and Malaysia show some similarities and differences, although generally, they are not far apart. In Indonesia, the divorce rate has tended to increase in recent years, with factors such as economic issues, household disharmony, and early marriages being the main causes. Meanwhile, in Malaysia, the divorce rate has also risen, particularly in urban areas, with similar reasons such as incompatibility and social pressures. Although both countries share relatively similar cultural and religious backgrounds, differences in legal systems and marriage and divorce policies lead to variations in statistics.

It is mentioned in a hadith narrated by Abu Dawood from Abu Hurairah that a man came to seek advice from the Prophet about where he should spend the money he possessed. He said,

¹⁷ *Ibid.*

¹⁸ Ashton Chapman Youngjin Kang, Kwangman ko, Lawrence Ganong, 'Perceived Norms of Child Support Payments : A Comparative Study of South Korea and the United States', 2022.

¹⁹ The Office of Chief Statistician Malaysia Department of Statistics Malaysia, 2024.

"O Messenger of Allah, I have one dinar." The Prophet replied, "Spend it on yourself." The man then said, "I have another dinar." The Prophet advised, "Spend it on your wife." The man added, "I still have another dinar." The Prophet advised, "Spend it on your child." The man then said, "I still have another dinar." The Prophet said, "Spend it on your servant." Finally, the man explained that he still had another dinar, and the Prophet advised him to spend it as he wished. However, as a philosophical basis, it is stated in the fiqh literature in the book *Al-Fiqh al-Islami wa Adillatuh* by Wahbah Zuhaili that a father is obligated to provide financial support due to the bond of lineage (*nasab*), and also because the child is not yet independent enough to support themselves.²⁰ Many noncustodial parents do not pay the support they owe. The child support enforcement program has a number of tools to facilitate child support collections in response to nonpayment.²¹

There are several previous studies with similar discussions closely related to Child Support Payments Post-Divorce. The first study was written by Armevy Sepma and Yenni Erwita, titled *Pemberian Hak Nafkah Anak Pasca Perceraian di Pengadilan Agama Jambi* (The Provision of Child Support Rights Post-Divorce in the Religious Court of Jambi). The focus of this research was on the implementation of child support rights post-divorce in the Religious Court of Jambi, exploring the obstacles faced in the execution of court decisions. This study only discusses cases in the Religious Court of Jambi, making its scope more limited compared to research that compares two countries (Indonesia and Malaysia).²² Next, a previous study conducted by Meivanza Dwi Aurelia and Abdul Halim. This research discusses the urgency of establishing a specialized executor institution to ensure the fulfillment of the rights of ex-wives and children post-divorce, particularly in the context of executing court decisions. In contrast, the research discussed in this article covers the general mechanisms of child support payments, including a comparison between Indonesia and Malaysia.²³ Another study written by Zulzaidi Mahmod, Ahmad Hidayat Buang, and Afifah Baharuddin, titled *Cabaran Penguatkuasaan Penghakiman Mahkamah Syariah: Kajian Peranan Bahagian Sokongan Keluarga Terhadap Hak Wanita dan Kanak-Kanak di Sarawak* (Challenges in Enforcing Shariah Court Judgments: A Study on the Role of the Family Support Division in Upholding the Rights of Women and Children in Sarawak). This research discusses the role of the Family Support Division (BSK) in enforcing Shariah Court decisions related to child and spousal support in Sarawak, Malaysia. This study only focuses on cases in Sarawak, Malaysia, making its scope more limited compared to research that compares two countries.²⁴ Based on this, the author is very interested in exploring deeper into the potential for legal findings that have a crucial role in resolving the problem of child support payments after divorce, especially in the perspective of progressive law that emphasizes substantive justice and

²⁰ Nur Hastuti Bima Putri et al., "AL-AFKAR: Journal for Islamic Studies Pemenuhan Nafkah Istri Dan Anak: Perbandingan Negara Di Asia Tenggara (Indonesia Dan Brunei Darussalam)" 7, no. 1 (2024), <https://doi.org/10.31943/afkarjournal.v7i1.1174>.

²¹ Meyer D.R, M Cancian, and Waring M.K, 'Use of Child Support Enforcement Actions and Their Relationship to Payments', 2020.

