

Fulfillment of Child Support After Parental Divorce: A Comparison of Indonesia and Malaysia

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Abstract

Children's rights are an important part of internationally recognized human rights and are guaranteed by national laws, including in Indonesia. Fulfillment of children's rights involves the responsibilities of the government, society, and family, with a focus on civil rights, health, education, and children's participation. One of the main aspects of protecting children's rights is child support, which is the obligation of parents, especially fathers, both in marriage and after divorce. This study aims to analyze the fulfillment of child support after parental divorce from a comparative legal perspective between Indonesia and Malaysia. This study is a normative legal study with a conceptual, comparative, and legislative approach. The results of the study confirm that the comparison between Indonesia and Malaysia shows similarities in basic principles regarding the obligation of fathers to provide support, but there are differences in the law enforcement mechanism. In Malaysia, the sharia court system and the Family Support Agency (BSK) allow deductions from fathers' salaries to ensure payment of support, while in Indonesia, law enforcement depends on the judge's decision. Differences also lie in the position of Islamic law, where Malaysia makes Islam the official state religion, while Indonesia recognizes Islam as a source of legal values, but does not make it a formal state law. Nevertheless, both countries still prioritize the best interests of children in regulating custody and support after divorce.

I. Introduction

Fulfillment of sustenance as a child's right is an important aspect in the protection and welfare of children, which is regulated by positive law, religion, and social norms (Saptina et al., 2023). Child support encompasses basic needs such as food, shelter, clothing, education, and healthcare. This obligation is primarily borne by the parents, especially the father. From birth, parents have a responsibility to fulfill their children's rights (Susilo et al., 2021). The father is specifically obligated to provide for his child's needs, even if he is facing financial hardship. This is because child support is a fundamental right of the child.

Children's rights as human rights are internationally recognized principles and are regulated in various legal regulations (Sari, Deviana, Pujiyono, 2023). A child's rights are a set of inherent rights belonging to every child as an individual. These rights include the right to life, development, education, and protection from violence and discrimination (Lestari & Adiyatma, 2020). These rights are enshrined in the United Nations Convention on the Rights of the Child (UNCRC), adopted in 1989. In Indonesia, children's rights are further protected by various laws, including Law Number 35 of 2014 on Child Protection (UU PA) and Law Number 39 of 1999 on Human Rights (UU HAM). Both laws affirm that every child has the right to protection from parents, society, and the state. Overall, children's rights, as a crucial part of human rights, are a vital component of building a just and sustainable society (Rachmawati et al., 2023). Protection of these rights must be a priority for all parties so that every child can grow and develop well.

Under Indonesian Law No. 1 of 1974 concerning Marriage (UU Perkawinan) and the Compilation of Islamic Law (KHI), the father is responsible for the child's upkeep and education until the child turns 21. If the father cannot fulfill this obligation, the mother may be required to contribute. This responsibility remains after divorce; courts can order the father to pay child support, and if he's unable, the mother may be required to contribute. Despite these clear legal provisions, child support obligations are frequently violated in practice. Many fathers neglect their responsibilities post-divorce, leaving mothers to shoulder the entire burden. Raising awareness of children's rights and parental responsibilities is critical to ensuring children's needs are met. Child support is not only a moral obligation but also a legal one, crucial for the child's well-being and must be upheld by both parents (Jamaluddin, 2019).

Post-divorce child support issues in Indonesia are complex, encompassing legal, social, and economic factors. Despite laws mandating child support, many fathers

fail to meet their obligations. Many face financial difficulties, hindering their ability to provide support. Some remarry, further dividing their resources between their new family and children from previous marriages. A tendency exists among some fathers to neglect their responsibilities post-divorce, often stemming from a lack of understanding regarding the importance of child support for a child's development. Even with legal mechanisms for pursuing child support, many ex-wives struggle to enforce court orders due to complicated procedures and high costs (Suci Indah & Alim, 2021). This makes it difficult for many mothers to effectively fight for their children's rights. The lack of clear provisions regarding the amount of child support to be paid and sanctions for fathers who neglect their obligations is also a problem. Without clear rules, many fathers feel less bound to fulfill their obligations to their children.

