



**The Alimony Obligation of a Civil Servant and Non-Civil Servant Father
towards Children Post-Divorce
(The Study on Aceh Syar'iyah Court Decision Study of 2019)**

Mursyid Djawas¹; Nahara Eriyanti¹; Anita Yulia¹; Faisal Fauzan²

¹Universitas Islam Negeri Ar-raniry Banda Aceh

²Central Queensland University, Sydney Campus, Australia

 *mursyidmandar@ar-raniry.ac.id*
 *nahara.eriyanti@ar-raniry.ac.id*
 *anitayulias@gmail.com*

Abstract

This research was motivated by two decisions of the Aceh Syar'iyah Court, namely decision Number 75/Pdt.G/2019/MS. Aceh in determining the child's sustenance after divorce, distinguished by the amount that must be given by civil servant and non-civil servant fathers. However, these two decisions are different from the provisions of the Compilation of Islamic Law (KHI), in which the Compilation of Islamic Law (KHI) does not mention the number of child support provisions. This is the focus of this research, in which two research questions were administered to answer the research inquiries First; what is the judge's consideration in determining the obligation of a civil servant and a non-civil servant father? Second; how does the Islamic law determine the obligations of a civil servant and non-civil servant father to children after a divorce from the study of the 2019 Aceh Syar'iyah Court judge's decision? This is a library research investigating cases on strategies used by judges in solving various cases. The study reveals that the judge's considerations in determining the level of child maintenance rights differ between the judge's decision Number 75/Pdt.G/2019/MS. Aceh and decision Number 70/Pdt.G/2019/MS.Aceh. The study suggests that the judge has different ways of determining the legal decision. The civil servant fathers are entitled to comply by Article 8 PP No. 10 of 1983 jo. PP No. 45 of 1990, while the non-civil fathers are referred to the recommendation of the Compilation of Islamic Law (KHI), which is seen from the ability of the father. This is found to have been in compliance with the Islamic law. Therefore, according to the author, the difference in determining the level of income for children after divorce is relevant to Imam Syafi'i's opinion that income has a certain size. The rich father should pay two mud,

middle-class fathers pay one and a half mud and the low-income fathers pay one mud.

Keywords: Parents' Obligation, Children sustenance, Civil servant and non-civil servant fathers

Abstrak

Penelitian ini dilatarbelakangi oleh dua putusan Mahkamah Syar'iyah Aceh, yaitu putusan Nomor 75/Pdt.G/2019/MS. Aceh dalam menentukan nafkah anak pasca perceraian, dibedakan dari jumlah yang harus diberikan oleh ayah PNS dan non-PNS. Namun, kedua putusan tersebut berbeda dengan ketentuan Kompilasi Hukum Islam (KHI), dimana dalam Kompilasi Hukum Islam (KHI) tidak menyebutkan jumlah ketentuan nafkah anak. Hal inilah yang menjadi fokus penelitian ini, di mana terdapat dua pertanyaan penelitian yang diajukan untuk menjawab pertanyaan penelitian, yaitu: Pertama; bagaimana pertimbangan hakim dalam menentukan kewajiban seorang ayah yang berstatus PNS dan non-PNS? Kedua; bagaimana tinjauan hukum Islam terhadap penetapan kewajiban ayah PNS dan non-PNS terhadap anak pasca perceraian studi putusan hakim Mahkamah Syar'iyah Aceh tahun 2019. Penelitian ini merupakan penelitian kepustakaan yang mengkaji kasus-kasus tentang strategi yang digunakan oleh hakim dalam menyelesaikan berbagai kasus. Penelitian ini mengungkapkan bahwa pertimbangan hakim dalam menentukan tingkat hak nafkah anak berbeda antara putusan hakim Nomor 75/Pdt.G/2019/MS.Aceh dengan putusan Nomor 70/Pdt.G/2019/MS.Aceh. Penelitian ini menunjukkan bahwa hakim memiliki cara yang berbeda dalam menentukan putusan hukum. Para ayah PNS berhak untuk mematuhi pasal 8 PP No. 10 tahun 1983 jo. PP No. 45 Tahun 1990, sedangkan ayah non-PNS berpedoman pada anjuran Kompilasi Hukum Islam (KHI) yang dilihat dari kemampuan ayah. Hal ini ternyata telah sesuai dengan hukum Islam. Oleh karena itu, menurut penulis, perbedaan penentuan kadar nafkah anak pasca perceraian relevan dengan pendapat Imam Syafi'i bahwa nafkah memiliki ukuran tertentu. Ayah yang kaya harus membayar dua mud, ayah kelas menengah membayar satu setengah mud dan ayah yang berpenghasilan rendah membayar satu mud.

Katakunci: Kewajiban Orang Tua, Nafkah Anak, Ayah PNS dan Non - PNS

Introduction

In the judge's decision, the Aceh Syar'iyah Court distinguished the level of sustenance for the child of a civil servant and non-civil servant father given to the child after divorce. As for the Compilation of Islamic Law, the determination of children's rights is carried out according to the level of ability of the father. For Muslims, there is no stipulation on the amount to be given to children. The law stipulates that fathers are responsible to provide financial support and protection for

children, and in the case of the daughter, fathers should take responsibility to the age of 21 or after marriage.¹

The determination of the level of child support was not differentiated between civil servant and non-civil servant fathers in the Aceh *Syar'iyah* Court judge's decision. This is in line with both the Compilation of Islamic Law and the Islamic law, in which there is no provision regarding the determination that distinguishes between two groups of fathers.

In fact, in recent times, those who are civil servants may have less income than those who are non-civil servants. This suggests that the differentiation in the level of sustenance between the two groups is non-justifiable. Meanwhile, in practice, the Aceh *Syar'iyah* Court has decided that the provision for post-divorce child support for a civil servant father is greater than that of non-civil servant fathers. This yields negative impacts as the non-civil servant fathers will ignore their obligation to provide sufficient sustenance to children so long they are non-civil servant fathers, and at the same time, there will be a sense of unfairness for the civil servant parents as their economic status is no better than those of the non-civil servant fathers.

In the Qur'an, it is very clear that the obligation of a father after a divorce is to provide sustenance for his children. However, the amount that must be given by the father is not determined because of the worry that children will not spend the money wisely. The legal basis for providing maintenance to children is found in the Qur'an, surah Al-Baqarah verse 233, as it reads:

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا

And the father's obligation to provide maintenance and clothing for them in a proper way. A person is not burdened more than he can bear". (Q.S. Al-Baqarah [2]: 233).²

As stated in the Compilation of Islamic Law (KHI) in the third part due to divorce in article 156 letter d: states that all *Hadanah* costs and child sustenance are the responsibility of the father according to his ability up to the adulthood period or to the age of 21.³

In the 2019 filed of the case, the Aceh *Syar'iyah* Court judges differentiated the level of sustenance obliged to civil and non-civil servant fathers. There in this research context, the author delimits the review of the 2019 Aceh *Syar'iyah* Court judge decisions. In this case, the author only takes civil decision cases in 2019 for

¹ Tim Redaksi Nuansa Aulia, *Kompilasi Hukum Islam*, Cet. 1, (Bandung: Nuansa Aulia, 2008), p. 31.

² Maharati Marfuah, *Hukum Fikih Seputar Nafkah*, (Jakarta: Lentera Islam, 2020), p. 12.

