

Jurisprudence of the Banda Aceh Syar'iyah Court in the Determination of Post-Divorce Child Support

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Abstract

This study examines the judicial considerations and implementation of child support arrangements following divorce as stipulated in the Decision of the Mahkamah Syar'iyah Banda Aceh Number 450/Pdt.G/2023/MS.Bna, as well as the form of legal protection afforded to children's rights. Using a descriptive qualitative method with a normative juridical approach, this research analyzes relevant statutory regulations, Islamic legal principles, and the court decision as the primary data source. The findings reveal that the judges endorsed the parties' agreement regarding child custody and financial responsibility, resulting in a shift of the child support burden from the father to the mother. This determination was made on the basis of the child's best interests, despite the normative rule that places the primary obligation of support on the father according to Article 41 of Law No. 1 of 1974, Article 80 of the Compilation of Islamic Law, and classical fiqh principles. Mahkamah Syar'iyah adopts a flexible approach in allocating support obligations when justified by mutual agreement and the welfare of the child. Theoretically, this study contributes to strengthening the maqāṣid al-sharī'ah framework particularly the principle of maslahah al-walad within contemporary family law adjudication. The study underscores the need for continuous evaluation of religious court practices to ensure consistent and effective protection of children's rights to financial support after divorce.

Keywords: Jurisprudence; Sharia Court; Child Support; Islamic Law.

Abstrak

Penelitian ini mengkaji pertimbangan hakim dan pelaksanaan penetapan nafkah anak pasca perceraian dalam Putusan Mahkamah Syar'iyah Banda Aceh Nomor 450/Pdt.G/2023/MS.Bna, serta menilai bentuk perlindungan hukum yang diberikan terhadap hak anak. Menggunakan metode kualitatif deskriptif dengan pendekatan yuridis normatif, penelitian ini berfokus pada analisis peraturan perundang-undangan, prinsip hukum Islam, dan studi dokumen putusan sebagai sumber data utama. Hasil penelitian menunjukkan bahwa hakim mengesahkan kesepakatan para pihak terkait pengasuhan dan pembagian tanggung jawab nafkah, sehingga terjadi pergeseran beban nafkah dari ayah kepada ibu. Penetapan ini dilakukan dengan mempertimbangkan kemaslahatan anak, meskipun secara normatif ayah tetap menjadi pihak yang paling bertanggung jawab menurut Pasal 41 Undang-Undang Nomor 1 Tahun 1974, Pasal 80 Kompilasi Hukum Islam, dan prinsip fiqh mengenai kewajiban ayah menanggung nafkah anak. Mahkamah Syar'iyah memberi ruang fleksibilitas terhadap pembagian kewajiban nafkah berdasarkan kesepakatan, selama hak anak tidak dirugikan. Secara teoretis, penelitian ini memberikan kontribusi dalam memperkuat urgensi pendekatan maqāṣid al-syarī'ah, khususnya prinsip *maslahah al-walad*, dalam penyelesaian sengketa keluarga kontemporer. Penelitian ini menegaskan pentingnya evaluasi berkelanjutan terhadap praktik peradilan agama agar perlindungan terhadap hak nafkah anak dapat dilaksanakan secara efektif dan konsisten.

Kata Kunci: Yurisprudensi; Mahkamah Syar'iyah; Nafkah Anak; Hukum Islam.



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INTRODUCTION

Divorce is a phenomenon that continues to increase in various regions in Indonesia, including in the city of Banda Aceh.¹ Data from the Central Statistics Agency of Aceh Province in 2023 recorded that in Banda Aceh City there were 311 divorce cases, consisting of 66 talaq divorces and 245 lawsuit divorces, out of a total of 1,593 marriages recorded that year.² This figure shows that almost one in five married couples end in divorce in the current year. At the provincial level, the Aceh Syar'iyah Court also reported 3,341 couples divorced in the period from January to May 2022 alone, with the largest cause coming from protracted disputes.³ This high number confirms that divorce has become a significant social issue that has a direct impact on the fulfillment of children's rights, including the right to alimony after both parents separate.⁴

Normatively, Indonesian law has affirmed that the responsibility for child support remains attached to the father even in the event of a divorce.⁵ This is stated in Law Number 1 of 1974 concerning Marriage, Compilation of Islamic Law, as well as provisions on child protection which places child welfare as the top priority.⁶ However, this provision often does not work as it should. Many mothers as caregivers report that their ex-husbands are reluctant or unable to meet their maintenance obligations, even though these obligations have been affirmed in court rulings.⁷ This inconsistency creates a gap between legal norms and social realities that results in the neglect of children's rights.