²² Sepma and Erwita, "Pemberian Hak Nafkah Anak Pasca Perceraian Di Pengadilan Agama Jambi."

²³ Meivanza Dwi Aurelia and Abdul Halim, "Urgensi Pembentukan Lembaga Eksekutor Terhadap Pemenuhan Hak Perempuan Dan Anak Pasca Perceraian," *JURNAL USM LAW REVIEW* 6, no. 2 (2023), <https://doi.org/10.26623/julr.v6i2.7270>.

²⁴ Zulzaidi Mahmod, Ahmad Hidayat Buang, and Afifah Baharuddin, "Cabaran Penguatkuasaan Penghakiman Mahkamah Syariah: Kajian Peranan Bahagian Sokongan Keluarga Terhadap Hak Wanita Dan Kanak-Kanak Di Sarawak," *Malaysian Journal of Social Sciences and Humanities (MJSSH)* 6, no. 10 (October 10, 2021): 252-67, <https://doi.org/10.47405/mjssh.v6i10.1075>.

the best interests of children. Of course, the concept of progressive law encourages the discovery of solutions outside the formal-legalistic approach. Thus, the existence of study efforts in finding solutions to this problem is expected to function as a dispute resolution tool as well as an instrument for preventing future conflicts, while also ensuring the fulfillment of children's rights as the most vulnerable party due to divorce.

II. Research Problems

In this research, two main issues are addressed: first, the mechanism of child support payments post-divorce in Indonesia and Malaysia, and second, solutions for child support payments post-divorce in Indonesia and Malaysia using a technological approach. This study focuses on the idea of a mechanism for child support payments after parental divorce, not through court execution processes but through concrete actions taken by policymakers with a technological approach. This must be accompanied by the establishment of technical regulations regarding the process and mechanism of child support payments post-parental divorce.

III. Research Methods

Legal research is a process of discovering legal rules, principles, and doctrines to address legal issues. Legal research is conducted to produce arguments, theories, or new concepts as guidelines for resolving the problems faced.²⁵ This process is not only theoretical, but also applicable, because it aims to produce arguments, theories, or even new concepts that can be used as guidelines in solving legal problems practically. In this context, legal research plays an important role as an instrument for academics, legal practitioners, and policy makers to develop a deeper understanding of the dynamics of law and its application in society. This research discussion uses normative legal research, which focuses on the application of rules or norms in practical methods. Such normative legal studies are conducted by examining various formal legal rules, such as laws, procedures, and literature, along with theoretical concepts.²⁶ Thus, normative legal research is not only limited to doctrinal studies, but also includes an evaluation of the consistency, effectiveness, and impact of a legal norm in social reality. This approach allows researchers to not only understand the law textually, but also to see how the law interacts with social, political, and economic values. Through this kind of research, it is hoped that more comprehensive and applicable recommendations or solutions can be produced, both for the development of legal science and the improvement of the legal system as a whole. Thus, normative legal research not only functions as an academic tool, but also as an instrument of legal reform that has a real impact on society.

²⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kenyan Grenada Media, 2014).

²⁶ Peter Mahmud Marzuki, *Penelitian Hukum*.

IV. Result and Discussion

1. Mechanism of Child Support Payments Post-Divorceekanisme

a. Mechanism of Child Support Payments Post-Divorce in Indonesia

Child support is an obligation that must be fulfilled continuously by the father or the guardian according to the Syarak and common law. However, there is no denying that there is often the issue of neglect in the maintenance of child support from the father due to various factors. This neglect has certainly affected the lives of the children as they do not get the rights that they deserve.²⁷ The protection of a child's right to support after the divorce of their parents falls under repressive legal protection because it is binding and compulsory for the concerned party, in this case, the father as the parent most responsible for the child's well-being from birth until the age of 21 or until the child is capable of living independently. Although much is said about the number of children who do not receive child support, little is known about the characteristics and conditions that may be associated with fathers' child support payments.²⁸ Nonresident fathers' financial support and time are both important to children's well-being, although the association between these two types of involvement is mixed in the literature.²⁹ Traditionally monthly child support payments are made by the noncustodial parent (i.e., the parent who does not live with the child). While some form of compensation for the expenses of the custodial or caretaker parent are implemented in most countries, the legal environment and enforcement of child support payments vary significantly around the world.³⁰ Negative societal externalities that currently exist when a non-custodial parent (often the father of a child) does not pay in full his legal obligations for child support, including the problematic economic and psychological impact on the custodial parent (often the mother) and her dependent children.³¹ In other concepts, In many countries divorce laws mandate post-marital support payments (child support and alimony) to insure the low-earning spouse against financial loss upon divorce.³²