³ Abdurrahman, *Kompilasi Hukum Islam*, 2 ed. (Jakarta: CV. Akademika Pressindo, 1995), p. 21.

research studies. In the 2019 activity implementation report, MS. Aceh, the condition of cases at the appeal level in civil cases in 2019 the Aceh *Syar'iyah* Court has received civil appeal cases in a total of 123 cases from all district/city work units throughout Aceh and has resolved 100% of cases or as many as 123 cases. The authors delimit two cases only to be reviewed.⁴

The contents of Decision Number 75/Pdt.G/2019/MS. Aceh is a divorce case at the appeal level, in which a wife is against her civil-servant husband. The decision at the first level was previously decided at the Takengon *Syar'iyah* Court in which the applicant's request was granted several points of a lawsuit by the judge against the defendant's wife, including claims against *iddah*, *mut'ah*, *kiswah*, and child sustenance rights. As a result of this decision, the judge granted several points of the request, including regarding the child's right to support. The judge has sentenced the applicant to give his children's living rights post-divorce a minimum of 1/3 of the applicant's salary until the children are adults and independent.⁵

Furthermore, in the appeal divorce case in the decision Number 70/Pdt.G/2019/MS. Aceh, the father was a non-civil servant who worked as an L300 car driver and in a fishing boat business. The plaintiff (wife) filed a lawsuit against her husband because there were continuous disputes and they had been separated for approximately 3 months, and the husband had remarried and even had children. The plaintiff has sued several requests filed by his wife in the form of *iddah* support, *mut'ah*, and child number 4's tuition fees of 1 million per month to the child's graduation day. The results of the MS verdict, Aceh judge's determination of child support has granted the petitioner's request and sentenced the defendant (father) to fulfill the plaintiff's request to pay the tuition fees for child number 4 in the amount of 1 million per month until the child finishes college.

In addition, the father's obligations described in the Presidential Instruction regarding maintenance are contained in KHI. The maintenance arrangements according to the Compilation of Islamic Law in Article 80 paragraph 2 and paragraph 4, namely that the husband is obliged to protect his wife and provide all the necessities of household life according to his abilities and income; husband therefore bears:

- a) Providing sustenance, *kiswah* and residence for the wife,
- b) Household expenses, maintenance costs and medical expenses for wife and children,
- c) Education costs for children.

⁴ Mahkamah Syar'iyah Aceh, *Laporan Pelaksanaan Kegiatan Tahun 2019 Mahkamah Syar'iyah Aceh*, (Banda Aceh), Diakses Melalui: <https://drive.google.com/file/d/12mQmGh9-46n26Ehcuw7zbz0SuRAVSam/view>, p. 12.

⁵ Putusan Mahkamah Aceh Nomor 75/Pdt.G/2019/MS.Aceh

Parents' responsibilities are also stipulated in article 105 KHI regarding divorces

- a. Child's (pre *mumayyiz* stage) sustenance or those under the age of 12 was borne to the mother
- b. The maintenance of *mumayyiz* children is left to the child to choose to give the sustenance rights between the father or mother
- c. The maintenance costs are borne by his father.⁶

Of the two case decisions that distinguished the granting of child support rights after the divorce, the *Syariah* Court's decision in 2019 above, the research focused more on the reasons why the judge determined the differences between two decisions regarding the obligations of a civil servant and non-civil servant fathers. Reviewing the decision of the Aceh *Syar'iyah* Court in 2019 in the provisions for determining the granting of child support rights after divorce, the writer was interested in reviewing further through the research thesis with the title "Obligations of a Civil Servant and Non-Civil Servant Father towards a Post-Divorce Child (Case Study of the 2019 Aceh *Syar'iyah* Court Decision)".

The description and explanation of the background of this research, the focus of this article is twofolds: First, the judge's consideration of the differences in determining the obligations of a civil servant father and a non-civil servant towards a child after a divorce, a study of the 2019 Aceh *Syar'iyah* Court decision. Second, a review of Islamic law regarding the differences in determining the obligations of a civil servant and non-civil servant father towards a child after a divorce in Aceh *Syar'iyah* Court judge's decision in 2019.

The Definition and Legal Basis for Child Support Obligations

Linguistically, an-*nafaqat* is the plural form of the word *nafaqah*; the differentiated verb (*mashdar*) *al-infifaq*, namely giving something well in order to hope for God's approval. Livelihood is divided in two, first; to make a living for yourself. The words of the prophet, "start with yourself then those around you". Second; to provide for others. This point is due to three factors:

- 1) Marriage relationship,
- 2) Relation of relatives and
- 3) Owner relationship. One of them is the obligation to provide food to the family. This all refers to the word of Allah, "*the duty of the father to bear their maintenance and clothing in a proper way*" (QS. Al-Baqarah [2]:233).⁷

⁶ Tim Redaksi Nuansa Aulia, *Kompilasi Hukum Islam*, (Bandung: Nuansa, 2011), p. 25.

⁷ Wahbah Zuhaili, *Fiqh Imam Syafi'i 3*, Cet. 1, (Jakarta: Penerbit Almahira, 2008), p. 41.

According to Moh Ali Wafa, the sustenance is all the rights that must be fulfilled by the husband in the family, consisting of the wife's sustenance and child support. Husbands are obliged to meet their needs both shopping and clothing needs, because, all the needs in the household are provided from the husband's income. Support is not a requirement of the wife, but it is a necessity that arises by itself, this is a form of responsibility of a husband in fulfilling all needs in the household. In terms of *Fiqh*, two words are used but are shown to mean the same thing, namely *kafalah* and *hadanah*. The *hadanah* or *kaffalah* in a simple sense is seen as "maintenance" or "nurturing". In a more complete sense, it is the maintenance of young children after the breakup of a marriage.⁸

The definition of *hadanah* according to Wahbah Al-Zuhaili is in the form of handing over responsibility for caring for children to both parents, one of whom is more capable of caring for children, or conversely, handing over child care to parents who are not yet capable of providing sustenance and to children who are not yet competent in taking care of themselves.⁹

In the Indonesian National legal order, there are three terms relating to the responsibilities of parents towards their children. In the Marriage Law, two terms are used, namely caring for children and caring. The term caring for and controlling children is contained in Law Number 1 of 1974 in article 41 letter (a) which states that "either the mother or the father remains obliged to care for and educate their children, solely based on the child's interests; if there is a dispute regarding the control of children, the court gives its decision".¹⁰

In all divorces, children are those who are always victimized, and thus issues regarding who should provide sustenance for children, should be well discussed. If there is a dispute regarding child supervision, it is the court that determines the decision. The husband is responsible for all maintenance and education costs required by the child if the husband does not fulfill these obligations, the court can determine that the mother is also responsible for these costs.¹¹

In the Islamic law, the legal basis for maintenance has been determined in the Qur'an as it is said that the father's obligation to provide for a child will never escape his responsibility. However, the child's sustenance rights are not charged with the amount that must be fulfilled by the father. So it does not cause anxiety for parents who do not have assets.

⁸ Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia Antara Munakahat dan Undang-Undang Perkawinan*, (Jakarta: Putra Grafika, 2006), p. 329.

⁹ Wahbah Al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, Juz VIII, (Terj Abdurrahman), (Selangor: Gema Darul Fikr, 2000), p. 717.

¹⁰ Zulfa Djoko Basuki, *Dampak Perkawinan Campuran terhadap Pemeliharaan Anak (Child Custody) Tinjauan Hukum Perdata Internasional*, Cet; 1, (Jakarta: Yarsif Watampone, 2005), p. 36

¹¹ Moh. Idris Ramulyo, *Hukum Perkawinan Islam*, Cet. 5, (Jakarta: PT Bumi Aksara, 2004), p. 192.