Children often become the victims of this neglect. They lose basic rights like education, healthcare, and daily necessities. In many cases, mothers are forced to work hard to meet their children's needs, while fathers feel free from responsibility (Sabrina et al., 2020). The issue of fulfilling children's right to post-divorce support in Indonesia highlights significant challenges within the legal and social systems. Collaborative efforts among the government, legal institutions, and civil society are needed to raise awareness of the importance of fulfilling children's rights and to improve legal mechanisms for more effective enforcement of support obligations.

This research aims to analyze the fulfillment of child support following parental divorce through a comparative legal study of Indonesia and Malaysia. This comparison is warranted because Indonesia and Malaysia, in addition to sharing geographical proximity and cultural similarities, both incorporate Islamic law into their legal systems, albeit with differing levels of integration into their respective national frameworks. Two key research questions will be addressed: (i) What is the legal standing of child support as a child's right within the context of human rights, considering both positive law and Islamic law? (ii) How does the legal framework concerning child support compare between Indonesia and Malaysia?

2. Research Method

This research, which analyzes the fulfillment of child support after parental divorce from a comparative legal perspective between Indonesia and Malaysia, is a normative legal research (Eka N.A.M. Sihombing, 2022). The primary legal materials for this research include the Indonesian Marriage Law (UU Perkawinan), the Compilation of Islamic Law (KHI), and relevant Malaysian regulations addressing

post-divorce child support. Secondary legal materials will encompass books, journal articles, and research findings related to post-divorce child support and legal comparisons. Non-legal materials will include dictionaries. The research approach will be conceptual, statutory, and comparative (Purwati, 2020).

3. Results and Discussion

The Position of Fulfillment of Child Support as Part of Children's Rights from the Perspective of Human Rights in Positive Law and Islamic Law

Children's rights are an integral part of internationally recognized human rights. The UN Convention on the Rights of the Child (UNCRC) serves as the legal foundation for these rights, encompassing various crucial aspects to ensure the well-being and development of children (Rizki et al., 2022). Children's rights, or child rights, encompass ethical principles and international standards that protect children. According to the UNCRC, every child has the right to grow up healthy, receive an education, be protected from violence, and have their opinions heard. A child is defined as an individual under the age of 18, unless otherwise determined by the law of a particular country (Khoso & Hussin, 2020). In Indonesia, child rights protection is governed by various laws and regulations, such as Article 28B Paragraph (2) of the 1945 Constitution, which states that every child has the right to survival and protection from violence and discrimination.

Fulfilling children's rights is a shared responsibility of the government, society, and families. The state must ensure that all policies and programs support child development and protection. Issues such as stunting, limited access to education, and child marriage represent significant challenges requiring collaborative action (Daniels, 2022). Children's rights are a crucial aspect of human rights demanding serious attention from all stakeholders. Through collaboration between the government, society, and families, it is hoped that all children can fully enjoy their rights, ensuring a brighter future for generations to come. Children's rights can be categorized into several main groups, namely (Pratiwi, 2022):

- a. Civil Rights and Freedoms: Including the right to a name, nationality, and the right to have their opinions heard.
- b. Right to Health and Well-being: Encompassing the right to adequate healthcare and a healthy environment.
- c. Right to Education: Children have the right to a quality education without discrimination.
- d. Right to Participation: Children have the right to be involved in decisions that affect their lives.

Fulfilling children's rights is not solely the responsibility of parents but also

of the government and society. The state is obligated to create policies that support the protection and fulfillment of children's rights and to ensure that children are protected from all forms of exploitation and violence. The government must implement effective policies to protect children's rights, including through public education and social programs that support children's well-being (Ariani & Asih, 2022).