Various previous studies have discussed the issue of post-divorce child support, but there are still unfilled study vacancies. The research of Khairuddin et al. (2019), for example, only examined one decision of the Aceh Syar'iyah Court through a literature study so that it was not able to represent the practice of determining alimony at the Banda Aceh city level.⁸ Meanwhile, research by Fauza Qadriah et al. (2023) shows that judges' decisions often only stipulate monthly alimony without considering the comprehensive needs of children such as education and health, but the study did not delve into one

¹ Mohd. Kalam, Azmil Umur, and Nur Shadrina, "Factors Causing the Increase in the Number of Divorce Lawsuits (Case Study at the Banda Aceh Syar'iyah Court)," *El-Usrah: Journal of Family Law* 3, no. 2 (2020): 243, <https://doi.org/10.22373/ujhk.v3i2.7698>.

² Central Statistics Agency, "Divorce Data by Regency/City in Aceh," t.t., <https://aceh.bps.go.id/id/statistics-table/3/VkhwVUszTXJPVmq2ZFRKamNIZG9RMVo2VEdsb>.

³ Antaranew.com, "Syar'iyah Court records 3,341 couples in Aceh divorced during 2022," 2022, <https://www.antaranews.com/berita/2945689/mahkamah-syar'iyah-catat-3341-pasangan-di-aceh-bercerai-selama-2022>.

⁴ Sukniasih, Eko Handoyo, and Edi Waluyo, "1,2,3 Semarang State University," *Arji: Action Research Journal Indonesia* 7, no. 2 (2025): 785–95, <https://doi.org/DOI:%252010.61227>.

⁵ Fitria Tahta Alfina, "Fulfillment of Post-Divorce Child Support Rights: A Case Study in Banyuurip Gresik Village," *Samawa: Journal of Islamic Family Law* 4, no. 1 (2024): 1–23, <https://doi.org/10.53948/samawa.v4i1.110>.

⁶ Syahan Nur Muhammad Haiba and Anjar Sri Ciptorukmi Nugraheni, "Determination of Post-Divorce Child Custody Based on the Principle of the Best Interests of the Child," *Alliance: Journal of Law, Education and Social Humanities* 1, no. 2 (2024): 151–61, <https://doi.org/10.62383/aliansi.v1i2.84>.

⁷ Barzah Latupono, "Legal Consequences in Marriage Carried Out by Husbands Without the Permission of His Legal Wife," *Batulis Civil Law Review* 1, no. 1 (2020): 60, <https://doi.org/10.47268/ballrev.v1i1.431>.

⁸ Khairuddin, Badri, and Nurul Auliyana, "Judges' Considerations on Post-Divorce Alimony Decisions (Analysis of the Decision of the Aceh Syar'iyah Court Number 01/Pdt.G/2019/MS. Aceh)," *El-Usrah: Journal of Family Law* 3, no. 2 (2020): 164, <https://doi.org/10.22373/ujhk.v3i2.7700>.

specific decision as a potential jurisprudence.⁹ Until now, there has been no research that specifically examines the Decision of the Banda Aceh Syar'iyah Court No. 450/Pdt.G/2023/MS. Bna, especially related to how judges use discretion in determining the amount of child support and its consistency with the principles of child protection. It is this emptiness that makes this research relevant and important to do.

Based on these conditions, this study is directed to answer two main problem formulations: (1) how to consider the judges of the Banda Aceh Syar'iyah Court in determining child support in Decision Number 450/Pdt.G/2023/MS. Bna; and (2) how to protect the legal protection of post-divorce child support rights in Decision Number 450/Pdt.G/2023/MS. Bna; The formulation of this problem provides clear boundaries and directions so that the analysis not only focuses on the normative aspect, but also considers the social context and judicial practices that take place.

This study aims to examine in depth the judge's legal considerations in the decision and assess its significance for the development of child support jurisprudence in the Banda Aceh Syar'iyah Court. Academically, this research is expected to enrich the family law literature and provide a more comprehensive picture of the practice of determining child support in the religious justice environment. Practically, the results of this study are expected to be a reference for judges, academics, legal practitioners, and child protection institutions in an effort to improve the quality of law enforcement and ensure the fulfillment of children's rights after divorce.