As contained in the word of God in the Qur'an surah Al-Baqarah verse 233:

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ

Meaning: "And it is the father's obligation to feed and clothe them in a virtuous manner." (Al-Baqarah (233) 37).¹²

So in God's word, it is stated that the father must bear the child's support because of his birth, because he is his flesh and blood. His obligation is to provide food and clothing for his children, so that their offspring are not like abandoned children who have no parents. Just as it is obligatory for a wife to provide for her when she gives birth to the child, according to the majority of scholars, the children who must be provided for are children by blood, namely his own offspring, and then grandchildren and so on down the generation.¹³

From Aisyah, Hindun Bin Utbah, the wife of Abu Sufyan, once told the Prophet, "O Messenger of Allah, in fact Abu Sufyan is a very miserly person. He gives me a living that is not enough for me and my children, unless I take some of his property without his knowledge." Then he said, "take some of the wealth so that you can provide for yourself and your children in a good way." *Muttafaqun Alaih*.¹⁴ That is, take it according to the standard of living for other people that suits you, according to your husband's condition, without excess and deficiency. Apart from that, the hadith also contains arguments showing the obligation of a father to provide maintenance for his children.¹⁵

Imam Al-Baghawi also stated that people who live in easy circumstances are obliged to provide for people who are in constant difficulty (unable to afford it), whether they are parents or children. But there is no obligation for him to provide support to people who live in comfort or are in good health and strength and are guaranteed to be able to earn their own living. That is Syafi'i's opinion. All jurists are obliged to provide for those in need when they are in trouble without specifying a time requirement, and there is no obligation to provide for other than the wife and children and provide for those relatives using an "adequate" measure and it does not become a debt if paid. If there are parents who live in hardship and want to get married, then their children who live in ease must help maintain their chastity, by providing them with a dowry or something else so that they can marry. It was narrated from Amr Bin Syu'aib, from his father and grandfather, that "indeed I have property and children, while my parents also need my property", so he said, "You

¹² Tihami dan Sohari Sahrani, *Fikih Munakahat...*, p. 166.

¹³ Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid*, Jilid 10, Cet; 2, (Jakarta: Gema Insani, 2011), p. 136-137.

¹⁴ Syaikh Hasan Ayyub, *Fikih Keluarga Panduan Membangun Keluarga Sakinah Sesuai Syariat*, (Jakarta: Pustaka Al-Kautsar, 2001), p. 446-447.

¹⁵ Musthafa Diib Al-Bugha, *Fikih Islam Lengkap Penjelasan Hukum-Hukum Islam Madzhab Syafi'i*, (Surakarta: Media Zikir, 2015), p. 413.

and your property belong to your parents. Indeed, your children are the result of your good efforts, eat from the results of your children's efforts".¹⁶

The Prophet permitted taking a husband's property, not for his wife and children to spend extravagantly, but to fulfill food and drink and other needs for his wife and children. It has been explained in the Al-Quran Surah At-Thalaq: 7 regarding the obligations of living, namely:

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

Meaning: "Let the person who has the freedom to provide a living according to his ability, and the person who has limited sustenance, should provide a living from the wealth that Allah has given him. Allah does not burden a person except (according to) what Allah gives him. Allah will give you spaciousness after narrowness." (QS. At-Thalaq : [7] : 558).¹⁷

Allah has determined the sustenance of His creatures, so as a responsible parent you should set aside some of your wealth for the daily lives of your children. As Allah SWT has given us convenience. Therefore, parents should give part of their assets from the rights that have been determined for children.

In a marriage blessed with children, the marriage not only provides rights and obligations for the husband and wife, but also provides rights and obligations for their descendants. The obligations referred to are regulated in articles 45 to 49 of Law no. 1 of 1974.¹⁸ So all the costs of the child's gift and child support are borne by the father according to his ability to adulthood and can take care of himself (21 years). If there is a dispute regarding gifts and child support, the Religious Court has the right to make a decision.¹⁹

The obligation of an ex-husband (or parents) to provide maintenance after divorce is one of the consequences of divorce, the regulation of which we can see in Article 41 of Law No. 1 of 1974 concerning Marriage, namely:

The consequences of breaking up a marriage due to divorce are:

- a. Whether the mother or father remains obliged to care for and educate their children, solely based on the interests of the child, if there is a dispute regarding control of the children, the Court gives its decision,

¹⁶ Syaikh Hasan Ayyub, *Fikih Keluarga Panduan Membangun Keluarga Sakinah Sesuai Syariat...*, p. 448.

¹⁷ Masykur, Afif Muhammad, Idrus Al-Kaff, *Fiqih Lima Mazhab Ja'fari, Hanafi, Maliki, Syafi'i, Hambali*, Cet. 13, (Jakarta: Lentera, 2006), p. 422.

¹⁸ Andi Nuzul, *Hukum Perdata dalam Berbagai Aspek Pengembangan*, (Yogyakarta: Total Media, 2010), p. 43.

¹⁹ Salim, *Pengantar Hukum Perdata Tertulis (BW)*, (Jakarta: Sinar Grafika, 2014), p. 83.

- b. The father is responsible for all maintenance and education costs required by the child. If the father is in fact unable to fulfill these obligations, the Court can determine that the mother also bears these costs,
- c. The court can require the ex-husband to provide living expenses and/or determine obligations for the ex-wife.²⁰

As is the case in Marriage Law No. 1 of 1974 regulating the obligations of parents towards their children in chapter x concerning the rights and obligations between parents and children, article 45 of the law determines that:

- a. Both parents are obliged to care for and educate their children as best as possible.
- b. The parental obligations referred to in paragraph (1) of this article apply until the child marries or is able to stand alone, which obligations continue to apply even if the marriage of both parents breaks down.²¹

Furthermore, the Presidential Instruction regarding livelihoods is contained in the KHI. Where the maintenance arrangements according to the Compilation of Islamic Law in Article 80 paragraph 4, namely that the husband is obliged to protect his wife and provide all the necessities of household life according to his abilities and income. husband bears: a). Support, *kiswah* and residence for the wife, b). Household costs, care costs and medical costs for wife and children, c). Education costs for children.²²

Article 104 paragraph (1) states that: all costs of breastfeeding a child are borne by the father. If the father has died, the cost of breastfeeding is borne by the person who is obliged to provide support to the father or guardian.²³

The article 105 KHI also describes parents' obligation for children's sustenance:

- a. The sustenance of a child who is not yet *mumayyiz* or who is not yet 12 years old is the right of the mother,
- b. The sustenance of *mumayyiz* children is left to the child to choose between the father or mother as the holder of maintenance rights,
- c. The maintenance costs are borne by his father.

In addition, in article 136 paragraph (2) during the divorce lawsuit between the plaintiff and defendant, the religious court can: point a). Determine the maintenance that must be borne by the husband. The consequences of divorce are also contained in chapter letter d. Providing *hadhanah* costs for children who have

²⁰ Undang-Undang RI Nomor 1 Tahun 1974 tentang Perkawinan dan Kompilasi Hukum Islam, (Bandung: Citra Umbrara, 2017), p.13-14.

²¹ Hamid Sarong, *Hukum Perkawinan Islam di Indonesia*, (Banda Aceh: Yayasan PENA, 2004), p. 196.

²² Tim Redaksi Nuansa Aulia, *Kompilasi Hukum Islam...*, p. 25.

²³ Undang-Undang RI Nomor 1 Tahun 1974 tentang Perkawinan dan Kompilasi Hukum Islam..., p. 353.

not yet reached the age of 21 years. Furthermore, article 156 states that the consequences of breaking up a marriage due to divorce are: point b). Children who are *mumayyiz* have the right to choose to receive *hadhanah* from their father or mother, c). If the *hadhanah* holder turns out to be unable to guarantee the physical and spiritual safety of the child, even though the costs of living and *hadhanah* have been covered, then at the request of the relative concerned the Religious Court can transfer the *hadhanah* rights to another relative who also has *hadhanah* rights; d). All costs of the child's gift and child support are borne by the father according to his ability, at least until the child is an adult and can take care of himself (21 years), e). If there is a dispute regarding *hadhanah* and child support, the Religious Court makes its decision based on letters (a), (b), (c) and (d), and point f). The court may also take into account the father's ability to determine the amount of expenses for the maintenance and education of children who do not live with him.²⁴ The provisions of the KHI make it clear that a father's responsibility to his child cannot be terminated even if he has divorced his wife or has remarried.²⁵

In some of the legal foundations above it is very clear that the obligations of parents will never be interrupted and the obligations of parents to look after their offspring as well as possible, even though both parents have separated. However, rights and responsibilities remain bound between parents and their children. As for the obligation to provide for the child after the divorce, it remains on the responsibility of the father, until the children get married. As in several legal foundations both in Islamic law, namely based on the holy verses of the Qur'an and hadith as well as in legislation.