Article 41 of the Marriage Law states that after a divorce, parents still have the obligation to care for and educate their children in the best interest of the child. Additionally, the costs of maintenance and education for the child are the responsibility of the father. However, if the father is unable to fulfill this obligation, the mother also has a duty to cover the said costs. The same is regulated in Article 149 letter d of the Compilation of Islamic Law (*KHI*), which states that the ex-husband has the obligation to provide "*hadhanah*" support for his children. "*Hadhanah*" support includes the costs of upbringing, maintenance, and education of the child until they reach adulthood. Article 105 letter c of the *KHI* also emphasizes that the responsibility for the child's maintenance costs after divorce lies with the father, namely the father is obliged to provide maintenance for children who are not yet adults or are not yet able to be independent, including basic needs, namely food, clothing, housing and education costs and health costs, but if the father

²⁷ Fauzi M. Hussin, M, 'Alimony of Children by Deducting of Employees Provident Fund : An Alternative', 2023.

²⁸ Joyce A. Arditti, 'Child Support Noncompliance and Divorced Fathers', 1991.

²⁹ Chien-Chung Huang, 'Mothers' Reports of Nonresident Fathers' Involvement With Their Children : Revisiting the Relationship Between Child Support Payment and Visitation', 2009, p. 2009.

³⁰ Erzsébet Teréz Varga, 'What Is the Economically and Socially Optimised Child', *Central European Journal of Operations Research*, 32.1 (2024), doi:10.1007/s10100-023-00865-1.

³¹ Gary M Fleischman, Zafar Dad Khan, and Paul D Hutchison, 'Tax Incentive Proposals to Enhance Child Support Payment Compliance and Tax Progressivity', 3.2 (2014), doi:10.5430/afr.v3n2p1.

³² H Foerster, 'Untying the Knot : How Child Support and Alimony Affect Couples' Decisions and Welfare', 2022.

is unable to do so, the obligation to fulfill the child's maintenance shifts to the mother or the father's family.

Article 54 of Law Number 7 of 1989 concerning Religious Courts stipulates that "the procedural law applicable in courts within the Religious Judiciary is the civil procedural law applicable in courts within the General Judiciary, except for matters specifically regulated in this law." However, since the Law on Religious Courts does not specifically regulate legal remedies against parties who fail to implement court decisions, the provisions of the *HIR (Herzien Inlandsch Reglement)* apply in this case. Furthermore, it is important to understand that the remedies referred to in the *HIR* apply to divorces processed through both the District Court and the Religious Court. If a person does not comply with a court decision, Article 196 of the *HIR* states: If the losing party refuses or neglects to fulfill the contents of the decision amicably, the winning party may submit a request, either orally or in writing, to the chairman of the district court referred to in the first paragraph of Article 195, to enforce the decision. The chairman shall summon the losing party and warn them to comply with the decision within a period determined by the chairman, which shall not exceed eight days.

In Indonesia, various regulations exist to fulfill children's rights. In the Compilation of Islamic Law, Articles 80 and 81 regarding the obligations of a husband stipulate the husband's duty to provide housing, education costs, living expenses, and protection for his children. This obligation is not only applicable during the marriage but also remains in effect after the dissolution of the marriage. As stated in Article 149 of the Compilation of Islamic Law, letter (d): "If the marriage is dissolved due to divorce, the ex-husband is obligated to provide "*hadhanah*" (custody) expenses for his children who have not yet reached the age of 21."