RESEARCH METHODS

This study uses a descriptive qualitative method with a normative juridical approach.¹⁰ This approach is used to examine positive legal norms that govern post-divorce child support obligations, such as Law Number 1 of 1974, the Compilation of Islamic Law, as well as the principles of child protection from the perspective of Islamic law and laws and regulations. The focus of the research is directed to the analysis of legal arguments and the rationality of judges' considerations in the Decision of the Banda Aceh Syar'iyah Court No. 450/Pdt.G/2023/MS. Bna.

The data source in this study consists of primary data in the form of an official copy of the *Banda Aceh Syar'iyah Court Decision No. 450/Pdt.G/2023/MS. Bna*, which is the main object of the study. Meanwhile, secondary data includes literature in the form of Islamic family law books, scientific journals, results of previous research, and relevant laws and regulations. Secondary data were used to strengthen the analysis and provide a theoretical framework for the practice of determining child support in the decision.¹¹

The data collection technique is carried out through document studies, namely systematically examining the substance of the decision, the judge's legal considerations, the chronology of the case, and the verdict.¹² The data analysis technique is carried out through three stages: data reduction, namely selecting the part of the decision that is relevant to the focus of the research; presenting data in the form of a legal narrative; and drawing conclusions based on a comparative analysis of Islamic law and positive law, to assess the extent to which the judge's consideration is in line with the principles of fiqh,

⁹ Fauza Qadriah, Sukiati, and Nurashia, "Judge's Decision on Child Support Settlement (Child Protection Law Review)," *Journal of Law Rules: Legal Communication and Information Media and Society* 23, no. 2 (2024): 154–63, <https://doi.org/10.30743/jhk.v23i2.8685>.

¹⁰ Muhaimin, *Legal Research Methods* (Mataram: Mataram University Press, 2020).

¹¹ Ardiansyah, Risnita, and M. Syahran Jailani, "Data Collection Techniques and Educational Scientific Research Instruments on Qualitative and Quantitative Approaches," *IHSAN Journal: Journal of Islamic Education* 1, no. 2 (July 2023): 1–9, <https://doi.org/10.61104/ihsan.v1i2.57>.

¹² Ardiansyah, Risnita, and Jailani.

legal norms, and the principle of child protection. Thus, this study not only describes the content of the decision, but also provides a juridical evaluation of the quality of its legal considerations.¹³

RESULTS AND DISCUSSION

The Concept of Legal Protection in the Context of Marriage and Divorce

Legal protection is basically an effort by the state to provide guarantees for citizens' rights so that they are not violated by any party. This protection includes protection, prevention, and enforcement of sanctions if individual rights are violated.¹⁴ In the Indonesian legal system, the principle of legal protection is rooted in the values of Pancasila, the concept of *Rechtsstaat*, and the *rule of law* which places respect for human dignity as the main principle.¹⁵ In the context of the family, legal protection is important to ensure that the rights and obligations of husbands, wives, and children are protected, including in the event of divorce.¹⁶

Marriage in Indonesian law is seen as a birth and mind bond between a man and a woman to form a happy and eternal family.¹⁷ This bond is not only spiritual, but it also gives rise to legal consequences that govern personal, social, and material relationships between the two parties.¹⁸ After the marriage contract, the husband and wife are bound by an agreement that gives rise to rights and obligations such as living together, loving each other, maintaining family honor, and meeting household needs according to their respective roles.¹⁹ The principle of monogamy as affirmed in Article 3 paragraph (1) of the Marriage Law shows that marriage has normative boundaries that protect family stability and prevent structural conflicts.²⁰

In Islam, the principle of marital relations is affirmed through several verses of the Qur'an. QS. an-Nisa' verse 19 commands that husbands treat their wives makruf, namely with a fair, ethical, and responsible attitude.²¹ QS. ar-Rum verse 21 emphasizes that the purpose of marriage is to bring peace through love (*mawaddah*) and affection (*rahmah*).²² Meanwhile, QS. an-Nisa' verse 34 stipulates the responsibility of the husband as a

¹³ Ahmad Rijali, "Qualitative Data Analysis," *Alhadharah: Journal of Da'wah Science* 17, no. 33 (2019): 81, <https://doi.org/10.18592/alhadharah.v17i33.2374>.