Levels of Determination of Children's Livelihoods

There are dissenting opinions in determining children's maintenance rights after divorce, both according to the opinions of scholars and in statutory regulations. However, the existence of these differences does not mean that they can become an obstacle in making a legal decision.

Rasulullah SAW said: "A servant's feet on the Day of Resurrection will not slip unless he is asked four things, about what he spent his age on, what he used his knowledge on, what he used his knowledge from, where he got it from and where he spent it, and what he used his body for." (HR At-Tirmizi). For every food given to children, the source must be halal, as the Messenger of Allah said to Sa'ad bin Abu Waqqashra, "Eat food that is halal and good, your prayers will surely be answered." The results obtained from halal food, children's development becomes ideal, far from excessive and extreme attitudes.²⁶

²⁴ *Ibid*, p. 354-370.

²⁵ Zainuddin Ali, *Hukum Perdata Islam di Indonesia*, (Jakarta: Sinar Grafika, 2006), p. 67.

²⁶ Ahmad Haikal, dan Abu Zahwa, *Buku Pintar Keluarga Sakinah*, (Jakarta: Qultum Media, 2010), p. 134-135.

Some opinions regarding the level of determining child support, namely:

1) *The Muslim clerics' perspectives*

The ulama have made it mandatory regarding the issue of providing support for children, but each ulama has different opinions in determining the amount of sustenance to be paid.²⁷ The majority of ulama are of the opinion that maintenance or gift fees, which are taken from the assets of the child being cared for, but if he does not have any assets then the maintenance is borne by the child's father or the person who is obliged to provide for him. This subsistence becomes obligatory because of survival and protection of children from shortages. If the hadanah subsistence is obligatory then it is not considered a debt and does not expire even if the term has passed or with the death of the person who is burdened with the subsistence. Malikiyah scholars in a well-known opinion say that the living for the hadanah and the children they look after are borne by their fathers.²⁸

With regard to alimony, Imam Malik is of the opinion that alimony does not have a certain measure according to the Shari'a, and it is returned to the husband's condition and the wife's condition, this of course varies according to place, era and circumstances. This is the opinion of Imam Abu Hanifah. Imam *Syafi'i* believes that livelihood has a certain measure. For people with excess, the amount is two mud, for medium people, the amount is one and a half *mud*, and for people with difficulties, the amount is one *mud*. Due to (dissenting opinions) *ikhtilaf*, there is uncertainty about the meaning of livelihood in this matter, whether it is defined as eating (food) in *kafarat* or giving clothing (clothing), namely because the ulama are of the opinion that the matter of providing clothing is unlimited while the matter of providing food is limited.²⁹

According to Hanafi and Hambali's opinion, the maintenance of a small child is borne by the mother and grandfather, 1.5 each, as well as if a daughter and a son get together. According to Hanafi, if a son's son and a daughter gather together, the living will be borne by the daughter. Meanwhile, according to Hambali, the living is borne by the daughter, the living is the responsibility of both of them, namely $\frac{1}{4}$ for the mother and $\frac{2}{4}$ for the daughter. *Syafi'i* is of the opinion that maintenance is only the responsibility of men, namely grandfathers, sons and grandsons of sons. In this case, the heirs

²⁷ Ahmad Mustafa Al-Maragi, *Tafsir Al-Maraqi*, Juz. 2, (Semarang: CV Toha Putra, 1992), p. 239.

²⁸ Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu 10...*, p. 74.

²⁹ Fuad Syaifudin Nur, *BIDAYATUL MUJTAHID Wa Nihayatul Muqtashid; Fiqih Perbandingan Madzhab*, (Jakarta: Pustaka Al-Kautsar, 2016), p. 98-99.

consist of mother and daughter, so it is only the daughter who provides support. Maliki is of the opinion that the maintenance is borne by male and female biological children. Each of them bears $\frac{1}{2}$ if they are both rich, whereas if one is rich and the other is poor, then the rich are obliged to provide, while the poor are not.³⁰

Fiqh scholars agree that the child support that must be provided is in accordance with the basic needs of the child and also in accordance with the situation and conditions of the father and child. However, according to the Sharia and Hambali Schools, if the child has a wife and servant, the father is obliged to provide for them. In contrast to the Hanafi and Maliki schools, the maintenance of the wife and servants are borne to the husband.³¹

2) *The legal views*

The living limit in the law does not clearly state the maximum and minimum limits for providing child support after divorce because this is determined according to the needs of each child, in terms of time, place and circumstances, depending on the needs required by the child.³²

As in the government regulation regarding the determination of the obligation to provide a living by husbands who are civil servants to ex-wives and children contained in article 8 PP No.10 of 1983 jo. PP No. 45 of 1990, namely as follows:

- a) If the divorce occurs at the will of a male Civil Servant, then he is obliged to give up a part of his salary for the support of his ex-wife and children. The obligations specified by article 8 letter a PP No. 10 of 1983 jo. 45 of 1990 is a form of legal protection for the rights of ex-wives and children after a divorce as desired by civil servants.
- b) The salary distribution is one third for the male Civil Servant concerned, one third for his ex-wife, and one third for his children or children. The amount of salary that must be distributed according to article 8 letter b PP No. 10 of 1983 jo. PP No. 45 of 1990 is proportional, so that the salaries of existing Civil Servants are divided equally for himself, his wife and children.
- c) If the marriage was blessed with children, the portion of the salary must be handed over by the male Civil Servant to his ex-wife is half of his salary. The amount of salary that must be distributed according to article 8 letter c PP No. 10 of 1983 jo. PP No. 1990 is proportional, so that the

³⁰ Syaikh Al-'Allamah Muhammad Bin 'Abdurrahman Ad-Dimasyqi, (Rahmah Al-Ummah Fi Ikhtilaf Al-A'immah), (Diterj. oleh Abdullah Zaki Alkaf), *Fiqh Empat Mazhab*, (Bandung: Hasyimi, 2017), p. 391-392.

³¹ M. Ali Hasan, *Pedoman Berumah Tangga dalam Islam*, Ed. 1, Cet. 2, (Jakarta: Siraja, 2006), p. 226.

³² Syaikh Kamil Muhammad 'Uwaidah, *Fiqh Wanita*, (Jakarta, Putaka Al-Kausutsar, 2010), p. 482.

salaries of existing Civil Servants are divided equally between himself and his wife.³³

The provisions above do not apply if the divorce occurs at the will of the wife unless the wife herself asks for a divorce because her husband marries other woman or he commits adultery, or commits cruelty and abuse, drunkenness, gambling or leaving his wife for two years without the wife's permission and without reason. After the divorce, the ex-wife is entitled to a share of her husband's salary. The above government regulations apply to divorced husbands and wives who have children, because the future of the children is the responsibility of both parents.³⁴

Judges' considerations regarding legal determinations in determining livelihoods in the 2019 Aceh Syar'iyah Court Judge's Decision

To examine the judge's decision, it is necessary to look at several contents and provisions that have been decided in the decisions of the Aceh Syar'iyah Court judges, namely:

1. The identity of Plaintiff

Considering the identity of the plaintiff in decision Number 75/Pdt.G/2019/MS.Aceh from the first instance decision Number 365/Pdt.G/2018/MS.Takengon with decision Number 70/Pdt.G/2019/MS.Aceh from the decision first level Number 109/Pdt.G/2019/MS.Banda Aceh, has submitted an application for an appeal level case to the Aceh Syar'iyah Court, by submitting application for appeal at each location of the Religious Court at the first level of settlement of the divorce lawsuit from each party.