One of the fundamental rights of children is the right to child support. Child support is a crucial aspect of fulfilling children's rights and is regulated by various laws in Indonesia (Fentiningrum, 2021). This right emphasizes the responsibility of parents, particularly fathers, to provide for their children's living expenses and education, both within intact families and after divorce. Referring to the Indonesian Language Dictionary (Kamus Besar Bahasa Indonesia, KBBI), child support is understood as the financial obligation that parents must fulfill to meet their children's basic needs (KBBI, 2023). In this context, "nafkah" is interpreted as "expenses for living" or "income" used to meet daily needs. Child support encompasses basic needs such as food, clothing, and shelter. This obligation arises from the marriage bond (husband to wife) and the family bond (father to child). Child support is not limited to primary needs but also includes the costs of the child's education and healthcare (Hidayat, 2022). Providing for children is an obligation that must be fulfilled by parents.

Children's livelihood is also closely related to hadanah, namely child care which includes protection and education so that children can grow well (Rianti, 2022). In summary, providing for a child's needs is a parental responsibility that must be fulfilled to ensure the child's well-being and development. According to the Indonesian Child Protection Law (UU PA), parents have an obligation to care for, maintain, educate, and protect their children. This includes the responsibility of providing adequate support. Article 28B of the 1945 Constitution also affirms that every child has the right to financial support from their parents. While the father has the primary obligation to provide child support, this responsibility remains even in cases of divorce (Ubaidillah, 2022). Even if custody is awarded to the mother, the father's financial responsibility remains. This is stipulated in Article 41 letter b of the Marriage Law and also in the Compilation of Islamic Law (KHI), which states that the costs of maintaining and educating the child are the father's responsibility (Dhuhri, 2019).

Following a divorce, even if the child is in the mother's custody, the father remains obligated to provide support. If the father fails to meet his obligations, the mother can file a lawsuit in court to demand fulfillment of this right. The court has the authority to decide and determine the amount of support the father must pay. Child support is a fundamental right that parents must fulfill as part of child rights protection. This obligation applies not only during marriage but also continues

after divorce. With clear legal provisions, it is hoped that children's rights can be fulfilled fairly and equitably.

The provisions for child support in the Compilation of Islamic Law (KHI) are clearly regulated to ensure that children receive adequate financial support, especially after parental divorce. Article 104 of the KHI states that the care of a child who is not yet mumayyiz (under 12 years old) is the mother's right, while for a child who is mumayyiz, the right to care is given to the child to choose between their father or mother. The cost of maintenance is borne by the father. Article 106 of the KHI affirms that child support is the father's obligation, and its fulfillment must be in accordance with his financial capacity. There is no minimum or maximum limit in providing support, but it must be adjusted to the child's needs. In determining child support, the judge must consider fairness and propriety, and investigate the facts of the husband's economic ability and the child's basic needs. This is regulated in the Supreme Court Circular Letter No. 3 of 2015, which also regulates an increase in child support of 10% to 20% per year from the determined amount (Berliana Aliefia Putri & Fatkul Chodir, 2024). Scholars have differing opinions regarding the age limit for providing child support. According to the Hanafi scholars, support is given until the child no longer needs assistance from the mother, typically until the age of 7 or 9. Meanwhile, the Maliki scholars believe that support should be provided from birth until the child reaches adulthood (Berliana Aliefia Putri & Fatkul Chodir, 2024). Even after a divorce, the father's obligation to provide child support remains until the child reaches the age of 21 or until they are able to support themselves. This demonstrates that a child's right to support is not severed even if their parents divorce. This provision aims to protect children's rights and ensure they continue to receive the necessary support to grow and develop well.

Comprehensively, in addition to the Marriage Law, children's rights are also regulated in the Compilation of Islamic Law (KHI). The position of the Compilation of Islamic Law (KHI) in positive Indonesian law has several important aspects reflecting its role as a guideline in the national legal system. Presidential Instruction No. 1 of 1991 provides the basis that the KHI serves as a guide for judges in Religious Courts in deciding cases related to Islamic law, such as marriage, inheritance, and waqf (Rizqon, 2022). The Compilation of Islamic Law (KHI) does not have the status of a formal law in Indonesia. It sits below statutes and government regulations in the Indonesian legal hierarchy. This means that the KHI serves as a guideline and is not legally binding like other laws. The KHI functions as a guide for judges when deciding cases in Religious Courts (Aditi et al., 2023). Although not binding, the KHI is recognized as an important reference to ensure consistency and legal certainty in the enforcement of Islamic law in Indonesia (Maria Farida Indrati, 2021). The KHI also serves as a complement to existing