The Supreme Court has responded to this issue by issuing various internal policies, such as *SEMA* (Supreme Court Circular Letter) No. 3 of 2015 concerning the Implementation of Plenary Chamber Formulations. In the section on Religious Chamber Legal Formulations, point 14 states: "The ruling regarding child support obligations should be accompanied by an annual increase of 10% to 20% of the specified amount, excluding education and health costs." Additionally, it is also stipulated in Supreme Court Circular Letter (*SEMA*) Number 2 of 2019 concerning the Implementation of Plenary Chamber Formulations, in the section on Religious Chamber Legal Formulations, letter (a): "Past child support ("*nafkah madliyah*") neglected by the father can be claimed through a lawsuit filed by the mother or the person who is actually caring for the child.

Articles 197-199 of the *HIR (Herzien Inlandsch Reglement)* regulate the enforcement of court decisions (execution) in cases where the losing party does not voluntarily fulfill their obligations. These provisions apply to the regions of Java and Madura. Articles 208-210 of the *RBg (Reglement Buitengewesten)* regulate similar matters as Articles 197-199 of the *HIR* but apply to regions outside Java and Madura. Essentially, they state that if the losing party in a case (including in matters of child support payments) does not voluntarily comply with the court decision, the winning party can request the enforcement of the decision through the court. The mechanism is as follows:

1. The court will issue a seizure order (*beslag*) on the assets of the party obligated to pay child support.
2. The seized assets can be auctioned, and the proceeds will be used to fulfill the child support obligation.

3. If the seized assets are insufficient to meet the obligation, the court may order the seizure of the income or wages of the obligated party.
4. The court may order the periodic deduction of the salary or income of the party obligated to pay child support.

The mechanism for enforcing child support payments is as follows:

1. The party entitled to receive child support (for example, the mother as the child's custodian) submits an execution request to the court. The request is submitted to the court that issued the divorce ruling.
2. If the party obligated to pay child support fails to fulfill their obligation, the court may issue a seizure order on their assets. The seized assets may include property, vehicles, or other assets.
3. The seized assets will be sold through an auction. The proceeds from the auction will be used to fulfill the child support obligation.
4. If the assets are insufficient, the court may order the seizure of the income or salary of the party obligated to pay child support. Salary deductions will be made periodically until the obligation is fulfilled.

Regarding the Mechanism of Child Support Payments Post-Divorce in Indonesia as explained above, several studies have revealed findings indicating that some fathers fail to fulfill their child support obligations. One such study was written by Novendia Dara Cintaanito, titled "*Problematika Penegakan Disiplin Terhadap Pegawai Negeri Sipil Yang Tidak Melaksanakan Putusan Pengadilan Terkait Biaya Penghidupan Anak dan Mantan Istri*" (The Problem of Enforcing Discipline Against Civil Servants Who Fail to Implement Court Decisions Regarding Child and Ex-Wife Support), with the following research findings:³³ Many Civil Servants do not comply with court decisions to pay child support and alimony to their ex-wives, even though they have a fixed income. The process of executing court decisions is often ineffective due to the lack of strong enforcement mechanisms. The main obstacles include high execution costs, complicated procedures, and the absence of strict sanctions for violators.

Additionally, there is a study written by Gushairi titled "*Pemenuhan Nafkah Anak Pasca Perceraian di Provinsi Riau*" (Fulfillment of Child Support Post-Divorce in Riau Province) with the research findings: The fulfillment of child support post-divorce in Riau Province in 2020 was 40:60%, with 40% still providing child support and 60% no longer providing child support after the divorce. Out of 55 individuals surveyed, only 5 were still providing child support, while 30.9% provided support but not regularly and not in accordance with the Religious Court's decision.³⁴

The mechanism for child support payments post-divorce in Indonesia often does not function effectively, despite being regulated in the Marriage Law and the Compilation of Islamic Law. Many ex-husbands fail to fulfill their financial obligations to support their children after divorce, whether due to economic reasons, lack of awareness, or indifference. On the other hand, the legal enforcement process through the courts often takes a long time, incurs high costs, and

³³ Cintaanito, "*Problematika Penegakan Disiplin Terhadap Pegawai Negeri Sipil Yang Tidak Melaksanakan Putusan Pengadilan*."