2. The Judge's consideration

Decision Number 75/Pdt.G/2019/MS.Aceh filed in the Takengon *Syar'iyah* Court decision number 365/Pdt.G/2018/MS.Tkn, dated December 12 2018, has been referred to by the judges to consider the appeal. The plaintiff requests that the chairman of the Aceh Sharia Court examine and adjudicate and decide on the following claims:

- 1) Grant the request of the applicant
- 2) Give permission to the applicant to impose one raj'i divorce on the respondent before the Aceh Takengon *Syar'iyah* Court hearing

In Reconvension:

- 1) Grant a part of plaintiff's claim for reconvension
- 2) Punish the applicant for the respondent

³³ Muhammad Syaifuddin, Sri Turatmiyah, Annalisa Yahanan, *Hukum Perceraian*, cet. 1, (Jakarta: Sinar Grafika, 2013), p. 464-465.

³⁴ Zainuddin Ali, *Hukum Perdata Islam di Indonesia*, p. 69.

- a. *Iddah* support in the amount of IDR 3,000,000 (three million rupiah)
 - b. Mut'ah and *kiswah* in the amount of Rp 3.000.000,-(three milion rupiah)
- 3) Determine children of the plaintiff and defendant
 - a. Name withheld, female born November 1 2011;
 - b. Name withheld, female born January 1 2015; are under the care of the plaintiff as the biological mother
 - 4) Punish the petitioner/reconvention defendant to provide support for the children mentioned in point three above to the plaintiff-respondent every month at least 1/3 of the salary until the child is mature and independent
 - 5) The rest is declared to reject.

In memory of the appeal submitted by the appellant's attorney on January 24, 2019 and submitted to the appellee's attorney on January 31 2019. As for the plaintiff's convention to punish the defendant to provide monthly child support of at least 1/3 of the husband's salary. In accordance with the Government Regulation regarding the distribution of a civil servant's salary in article 8 paragraph (1) of the Republic of Indonesia Government Regulation Number 10 of 1983, it was later amended by Government Regulation Number 45 of 1990 which states that if a divorce occurs at the will of a male civil servant, he is obliged to provide for his ex-wife and his children and in paragraph (2) states the distribution of salary as intended in paragraph (1), namely for the male civil servant concerned, 1/3 for his wife and 1/3 for his children.

As for the judge's decision at the Aceh Syar'iyah Court, the judge could not grant the appeal because the applicant's recommendation was not in accordance with SEMA Number 6 of 1994 which stipulates that a special power of attorney must be clear by stating all the requirements clearly, as stated in paragraph 1 letter (a) in civil cases, A must be clearly stated as the plaintiff and B as the defendant.³⁵

As with the role of attorneys in high courts, according to article 1792 of the Civil Code, attorneys cannot represent their clients without authorizing the attorney. The authorization of the attorney is an agreement by which a person gives power to another person, who accepts it for and on his behalf to carry out an affair. The power of attorney agreement according to article 1792 of the Civil Code is an agreement whereby a person gives power to another person, who receives it, to carry out an affair on his behalf. In this regard, we also need to refer to article 1793 paragraph (1) of the Civil Code which states that power of attorney can be given and received in public, informally, in written form or orally. Therefore, the authorization of an attorney does not have to be made in writing, but can also be made orally. However, in practice within the courts, some judges affirm that apart

³⁵ Mahkamah Agung Republik Indonesia, Surat Edaran Mahkamah Agung Nomor 6 Tahun 1994 tentang Surat Kuasa Khusus.

from being signed by the one who give authorization, the letter of authorization could also be signed off by the one receiving the power of attorney.³⁶

The appeal was declared invalid because it had no legal standing whatsoever, it was declared invalid and no longer relevant for consideration, and the application for appeal was declared inadmissible.

Therefore, considering that this case concerns a marital dispute, it is based on what is stated in article 89 paragraph (1) of Law Number 7 of 1989 concerning Religious Courts which has been amended by Law Number 3 of 2006, and the second amendment by Law Number 50 of 2009, stipulates that the costs of first level cases are borne by the applicant and the costs of cases at the appeal level are borne by the appellant.

In the final decision the judge adjudicates on two points, namely: first; declaring the appeal of the appellant inadmissible, second; charge case costs to the appellant at the appellate level, amounting to Rp. 150,000.00 (one hundred and fifty thousand rupiah).

Furthermore, in decision 70/Pdt.G/2019/MS.Aceh, which is handed down by the Banda Aceh Syar'iyah Court Number 109/Pdt.G/2019/MS. Bna, the case is determined through the decision made by the Banda Aceh Syar'iyah Court on May 14, 2019, which leads to the following convention:

- 1) Grant the request of the applicant
- 2) Declare the validity of the marriage between the applicant and the respondent which was held on January 10, 1987 in Bandar Baru District, Kab. Pidie
- 3) Give permission to the applicant to impose divorce ra'i against the applicant before the trial of the Banda Aceh *Syar'iyah* Court

In Reconvention

- 1) Granted the plaintiff's claim
- 2) Punish the counter claim defendant to pay to the plaintiff in the form of:
 - a. *Iddah* sustenance of Rp 3.000.000,- (three million rupiah)
 - b. Mut'ah of Rp 5.000.000,- (five million rupiah)
 - c. The tuition fee for child number 4 whose name is concealed is IDR 1,000,000 (one million rupiah) every month until the child finishes college
- 3) Order the defendant to pay the *iddah* and mut'ah allowances as mentioned in point 2 above in cash before the vow of divorce is pronounced.

³⁶<https://www.hukumonline.com/klinik/detail/ulasan/lt4d09825f048e0/keabsahan-surat-kuasa/#:~:text=Perjanjian%20pemberian%20kuasa%2C%20menurut%20pasal,atas%20namanya%20menyelenggarakan%20suatu%20urusan%20pada%20tanggal%2028%20Maret%202021.>

In the decision of the Aceh *Syar'iyah* Court judge who has granted the plaintiff's claim regarding the child's maintenance of 1,000,000.00 per month for the child's college expenses until completion. Considering that regarding the marriage between the applicant and the respondent, the person filing for divorce complies with the provisions for divorce based on Article 7 paragraph (3) letter a (Compilation of Islamic Law), considering that according to the witnesses that the applicant and the respondent are no longer on good terms, there are often quarrels then the applicant filed an appeal against several lawsuits. The plaintiff objected to several decisions of the judges of the BNA *Syar'iyah* Court regarding the ineligibility of mut'ah and iddah maintenance. Thus, the judge of the Aceh *Syar'iyah* Court determined that the provision of maintenance was in accordance with the agreement of the defendant.

Legal considerations, considering that the appeal submitted by the appellant on Monday 27 May 2019 is still within the grace period as stipulated in Article 27 paragraphs (1) and (4) of Law Number 20 of 1947 concerning Repeat Trials and is in accordance with the provisions of the applicable laws and regulations, therefore a formal appeal must be declared acceptable.

Considering, that the marriage of the applicant and the respondent was carried out at the residence of the respondent's biological parents accompanied by guardians and witnesses and with a dowry of around 9 grams of gold, and they were married according to Islamic law, and from their marriage they were blessed with 4 (four) children.

Another consideration from the witnesses of the applicant/appellant informing that the applicant/appellant was in conflict as the applicant/appellant had remarried to another woman and even had a child, the two of them have separated from their homes for approximately 3 years, although attempts to reconcile have been unsuccessful.

In the convention and reconvention that from the decision of the Aceh *Syar'iyah* Court Judge should be strengthened, and as this case relates to marriage, and thus based on what is stated in Article 89 paragraph (1) of Law Number 7 of 1989 concerning the Religious Courts which has been amended by Law Number 3 of 2006, and the second amendment by Law Number 50 of 2009, it is determined that the case fee is borne by the applicant and the costs of the case at the appeal level are borne by the appellant.