¹⁴ Daffa Arya Prayoga, Jadmiko Anom Husodo, and Andina Elok Puri Maharani, "Legal Protection of Citizens' Rights with the Enactment of Law Number 23 of 2019 concerning National Resource Management," *Sovereignty: Journal of National Democracy and Resilience* 2, no. 2 (2023): 188–200.

¹⁵ Marzuki Manurung et al., "Rule of Law," *Tambusai Scientific Journal* 9, no. 2 (2025): 21257–64.

¹⁶ Ardelia Lananda, Mia Amalia, and Aji Mulyana, "Legal Protection Efforts for Children Victims of Parental Divorce," *Humani: Law and Civil Society* 14, no. 1 (2024): 214–29.

¹⁷ Mesta Wahyu Nita, *Marriage Law in Indonesia* (Lampung: Laduny Alifmata, 2021).

¹⁸ Muhammad Emirudin, "An Analysis of Marriage Law Recorded More Than One," *Ariyah: Journal of Business Economic Law* 1, no. 2 (2025): 83–96.

¹⁹ Sifa Mulya Nurani, "The Relationship of Husband and Wife Rights and Obligations in the Perspective of Islamic Law (An Analytical Study of the Relevance of the Rights and Obligations of Husband and Wife Based on the Tafsir of Ahkam and Ahkam Hadith)," *Al-Syakhsiyyah: Journal of Law & Family Studies* 3, no. 1 (2021): 98–116, <https://doi.org/10.21154/syakhsiyyah.v3i1.2719>.

²⁰ Ichwan Ahnaz Alamudi, "The Existence of the Principle of Monogamy and the Practice of Polygamy in the Perspective of Legal Politics," *Metta: Journal of Multidisciplinary Science* 5, no. 3 (2025): 90–105.

²¹ Nur Sarmila H., "The Concept of Islamic Legal Thought in the Field of Marriage," *JPIM: Journal of Multidisciplinary Scientific Research* 1, no. 3 (2025): 1037–49.

²² Mohammad Fauzan Ni'ami, "Contextual Interpretation of the Purpose of Marriage in Surah Ar-Rum: 21," *Nizham: Journal of Islamic Studies* 10, no. 1 (2022): 11–23, <https://doi.org/10.32332/nizham.v10i1.4469>.

qawwam (family leader) who is obliged to provide material and non-material support to his wife and children.²³

When the marriage cannot be maintained and ends in divorce, the husband's obligations in terms of maintenance do not necessarily fall out. Children born out of wedlock still have the right to earn alimony as part of legal protection.²⁴ This is in line with the principle of *hifz al-nasl* (safeguarding of offspring) in the sharia maqashid and the provisions of Article 41 of the Marriage Law which affirms that even if the parents separate, the obligation of maintenance and education remains on both parties.²⁵ In practice, the judge's decision regarding child support not only assesses the father's economic ability, but also considers the child's welfare, the principle of justice, and the best principles for the child.²⁶

Based on the explanation above, the concept of legal protection for child support after divorce is the implementation of all these principles both from the perspective of positive law and Islamic law. This understanding of the basic concept is the basis for analyzing the judge's legal considerations in the Banda Aceh Syar'iyah Court Decision No. 450/Pdt.G/2023/MS. Bna, especially related to the amount of alimony, form of maintenance, and legal certainty for children after the verdict is rendered.

The Consequences of Legal Marriage in the Perspective of Indonesian Family Law

A legally valid marriage gives rise to a series of legal consequences that are binding on each party.²⁷ First, the formation of a legal relationship between husband and wife as a couple recognized by the state. Second, the birth of provisions regarding property in marriage which include joint property and each other's property. Third, the creation of a legal relationship between parents and children that contains mutual rights and obligations.²⁸ These legal consequences show that marriage is not only a bond of birth and mind, but also a legal construction that brings juridical consequences for all members of the family.²⁹

Articles 30-34 of Law Number 1 of 1974 affirm that husband and wife both bear the responsibility to foster a household, have a balanced legal position, and have the right to take legal action in accordance with applicable regulations. The husband is positioned as the head of the family who is obliged to provide support, while the wife plays a role in

²³ Muhammad Achid Nurseha, "Tafsir Surah An-Nisa Verse 34 Concerning the Responsibility of Breadwinners from the Perspective of Indonesian Mufasssir (Tafsir Marah Labid by Sheikh Nawawi Al-Bantani, Tafsir Al-Azhar by Hamka, and Tafsir Al-Misbah by Quraish Shihab)," *El-Mu'jam: Journal of Qur'an and Hadith Studies* 3, no. 1 (2023): 76–102.