³⁴ Gushairi Hakim Pengadilan Agama Rangkasbitung agushairi, "*Pemenuhan Nafkah Anak Pasca Perceraian Di Provinsi Riau*," vol. 22, n.d., <https://badilag.mahkamahagung.go.id/laptah/laptah/laptah>.

does not always guarantee compliance from the party obligated to pay support. Therefore, serious efforts are needed from the government and related institutions to improve this system.

b. Mechanism of Child Support Payments Post-Divorce in Malaysia

The Family Support Division (*Bahagian Sokongan Keluarga* or BSK) is a structural unit under the purview of the Malaysian Syariah Judiciary Department (*Jabatan Kehakiman Syariah Malaysia* or JKSM). The JKSM itself is an institution managed by the Prime Minister's Department (*Jabatan Perdana Menteri* or JPM), a ministry that serves as the coordinator for legislation and judiciary matters related to Syariah judicial institutions in each state within Malaysia. The Family Support Division was established with the specific purpose of handling cases related to the enforcement of spousal and child support orders in the State Syariah Courts.³⁵

The Malaysian Syariah Court began addressing the fulfillment of child support rights 10 years ago with the establishment of the Family Support Division (*Bahagian Sokongan Keluarga*), which plays a role in assisting the Syariah Court to ensure that support orders are enforced. Over 12,000 support orders issued could not be enforced, remaining merely as orders on paper, so changes were initiated 10 years ago. Since a support order is issued by a judge, the order is enforced and executed by the Family Support Division. The Family Support Division has three units: first, the Advisory and Legal Services Unit, which provides explanations to wives and children about their rights post-divorce. If, within one month, the ex-husband has not provided support, the Advisory and Legal Services Unit will summon the ex-husband and advise him. Additionally, threats are often made to the ex-husband, warning that if he fails to fulfill his obligations, the matter will be reported to the Court. Thus, the ex-husband becomes aware that his obligations toward his children are monitored by the relevant institution. If the ex-husband still fails to fulfill his obligations after being summoned by the Advisory and Legal Services Unit, the unit will file a claim with the Court on behalf of the wife and children to compel the ex-husband to provide support as ordered by the judge, such as through asset seizure, salary deductions, or selling seized assets. This unit also has the authority to imprison the ex-husband. The amount of outstanding support owed by the ex-husband will be handled by the Enforcement and Execution Unit, which is the second unit within the Family Support Division. The third unit is the Fund Management Unit, which provides advance support payments to the children and ex-wife based on the amount ordered by the judge. Within six months, after the ex-husband fulfills his responsibility by paying the support, the funds will be returned to the Fund Management Unit's treasury.³⁶

The implementation of considerations by the Syariah Court is an essential step to ensure compliance with the court's orders. This process is carried out after the main order is issued and is monitored during its execution. The Family Support Division (*Bahagian Sokongan Keluarga*) is an appropriate institution that requires attention from the Syariah Court. When observed, the existence of the Family Support Division is highly beneficial in assisting women and children, particularly in matters of support, which are crucial for their livelihood.³⁷

³⁵ Mahmud, Buang, and Baharuddin, "Cabaran Penguatkuasaan Penghakiman Mahkamah Syariah: Kajian Peranan Bahagian Sokongan Keluarga Terhadap Hak Wanita Dan Kanak-Kanak Di Sarawak."

³⁶ *Ibid*

³⁷ *Ibid*

Enforcement or execution of court orders is carried out by the Family Support Division (*Bahagian Sokongan Keluarga or BSK*) when child support issues are not resolved during the mediation process facilitated by the Advisory and Legal Services Unit (*Unit Khidmat Nasihat dan Perundangan or UKNP*). The execution of these court orders is handled by the Enforcement and Execution Unit (*Unit Penguatkuasaan dan Pelaksanaan Perintah or UPPP*) under the Family Support Division (BSK). The Enforcement and Execution Unit (UPPP) functions to ensure that all issued orders are complied with by the father as the party obligated by the court decision and takes further action if the father defaults or refuses to pay child support.³⁸

The following are some actions that can be carried out by the Enforcement and Execution Unit in performing its duties, such as: seizure and sale, “*hiwalah*” (transfer of debt), issuance of a judgment debtor summons, judgment notice, or show cause notice. The type of action is determined based on the best circumstances and conditions for executing the order by the Judgment Debtor. This determination is made based on the form filled out by the Judgment Creditor when submitting a request for a child support arrears case. Each enforcement action has regulations that permit its implementation, as outlined in Section 159. Regarding seizure and sale actions, as stated in Section 160, the seized items or assets will be held by the Bailiff. The seizure or sale will continue until the Judgment Debtor settles the outstanding child support.