Of all the provisions above relating to the appeal lawsuit that the cost of child number 4 whose name is concealed, where in the memory of appeal the reconvention/comparator plaintiff asks for an amount that has been determined by Makahamah *Syar'iyah* Aceh thus in the results of the judge's consideration as the defendant is a car driver and also has a fishing boat business, the panel of judges at the Aceh *Syar'iyah* Court decided that the child's expenses were maintained as stated in the decision of the Banda Aceh *Syar'iyah* Court.

3. *The authors' analysis*

As for the results of the author's research, the differences in determining the levels of post-divorce child maintenance rights for civil and non-civil servant fathers are taken from several legal bases and seen from the condition of the father, as in decision number 75/Pdt.G/MS. Aceh, a civil servant father determines the level of the child's maintenance is 1/3 of the father's salary, which is considered in accordance with Government Regulations for Civil Servants. The Republic of Indonesia Number 45 of 1990, concerning marriage permits. Article 8 states that: if a divorce occurs at the will of a male civil servant, then he is obliged to give up part of his salary which has been set for the support of his ex-wife and children, with the stipulation that if the child follows the ex-wife. So the salary distribution is determined as follows

- 1) One-third of the salary for the male Civil Servant concerned,
- 2) One-third salary for his ex-wife,
- 3) One-third of the salary for his son was received by his ex-wife.³⁷

If the divorce is at the will of a male civil servant, he is obliged to provide 1/3 of the child's maintenance rights from his salary. In the statement of Government Regulation not only based on the will of male civil servants, several legal provisions state that a wife has the right to sue her husband if obligations are neglected. For example, the wife asked for a divorce because she was single or other things, such as her husband committing adultery, cruelty and abuse, drunkenness, gambling, or leaving his wife for two years without the wife's permission and without any reason. These regulations can still be decided on several considerations. However, in decision 75/Pdt.G/2019/MS. Aceh the judge did not grant several appeal demands on the grounds that the decision at the appeal level was materially flawed.

However, material insufficiency is not an obstacle for judges to decide and consider issues regarding demands for the fulfillment of wife and children, as in the consideration of the first level decision at the Takengon Syar'iyah Court, the results of the decision of the Aceh Syar'iyah Court judge agree with the first level decision where the decision is valid and cannot be contested again.

As in the considerations of the Takengon Syar'iyah Court in decision number 365/Pdt.G/2018/MS.Tkn, considering that the plaintiff's claim for reconvention regarding previous living by the defendant for the objection reconvention requested by the plaintiff that for educational expenses and living expenses the children asked to be set at half of the applicant's salary until the two

³⁷ Republik Indonesia, *Peraturan Pemerintah Nomor 10 Tahun 1983*, Lembaran Negara Tahun 1983.

children could be independent, and the counter-defendant was not willing to pay it because the maintenance was then given every month.³⁸

Considering, that based on the considerations mentioned above, the panel of judges confirms to charge the child's maintenance according to compliance and eligibility to the defendant in accordance with the provisions of Article 41 letter b Law number 1 of 1974 concerning Marriage and Article 105 letter (c) Compilation of Islamic Law, then the plaintiff's counterclaim can be granted as the judge grants the applicant's request and the panel of judges punishes the convention applicant/reconvention defendant to provide a living for the children every month at least 1/3 of the salary until the children are adults and independent.³⁹

Meanwhile, for non-civil servant fathers, based on decision Number 70/Pdt.G/2019/MS. Aceh, the fulfillment of child support levels cannot be decided in accordance with Government Regulations because there are still many other considerations, looking at the father's income and dependents. As explained in the Qur'an and the Compilation of Islamic Law, it is stated that post-divorce child support rights are given in accordance with the father's capabilities. According to the author, the difference in determining the level of child support after divorce is relevant to the opinion of the scholar *As-Syafi'iah* who said: that poor people who are in difficulty are one mud, middle-middle-class people are one and a half mud, while people who are in ease are two mud.

It is beyond commonality that scholars failed to reach a consensus on this particular case. However, all determination processes cannot be decided according to the wishes of the human heart. So, in determining the judge's decision, it was in accordance with Islamic law, seen from the father's capabilities. However, it cannot be separated from the laws that have been agreed upon both in the Compilation of Islamic Law and the regulations stipulated in the State Legislation guidelines. Basically, law enforcement has an important role in realizing justice for the community in deciding cases. The judge's decision is not only guided by the texts of the legislation. However, judges also explore the values of justice towards society.

Islamic Law Review of Differences in Decisions of Aceh Syar'iyah Court Judges regarding the Support of Civil Servant and Non-Civil Servant Children Post-Divorce

Marriage in Islam is not just a blessing, not just a contract between a man and a woman, but it is a sacred, firm and strong agreement.⁴⁰ One of the purposes of marriage is to produce offspring. In connection with the existence of a marriage

³⁸ Putusan Nomor 365/Pdt.G/2018/MS.Tkn.

³⁹ *Ibid.*

⁴⁰ Khoiruddin Nasution, *hukum perdata (keluarga) Islam Indonesia dan perbandingan Hukum Perkawinan di Dunia Muslim*, (Yogyakarta: ACADEMIA+TAZZAFA, 2009), p. 224.

bond, rights and obligations arise for both parties, namely for the man and woman as well as for their descendants. However, not all marriages become lasting partners, where feuds and deviations result in divorce. Islamic law stipulates that the consequence of divorce is the emergence of legal custody and maintenance rights for children, in order to ensure their survival. As for the child's maintenance rights, it is given to the biological father according to his abilities.⁴¹

Humans are equal in the eyes of Allah SWT. However, in human life in the world, it is very clear from the differences both in terms of the physical aspects of each human being and from the sustenance that humans have. As is the case in job titles called Civil Servants and non-civil Servants, it is this point of view that makes the government or leaders have the idea to issue several legal policies, so that people do not get into trouble with each other in making a legal decision in an event that occurs.

Jumhur ulama does not blame the amount of maintenance, or interpretation according to the ability of the father, it is very clear that there are several opinions in drawing a legal conclusion. However, it is not required to follow only one opinion, which is why the *ijtihad* of the scholars is useful. Taking one of the laws without causing harm to the father.

Based on the description above, based on the judges' considerations at the Aceh Syar'iyah Court before deciding a case in determining the level of child support rights for PNS and non-PNS fathers, the judge looks at the ability and benefit of the father in determining the child's maintenance. In addition, the specified amount is intended as a legal form for the father's obedience in providing rights for children after the parents separate, so as not to escape the biological father's responsibilities as the head of the family.⁴²

Based on the description above, based on the judges' considerations at the Aceh Syar'iyah Court before deciding a case in determining the level of child support rights for PNS and non-PNS fathers, the judge looks at the ability and benefit of the father in determining the child's maintenance. In addition, the specified amount is intended as a legal form for the father's obedience in providing rights for children after the parents separate, so as not to escape the biological father's responsibilities as the head of the family.

According to the author, the granting of the right to support the child of a civil servant and non-civil servant father is relevant to the opinion of the clergy, such as the opinion of Abu Hanifah who argues about the size of living that: the size is given for food needs and for food other than sufficient food. Imam Malik views that maintenance does not have a certain size according to the Shari'a, and it is returned to the condition of the husband and the condition of the wife, this, of

⁴¹ Abdul Aziz Muhammad Azzam, dan Abdul Wahhab Sayyed Hawwas, *Fiqih Munakat*, Cet. 4, (Jakarta: AMZAH, 2015), p. 39.