²⁴ Sri Hariati, "The Issue of Alimony as a Cause of Divorce in the Perspective of Family Law," *The Juris: Sharia Scientific Journal* 5, no. 2 (2021): 266–77.

²⁵ Bagus Ary Darmawan, M. Reza Saputra, and Jaenal Aripin, "Analysis of Child Custody in the Decision of the Lahat Religious Court Number 685/Pdt.G/2022/PA.LT: The Perspective of Maqâsid Al-Syarî'ah Muhammad Thâhir Ibn Âsyûr," *Consensus: Journal of Defense, Law and Communication Sciences* 1, no. 4 (2024): 319–35, <https://doi.org/10.62383/konsensus.v1i4.297>.

²⁶ Sisinta H Djuli, "The Convergence of State Law and Sharia: Rereading the Arrangement of Child Support After Divorce," *Judge: Jurnal Hukum* 6, no. 2 (2025): 197–207, <https://doi.org/10.54209/judge.v6i02.1362>.

²⁷ Maimun, "Marriage in a Compilation of Islamic and Civil Law," *Al-Mizan Journal* 9, no. 1 (2022): 12–21, <https://doi.org/10.54621/jiam.v9i1.263>.

²⁸ Siti Mustaghfiroh and Nely Melinda, "The Utilization of Joint Property in Marriage from a Perspective of Compilation of Islamic Law and Positive Law," *Syakhsiyah: Journal of Islamic Family Law* 2, no. 1 (2022): 1–16.

²⁹ Delvy May Nita Sinambela and Irene Svinarky, "Juridical Review of the Legal Consequences of the Constitutional Court Decision Number 69/PUU-XIII/2015," *Scientia Journal: Student Scientific Journal* 4, no. 1 (2021): 1–9.

regulating home life. In addition, both are obliged to love, respect, and live in a mutually agreed place of residence.³⁰ This provision shows that the husband and wife relationship has a dimension of social and economic responsibility that must be fulfilled during the marriage.

The legal relationship between parents and children is also an important part of the consequences of marriage. Articles 45–46 of the Marriage Law affirm that parents are obliged to maintain and educate children until the child is married or able to stand on their own, and this obligation does not disappear even if both parents divorce.³¹ Children, on the other hand, are obliged to respect their parents and take care of them according to their abilities when the parents need help. This provision is strengthened in the Compilation of Islamic Law Articles 105 and 106, which states that in the event of divorce, the right to maintain a child who has not been mumayyiz lies with the mother, while the maintenance costs remain the responsibility of the father.³²

Thus, the consequences of a valid marriage do not only stop at the marital relationship during the marriage, but also continue after the divorce, especially regarding the child's right to maintenance and maintenance. Normatively, the father still bears the obligation of maintenance even though the marital relationship has broken down. This foundation is the basis for assessing the judge's consideration in the Decision of the Banda Aceh Syar'iyah Court No. 450/Pdt.G/2023/MS. Bna regarding the determination of post-divorce child support.

Judge's Considerations in Determining Post-Divorce Child Support in Decision Number 450/Pdt.G/2023/MS. Bna

Providing support for children is an important obligation that must be fulfilled by parents, both morally and legally. In the Indonesian legal system, the protection of child support rights has been affirmed through various regulations, including the Marriage Law and the Compilation of Islamic Law. The basic principle is that divorce does not remove the parents' obligation to provide for the child's living needs.³³ Therefore, the obligation to provide support remains inherent and must be carried out consistently in order to maintain the survival, growth and development and welfare of children.