Regarding “*Hiwalah*” (transfer of debt), Section 161 regulates the procedures for its implementation. One form of “*Hiwalah*” involves freezing the bank account balance of the Judgment Debtor. For example, if the Judgment Debtor has outstanding child support of RM 5,000.00 and the Judgment Debtor has RM 10,000.00 in the bank, the Court will issue an order to freeze the account for the amount of the arrears. The bank will then freeze RM 5,000.00 of the Judgment Debtor's funds out of the total RM 10,000.00. Thus, this freezing action does not freeze the entire balance in the account.

The actions to be carried out by the Family Support Division against ex-husbands who fail to comply with the Court's orders refer to the Syariah Court Civil Procedure Enactment (State of Malacca) No. 13 of 2002. The Family Support Division has established several types of actions that can be taken when executing against ex-husbands, including seizure and sale, “*hiwalah*” (transfer of debt), judgment debtor summons, judgment notice, or show cause notice. The type of action will be determined directly by the Enforcement and Execution Unit (UPPP) as the executing body. This determination is based on the form data received by the Family Support Division from the Judgment Creditor and after obtaining the mediation report from the Advisory and Legal Services Unit (UKNP).

Child support must be fulfilled by a father for his child. Child support covers all basic needs such as food, clothing, shelter, healthcare, and education, provided through monetary payments. In modern times, the practice used to pay child support is through electronic money transfers and salary deductions via the Income Deduction Order (*Perintah Tahanan Pendapatan Tenaga or PTPT*) from the father's employer, which is directly credited to the mother's or child's account.³⁹

³⁸ *Ibid*

³⁹ Mohd Hazwan Ismail, “Saman Penghutang Penghakiman: Keperluan Perintah Nafkah Atau Perintah Tunggakan Nafkah Judgment Debtor Summons: Requirements for Maintenance Order or Recovery of Arrears of Maintenance Order,” *Journal of Contemporary Islamic Law*, vol. 6, 2021.

The mechanism for child support payments post-divorce in Malaysia operates through the Syariah Court system, where the father is required to pay support based on his financial capability and the child's needs. However, several issues persist, such as delayed payments, non-compliance, or difficulties in tracking fathers who refuse to fulfill their responsibilities.

2. Solutions for Child Support Payments Post-Divorce in Indonesia and Malaysia Using a Technological Approach

Post-divorce, one of the critical issues that often arises is child support payments, both in Indonesia and Malaysia. In Indonesia, although Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (*KHI*) have regulated the obligation of child support, its implementation is often hindered by non-compliance from the responsible party, lack of supervision, and suboptimal law enforcement mechanisms. Meanwhile, in Malaysia, although the Syariah Court has the authority to determine the amount of child support and take action against negligent parties, there are still cases where ex-husbands are unwilling or unable to fulfill their obligations.

In Indonesia, the failure to pay child support after parental divorce is often caused by several factors, both legally and socially. Legally, although Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law has regulated the obligation to provide support by parents, especially fathers, its enforcement is still weak due to the lack of supervision and strict sanctions against negligent parties. On the other hand, economic factors are also an obstacle, where ex-husbands may experience financial difficulties and are unable to fulfill their obligations. In addition, the low level of legal awareness in society and the culture of avoiding conflict make many ex-wives reluctant to take legal action to demand support. As a result, many children become victims of economic and psychological instability, which should be minimized if the support collection mechanism is more effective and supported by a responsive legal system.

Child support payments post-divorce in Malaysia often become a complex issue requiring alternative solutions. Although the Syariah Court has the authority to order child support payments, many cases show that fathers, as the responsible party, often fail to fulfill this obligation due to financial constraints, lack of awareness, or non-compliance. This results in a significant economic burden for mothers as the primary caregivers of the children.