⁴² Kaizal Bay, 'Pengertian Ulil Amri Dalam Al-Qur'an dan Implementasinya dalam Masyarakat Musli', *Jurnal Ushuluddin*, Vol. XVII, No.1, Januari 2011, p. 126.

course, varies according to place, era, and circumstances,⁴³ and As-Syafi'iah said: poor people who are in trouble are one mud, while people who are in ease are two mud. Most ulama eliminate measures for child maintenance unless they are sufficient. This is due to differences in needs between individuals.⁴⁴

Conclusion

Based on the analysis, the judges draw the following conclusions

The judge's considerations in determining the level of child support rights are different in two cases, decision Number 75/Pdt.G/2019/MS.Aceh, the father of a civil servant and decision Number 70/Pdt.G/2019/MS.Aceh, the father of a non-civil servant, it turns out that the judge has considered that it is seen according to the father's ability, and through the judge's considerations, it is seen from the income earned by a father, another reason that differentiates the provision of child support rights is apparently seen from the father's ability, where the father who is a civil servant has a fixed income in accordance with the Regulations. Government Regulation Number 10 of 1983 was then amended by government regulation Number 45 of 1990 in article 8, whereas fathers who are non-civil servants only have income according to the results of their hard work taken according to the Compilation of Islamic Law (KHI) which states that living is given according to the father's capabilities.

From the perspective of Islamic law, the two decisions number 75/Pdt.G/2019/MS.Aceh and decision number 70/Pdt.G/2019/MS. Aceh which differentiates the amount of child support are apparently in accordance with Islamic law. Therefore, differences in determining the level of child support after divorce are relevant to Imam Syafi'i's opinion that support has a certain measure. For people with excess, the amount is two mud, for medium people, the amount is one and a half mud, and for people with difficulties, the amount is one mud.

References

- A. Rasyid Roihan, *Hukum Acara Peradilan Agama*, Jakarta: Raja Grafindo Persada, 2006.
- Abdul Ghoffar M, *Fiqih Wanita Edisi Lengkap*. Jakarta: Pustaka Al-Kautsar, 2008.
- Abdul Manan Teuku, *Mahkamah Syar'iyah Aceh*. Jakarta: PRENADA MEDIA GRUP, 2018.
- Abdurrahman, *Kompilasi Hukum Islam 2* ed. Jakarta: CV. Akademika Pressindo, 1995.

⁴³ Fuad Syaifudin Nur, *Bidayatul Mujtahid Wa Nihayatul Muqtashid; Fiqih Perbandingan Madzhab...*, p. 98

⁴⁴ M. Abdul Ghoffar, *Fiqih Wanita Edisi Lengkap*, (Jakarta: Pustaka Al-Kautsar 2008), p. 428.

- Al-'Allamah Muhammad Bin 'Abdurrahman Ad-Dimasyqi Syaikh, (Rahmah Al-Ummah Fi Ikhtilaf Al-A'immah), (Diterj. oleh Abdullah Zaki Alkaf), *Fiqih Empat Mazhab*, Bandung: Hasyimi, 2017.
- Ali Hasan M, *Pedoman Berumah Tangga dalam Islam*, Ed. 1, Cet. 2, Jakarta: Siraja, 2006.
- Ali Wafa Moh, *Hukum Perkawinan di Indonesia Sebuah Kajian dalam Hukum Islam dan Hukum Materil*, Tangerang Selatan: YASMI (Yayasan Asy-Syari'ah Modern Indonesia), 2018.
- Ali Zainuddin, *Hukum Perdata Islam di Indonesia*, Jakarta: Sinar Grafika, 2006.
- Amelia Luluk, Implementasi Hak Anak dan Nafkah Pasca Perceraian (Studi Kasus Desa Giriklopomulyo Kecamatan Sekampung Kabupaten Lampung Timur). *Skripsi Institut Agama Islam Negeri Metro*, Tahun 1440 H / 2019 M.
- Amiruddin, dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*. Ed. 1, Jakarta: Rajagrafindo, 2008.
- Arisnawati, Hadhanah Anak Setelah Berumur Tujuh Tahun (Studi Perbandingan Mazhab Hanafi dan Syafi'i), *Skripsi Fakultas Syari'ah dan Hukum Universitas Islam Negeri Ar-Raniry Darussalam*, Banda Aceh, 2017 M/1438 H.
- Ashshofa Burhan, *Metode Penelitian Hukum*. Jakarta: PT RINEKA CIPTA, 2004.
- Aziz Muhammad Azzam Abdull, Abdul Wahhab Sayyed Hawwas, *Fiqih Munakat*, Cet. 4, Jakarta: AMZAH, 2015.
- Al-Zuhaili Wahbah , *Al-Fiqh Al-Islami Wa Adillatuhu*, Juz VIII, (Terj Abdurrahman), Selangor: Gema Darul Fikr, 2000.
- _____, *Fiqih Islam Wa Adillatuhu 10*, (Diterj: oleh Abdul Hayyie Al-Kattani), Cet. 1, Jakarta: Gema Insani, 2011.
- _____, *Fiqih Imam Syafi'i 3*, Cet. 1, Jakarta: Penerbit Almahira, 2008.
- Darul Ilmy TS Teuku, "Nafkah Anak Oleh PNS (Analisis Putusan Mahkamah Syar'iyah Banda Aceh No: 75/pdt.G/2011/MS.BNA)", (Skripsi tidak dipublikasikan) Fakultas Syariah dan Hukum, Universitas Islam Ar-Raniry Darussalam-Banda Aceh, 2016.
- Djoko Basuki Zulfa, *Dampak Perkawinan Campuran terhadap Pemeliharaan Anak (Child Custody) Tinjauan Hukum Perdata Internasional*, Cet; 1, Jakarta: Yarsif Watampone, 2005.
- Diib Al-Bugha Musthafa, *Fikih Islam Lengkap Penjelasan Hukum-Hukum Islam Madzhab Syafi'i*, Surakarta: Media Zikir, 2015.
- Dinas Syariat Islam, *Himpunan Undang-Undang, Keputusan Presiden, Peraturan Daerah/Qanun, Instruksi Gubernur, Edaran Gubernur Berkaitan Pelaksanaan Syariat Islam*. Banda Aceh, Dinas Syariat Islam, 2008.
- Fatkurrochman Muhammad, "Tanggung Jawab Orang Tua Terhadap Anak (Telaah pendapat Surat Lukman ayat 13)". *Skripsi Jurusan Pendidikan Agama Islam Fakultas Tarbiyah dan Ilmu Keguruan Institut Agama Islam Negeri (Iain) Salatiga*, 2017.