In case Number 450/Pdt.G/2023/MS. Bna, the applicant officially filed an application for divorce on April 27, 2023 and has been registered at the Banda Aceh City Syar'iyah Court. The applicant and the respondent are a married couple who were legally married on October 30, 2008 based on the Marriage Certificate Citation from the KUA of Delima District, Pidie Regency. From this marriage, the couple was blessed with three children, aged 14, 11, and 8 years respectively. At the beginning of the marriage, the domestic relationship between the two was harmonious, but in 2020 there was disharmony due to quarrels and differences of opinion that did not find a solution. The

³⁰ Syaiful Anwar, "The Rights and Obligations of Husband and Wife According to Law Number 1 of 1974," *Al-Kamal Journal of Islamic Studies* 1, no. 1 (2021): 82–98.

³¹ Fauzia Dwianti Nugraha, "Legal Protection of Children after the Revocation of Custody of One of the Parents," *Rewang Rencang: Lex Generalis Law Journal* 6, no. 6 (2025): 1–25.

³² Fawzia Hidayatul Ulya, Fashi Hatul Lisaniyah, and Mu'amaroh Mu'amaroh, "The Custody of Minors to Fathers," *The Indonesian Journal of Islamic Law and Civil Law* 2, no. 1 (2021): 101–17, <https://doi.org/10.51675/jaksya.v2i1.176>.

³³ Nabila Rahmadani and Tajul Arifin, "Punishment for Fathers Who Do Not Provide for His Biological Children in the Perspective of HR Hadith. Ibnu Majah and Article 77 of Law No. 23 of 2022," *Hidayah: Scholars of Islamic Education and Sharia Law* 2, no. 2 (2025): 306–30, <https://doi.org/10.61132/hidayah.v2i2.1065>.

situation worsened when the respondent did not accept the applicant's decision to take care of his sick parents, so the conflict became more intense.

On August 14, 2021, the applicant imposed talaq in a kinayah manner and stated his desire to separate after an untenable relationship of 11 years. Since the incident, the applicant and the respondent have no longer lived in the same house for approximately three years, starting from 2021 to 2023. This long-standing disharmony became a strong basis for the judge to consider that the domestic relationship had indeed broken and could not be maintained. These facts then became the basis for the panel of judges to decide the divorce case.

The Panel of Judges in this decision also considered the agreement of the parties regarding child care. Based on the agreement, the right to hadhanah for the three children was handed over to the respondent. Due to a clear agreement, the panel no longer asked for the presence of children who had mumayyiz at the trial. However, the panel affirmed that even though the child is cared for by the respondent, the applicant as the biological father still has the right to meet and interact with his children. This right includes the opportunity to take the child for a walk or stay at certain times with the knowledge of the respondent, as long as it is done reasonably and does not conflict with the best interests of the child. This provision shows that the panel of judges still pays attention to the principle of justice by providing space for the applicant to carry out his role as a father.

Regarding the fulfillment of alimony, in the mediation process, the parties agreed that the applicant would provide alimony for their three children in the amount of Rp 1,500,000.00 per month. The Panel of Judges then determined and strengthened this agreement in the verdict as an obligation that must be carried out by the applicant. This determination is in line with the legal provisions that require fathers to continue to bear the child's living expenses even after the marriage has ended. This decision also provides legal certainty for children and caregivers, so that their maintenance rights are protected through binding legal instruments.³⁴

Legal Protection of Post-Divorce Child Support Rights in Decision Number 450/Pdt.G/2023/MS. Bna

The fulfillment of child support after divorce is a legal obligation that often does not run effectively due to various obstacles, such as the economic condition of the parents, low awareness of legal responsibilities, and prolonged conflicts between former spouses.³⁵ It is not uncommon for fathers who experience a decrease in income or have a new family to ignore their obligations, so that children lose access to basic needs such as education, health, and decent housing.³⁶ This situation shows that divorce not only has an impact on the relationship between parents, but directly affects the welfare of children as the most vulnerable parties.

In the Indonesian legal system, the state provides strict legal protection to ensure that the needs of children are met after divorce. The Civil Code, Law Number 1 of 1974 concerning Marriage, and the Compilation of Islamic Law (KHI) emphasizes that parents are still obliged to maintain and educate their children even though the marital relationship has ended. Article 41 of the Marriage Law and Article 80 of the KHI state

³⁴ "Decision Number 450/Pdt.G/2023/MS. Bna," 2023.

³⁵ Dian Ayu Safitri and Muh. Jufri Ahmad, "Parental Responsibility for Post-Divorce Child Support," *Court Review: Journal of Legal Research* 4, no. 06 (2024): 38–59, <https://doi.org/10.69957/cr.v4i06.1610>.