Based on the above, in addressing complex legal issues, an alternative or solution is needed that is not only reactive but also supported by in-depth analysis considering various aspects, including juridical, social, and moral dimensions. This in-depth analysis is crucial to understanding the root of the problem, the potential impacts, and the long-term implications of the proposed solution. With a comprehensive approach, it is hoped that the resulting solution will not only effectively resolve current issues but also provide a solid foundation to prevent similar problems in the future. Therefore, the integration of critical thinking, legal analysis, and contextual considerations is key to formulating fair and sustainable solutions.

According to the author, in Indonesia, a Technology-Based Payment Mechanism can be implemented with the following steps: (1) Building a Digital Platform (Application or Website), Develop a platform connected to the Religious Courts, Bank Indonesia, and financial institutions. This platform can be used to apply for, calculate, and monitor child support payments; (2) Automatic Payment System Using e-Payment, Utilize methods such as bank transfers, digital wallets (e.g., GoPay, OVO, etc.), or automatic salary deductions, with payments scheduled automatically every month; (3) Blockchain for Transparency, Implement blockchain technology

to record every child support payment transaction. Blockchain ensures that data cannot be manipulated and is accessible to authorized parties; (4) Notifications and Reminders, The system sends automatic notifications to the father as payment reminders. If payments are delayed, the system will issue warnings to the court or relevant institutions; (5) Reporting and Enforcement, If the father fails to pay, the platform can automatically generate reports to be submitted to the court. The court can use data from the platform for enforcement processes.

The technical implementation can take the form of a "*Nafkah Digital*" (Digital Child Support) application. This application can be used by courts, fathers, and mothers to manage child support payments. Its features include: a child support calculator, payment schedules, notifications, and reporting.

Meanwhile, in Malaysia, according to the author, a Technology-Based Payment Mechanism can be implemented with the following steps: (1) Integration with the Islamic Religious Department (*JAWI*), Develop a digital system integrated with *JAWI* and the Syariah Court. This system can be used to manage and monitor child support payments; (2) Digital Salary Deduction System, Utilize e-deduction connected to the company's payroll system. Child support payments are automatically deducted from the father's salary and transferred to the mother's or guardian's account. (3) Mobile Application for Monitoring, Develop a mobile application that allows mothers or guardians to monitor child support payments in real-time. The app can also be used to file complaints or request adjustments to the support amount; (3) Artificial Intelligence (AI) for Determining Support Amounts, Use AI to analyze the father's income data, the child's needs, and living costs. AI can provide recommendations for fair and economically feasible support amounts; (4) Automatic Sanctions, If child support payments are delayed or not made, the system can automatically send reports to the Syariah Court for further action.

The technical implementation can take the form of an e-Nafkah System, an integrated system with *JAWI* and the Syariah Court to manage child support payments. Features include: automatic payments, real-time monitoring, and automatic sanctions. Collaboration with banks and companies to facilitate automatic salary deductions. With a technological approach, the mechanism for child support payments post-divorce can become more transparent, efficient, and reliable. The implementation of a digital system can also reduce the burden on the courts and ensure that children's rights are fulfilled.

V. Conclusion

The high divorce rate in Indonesia and Malaysia has serious implications for children's rights, especially the right to support. In Indonesia, although there are regulations governing child support obligations after divorce, their implementation still faces various obstacles, such as difficulties in executing court decisions, high execution costs, and the lack of strict sanctions for violators. The process of executing court decisions regarding child support is often ineffective. In Malaysia, the Sharia Court has the authority to decide the amount of support and take action against negligent parties, with the Family Support Division playing an active role in ensuring the fulfillment of child support through various monitoring and law enforcement mechanisms. However, there are still cases where ex-husbands are reluctant or unable to fulfill these obligations, which causes an economic burden on mothers and children, so technology-based solutions to increase the effectiveness of child support payments after divorce are important.

Some of the proposed technology recommendations include the development of a digital platform connected to courts, banks, and financial institutions to manage support payments; the use of e-payment systems such as bank transfers, digital wallets, or automatic salary deductions; the implementation of blockchain technology to ensure transparency and security of support payment transactions; and an automatic notification and reminder system that sends a warning to the court if payment is late. In addition, the platform can automatically generate reports to be submitted to the court if the father does not pay. This makes an important contribution to efforts to improve the protection of children's rights after divorce through legal and technological approaches, both in Indonesia and Malaysia.

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