- Hamid Abdul Azis Muhammad, *Kewajiban Ayah Atas Biaya Nafkah Anak Setelah Terjadi Perceraian dalam Persepektif Hukum Islam (Studi Kasus Perceraian di Pengadilan Agama Sleman Tahun 2015)*, (Skripsi tidak dipublikasikan) Program Studi Ahwal Syakhshiyah Fakultas Ilmu Agama Islam Univesitas Islam Indonesia Yogyakarta, 2017.
- Haikal ahmad, dan Abu Zahwa, *Buku Pintar Keluarga Sakinah*, Jakarta: Qultum Media, 2010.
- Hasan Ayyub Syaikh, *Fikih Keluarga Panduan Membangun Keluarga Sakinah Sesuai Syariat*, Jakarta: Pustaka Al-Kautsar, 2001.
- _____, *Panduan Keluarga Muslim*, (Diterj. Misbah), Jakarta Selatan: Cendekia Sentra Muslim, 2005.
- <https://www.hukumonline.com/klinik/detail/ulasan/lt4d09825f048e0/keabsahansur-atkuasa/#:~:text=Perjanjian%20pemberian%20kuasa%2C%20menurut%20pasal,atas%20namanya%20menyelenggarakan%20suatu%20urusan pada tanggal 28 maret 2021.>
- Idris Ramulyo Moh, *Hukum Perkawinan Islam*, Cet. 5, Jakarta: PT Bumi Aksara, 2004.
- Kamil Muhammad ‘Uwaidah Syaikh, *Fiqih Wanita*, Jakarta, Putaka Al-Kausutsar, 2010.
- Khairuna Zakki Fikri, *Hak Nafkah Anak Aparatur Sipil Negara Setelah Perceraian (Studi Kasus Mahkamah Syar’iyah. (Skripsi) Fakultas Syari’ah dan Hukum Universitas Islam Negeri Ar-Raniry Darussalam - Banda Aceh 2017 M / 1438 H.*
- Kaizal Bay, “Pengertian Ulil Amri dalam AlQur’an dan Implementasinya dalam Masyarakat Musli”, *Jurnal Ushuluddin*, Vol. XVII, No.1, Januari 2011.
- Khairuddin, Badri, dan Nurul Auliyana, Pertimbangan Hakim Terhadap putusan Nafkah Anak Pasca Perceraian (Analisis Putusan Mahkamah Syar’iyah Aceh Nomor 01/Pdt,G/ 2019/Ms. Aceh). *Jurnal El-Usrah*, Vol. 2, No. 1, Fakultas Syariah dan Hukum Universitas Ar-Raniry Banda-Aceh, Janiari-Juni 2019.
- Kurnaini Heti, Pemenuhan Hak Nafkah Sebagai Salah Satu Pola Terhadap Perlindungan Anak: Analisis Pemikiran A. Hamid Sarong. *Jurnal Petita*, Vol 2, No.1, 2017. Accessed Via DOI:[https:// doi.org/10.22373/petita.v2i1.61](https://doi.org/10.22373/petita.v2i1.61).
- Mahkamah Syar’iyah Aceh, *Laporan Pelaksanaan Kegiatan Tahun 2019 Mahkamah Syar’iyah Aceh*.BandaAceh,<https://drive.google.com/file/d/12mQmGh946n26Ehcuuw7zbz0SuRAVSam/viw>.
- Marfuah Maharati, *Hukum Fikih Seputar Nafkah*, Jakarta :Lentera Islam, 2020.
- Mahkamah Agung Republik Indonesia, Surat Edaran Mahkamah Agung Nomor 6 Tahun 1994 tentang Surat Kuasa Khusus.
- Muliadi Doni, *Pertimbangan Hakim dalam Menetapkan Nafkah Anak Pasca Perceraian (Studi Putusan Hakim Nomor O233/Pdt.G/2017/Ms.MBO)*, <https://jurnal.ar-raniry.ac.id/index.php/usrah/index> Vol. 6 No. 1 January- June 2023

- (Skripsi tidak dipublikasikan) Fakultas Syari'ah dan Hukum Universitas Islam Negeri Ar-Raniry, Banda Aceh, 2019.
- Masykur, Afif Muhammad, Idrus Al-Kaff, *Fiqih Lima Mazhab Ja'fari, Hanafi, Maliki, Syafi'i, Hambali*, Cet. 13, Jakarta: Lentera, 2006.
- Mustafa Al-Maragi Ahmad, *Tafsir Al-Maraqi*, Juz. 2, Semarang: CV Toha Putra, 1992.
- Mahmud Marzuki Peter, *Penelitian Hukum*, Jakarta: Prenada Media Group, 2005.
- Majid Mahmud Mathlub Abdul, *al-Wajis fi Ahkma al-Usra Al-Islamiyah, Panduan Hukum Keluarga Sakinah*, Surakarta: Era Intermedia, 2005.
- Narbuko Cholid dan Abu Achmadi, *Metodologi Penelitian*, Jakarta: Bumi Aksara, 2013.
- Nasution Khoiruddin, *hukum perdata (keluarga) Islam Indonesia dan Perbandingan Hukum Perkawinan di Dunia Muslim*, Yogyakarta: Academi a+Tazzafa, 2009.
- Nuzul Andi, *Hukum Perdata dalam Berbagai Aspek Pengembangan*, Yogyakarta: Total Media, 2010.
- Putusan Mahkamah Syar'iyah Aceh Nomor: 70/Pdt.G/2019/MS.Aceh.
- Putusan Mahkamah Syar'iyah Aceh Nomor 75/Pdt.G/2019/MS.Aceh
- R. Semiawan Conny, *Metode Penelitian Kualitatif Jenis, Karakteristik dan Keunggulannya*. Jakarta: Grasindo, 2010.
- Republik Indonesia, *Peraturan Pemerintah Nomor 10 Tahun 1983*. Lembaran Negara Tahun 1983.
- Rosita Neli, *Pemberian Hak Asuh Kepada Ayah Bagi Anak yang Belum Mumyiz Pasca Perceraian (Studi Putusan Mahkamah Syar'iyah Banda Aceh Nomor 0200/Pdt.G/2015/Ms.Bna*. (Skripsi), Prodi Hukum Keluarga Fakultas Syari'ah dan Hukum Unuversitas Islam Negeri Ar-Raniry Banda Aceh, 2015.
- Salim, *Pengantar Hukum Perdata Tertulis (BW)*, Jakarta: Sinar Grafika, 2014.
- Sarianti Betra, "Tingkat Kepatuhan Ayah Membayar Nafkah Anak Pasca Perceraian". (Jurnal) Penelitian Hukum Vol. 27, No. 2, Fakultas Hukum Universitas Muhammadiyah Bengkulu (2018). Accessed Via DOI: <https://doi.org/10.33369/jsh.27.2.105-117>, 2 Agustus 2018
- Sarong Hamid dan Hasnul Arifin Melayu, *Mahkamah Syar'iyah Aceh: Lintas Sejarah dan Eksistensinya*, Banda Aceh: Global Education Institute, 2012.
- _____, *Hukum Perkawinan Islam di Indonesia*, Banda Aceh: Yayasan PENA , 2004.
- Sumiyati, *Kedudukan Hukum Dosen Tetap Non-PNS Pada Perguruan Tinggi Negeri Satuan Kerja Menurut Perundang-Undangan di Indonesia*. (Jurnal Sigma-Mu) Vol. 11 No. 1 UP MKU Politeknik Negeri Bandung (2019). Accessed Via DOI: <http://dx.doi.org/10.35313/sigmamu.v11i2>. Maret 2019.
- Syaifuddin Muhammad, Sri Turatmiyah, Annalisa Yahanan, *Hukum Perceraian*, cet. 1, Jakarta: Sinar Grafika, 2013.

- Syaifudin Nur Fuad, *Bidayatul Mujtahid Wa Nihayatul Muqtashid; Fiqih Perbandingan Madzhab*, Jakarta: Pustaka Al-Kautsar, 2016.
- Syarifuddin Amir, *Hukum Perkawinan Islam di Indonesia Antara Munakahat dan Undang-Undang Perkawinan*, Jakarta: Putra Grafika, 2006.
- Tim Redaksi Nuansa Aulia, *Kompilasi Hukum Islam*, Cet. 1, Bandung: Nuansa Aulia, 2008.
- _____, *Kompilasi Hukum Islam*, Bandung: Nuansa, 2011.
- Tihami dan Sohari Sahrani, *Fiqih Munakahat*, 4 ed. Jakarta: Raja Wali Pers, 2014.
- Undang-Undang RI Nomor 1 Tahun 1974 tentang Perkawinan dan Kompilasi Hukum Islam, Bandung: Citra Umbrara, 2017.
- Wachjoe Prijambodo Santhos, *Bunga Rampai Hukum dan Filsafat di Indonesia*. Yogyakarta: Deepublish, 2018.
- Wahbah Az-Zuhaili, *Fiqih Islam Wa Adillatuhu Jilid*, Jilid 10, Cet; 2, Jakarta:Gema Insani, 2011.
- Waluyo Bambang, *Penelitian Hukum dalam Praktik*, Ed. 1, Cet. 3, Jakarta: Sinar Grafika, 2002.
- Official website Mahkamah Syar'iyah Accessed Via: www.ms-aceh.go.id on date 18 March 2021.