³⁶ Fatma Ratu Shifa and Asep Suherman, "The Impact of the Absence of Fathers on Child Development in Indonesia," *Journal of Legal and Public Policy Studies* 2, no. 1 (2024): 260–67.

that the father is primarily responsible for providing child support; However, if she is unable to do so, the obligation can be transferred to the mother according to the principle of ability (*al-qudrah*) and the benefit of the child (*mashlahah al-walad*).³⁷ This provision shows that the law functions to maintain the sustainability of children's rights clearly against parties who are negligent or do not fulfill their maintenance obligations.

From the perspective of Islamic law, the obligation to support a child applies as long as the child is still in a state of need (*fakir*) and has not been able to meet his own needs, either because he is still young, unable to work even though he is an adult, or because he is a woman who is not obliged to provide for himself. The father is obliged to provide for him if he has adequate economic ability. For a daughter, the obligation of maintenance lasts until she is married, and can return to the father if after the death of her husband she does not receive a sufficient inheritance to live a decent life.³⁸

The affirmation of positive law and the principles in fiqh shows that the obligation of maintenance does not stop just because of divorce. On the contrary, the law provides strong protection so that children's rights are guaranteed through maintenance management instruments and enforcement mechanisms.³⁹ Therefore, when there is a dispute or difficulty in the implementation of alimony after divorce, the role of the court is very important in ensuring the fulfillment of children's rights.⁴⁰ At this point, the relevance of the study to Decision Number 450/Pdt.G/2023/MS. Bna appeared, because the decision provides a concrete picture of how the Banda Aceh Syar'iyah Court applies the principles of legal protection in determining post-divorce child support.

CONCLUSION

The judge's consideration in the Decision of the Banda Aceh Syar'iyah Court Number 450/Pdt.G/2023/MS. Bna showed that the panel of judges ratified the agreement of the parties related to child custody and alimony as the basis for determining the verdict. The judge considered that the agreement did not contradict the laws and regulations and still prioritized the interests of the child. In the context of legal protection, this decision affirms that the obligation of maintenance remains attached to the parents even though they have divorced, in accordance with the provisions of Article 41 of Law Number 1 of 1974 and Article 80 of the Compilation of Islamic Law, so that the child's right to maintenance and the necessities of life is still legally guaranteed.

The main findings of this study show that there is a shift in the burden of alimony from father to mother based on the agreement approved by the judge. This shows the flexibility of applying Islamic family law in adjusting the norms of maintenance obligations to the socio-economic conditions of parents. Theoretically, the results of this study reinforce the importance of using the principle of child welfare (*maslahah al-walad*) and the maqāṣid al-syarī'ah approach in determining judges' decisions, especially

³⁷ Nyoto Nyoto et al., "The Fulfillment of Children's Rights After Parental Divorce," *Darussalam Journal: Journal of Education, Communication and Islamic Legal Thought* 11, no. 2 (2020): 479, <https://doi.org/10.30739/darussalam.v1i1i2.626>.

³⁸ Wahfudin Nur Arif, Shofiatul Jannah, and Ach Faisol, "The Responsibility of the Biological Father for Child Support After Divorce in Review from Islamic Law (Case Study in Cumpleng Village, Brondong District, Lamongan Regency)," *Hikmatina: Scientific Journal of Islamic Family Law* 7, no. 2 (2025): 76–87.

³⁹ Alfina, "Fulfillment of Post-Divorce Child Support Rights."

⁴⁰ Sri Handayani Paputungan, Daniel F. Aling, and Mien Soputan, "Juridical Analysis of Child Birth Allowance After Divorce in the Perspective of Law Number 35 of 2014 concerning Child Protection," *Lex Administratum* 13, no. 3 (2025): 1–12.

when classical fiqh norms meet the needs of contemporary families that are more complex.

Practically, this study recommends that judges more carefully assess the father's financial ability before accepting the transfer of alimony responsibilities, as well as ensure that there is a mechanism to supervise the implementation of child support agreements. For legislators, more operational rules are needed regarding the collection of child support after divorce. Meanwhile, the Ministry of Religious Affairs needs to strengthen the function of mediation and family development so that the agreement on alimony is truly in the best interests of the child.

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