legislation, providing a framework for the application of Islamic law that is relevant to the needs of the Muslim community in Indonesia. Although the KHI has been accepted by the Muslim community and used as a reference by judges, its status as merely based on a presidential instruction makes it vulnerable to policy changes. This raises questions about the relevance and sustainability of the KHI in the context of current legal developments. There are arguments for elevating the KHI to the status of a law or other form of regulation to make it stronger and legally binding. This would provide better legal certainty for the Muslim community in Indonesia. The position of the Compilation of Islamic Law in the Indonesian positive legal system demonstrates the importance of legal regulations that are in line with Islamic values, although it still faces challenges related to its legal status and the need for formal recognition in the legal hierarchy.

Regarding child support, both in the Marriage Law and the KHI, the provision of child support lies with the father. However, if the father is unable, the mother can be asked to contribute to the cost of maintenance through a court decision. This regulation aims to ensure that the child's well-being remains protected even if there is a divorce between the parents. After a divorce, the primary responsibility for providing child support lies with the father until the child reaches adulthood or becomes financially independent. However, if the father is unable, the mother can be asked to help. The amount of support is determined by the court based on the father's ability and the child's needs, without a specific amount being limited in the law or the KHI.

Comparison of Laws Regarding Child Support between Indonesia and Malaysia

Comparative law is a method of study that compares the legal systems, principles, or legal institutions of two or more countries to find similarities, differences, and solutions to legal problems (Dicky Eko Prasetyo, 2022). Comparative law is not a branch of law but rather a research method that analyzes different legal systems to understand the function of law in social, historical, and cultural contexts (Bogdan, 2019). The objective is to identify similarities and differences between legal systems and to examine non-legal factors (economic, political, cultural) that influence law. The results of comparative law serve as a basis for reforming national law that is not in line with the development of the times (Lukito, 2022). Comparative law, therefore, not only enriches the body of legal knowledge but also serves as a strategic tool for creating a legal system that is responsive to global dynamics.

The importance of comparative law in the context of fulfilling child support after divorce is highly relevant, especially when considering the differences and similarities between legal systems in various countries. By conducting comparisons, policymakers can identify weaknesses in the national legal system

and adopt best practices from other countries. For instance, if a country has a more effective system for enforcing support obligations, this can serve as a model for other countries to improve their regulations. Comparative law helps create legal certainty for children after divorce by ensuring that their rights are effectively protected.

In Indonesia, although there are provisions in the Marriage Law and the KHI regarding the obligation of support, its implementation is often inconsistent. Through comparison with other systems, such as those in Malaysia, new ways to improve the enforcement of children's rights can be found. The results of comparative studies can be used as a guide for judges and courts in deciding child support cases. For example, the Supreme Court Circular in Indonesia that suggests adding 10% to 20% to the amount of support each year can be further considered based on practices in other countries.

Comparative law also serves to raise public awareness of their rights regarding child support. By understanding how other countries handle similar issues, the public can be more active in demanding their rights and pushing for better policy changes. Comparative law in the context of fulfilling child support after divorce is crucial for increasing the effectiveness of the existing legal system (Disantara, Fradhana Putra et al., 2024). By analyzing and adopting best practices from other systems, countries can improve their regulations so that children's rights can be fulfilled better and more consistently.

Comparative law is undertaken because Indonesia and Malaysia, besides being countries of the same "family," also have a "culture" that shares many similarities. One important aspect related to the comparison of law between Indonesia and Malaysia in the context of fulfilling child support after parental divorce is that both Indonesia and Malaysia are based on Islamic law, although Indonesia and Malaysia differ in placing Islamic law within the framework of statehood in each country. The position of Islamic law in Malaysia has a significant position in the legal and governmental system of the country. Malaysia is a federal state that recognizes Islam as the official religion, as stated in Article 3(1) of the Federal Constitution (Dian et al., 2023). This provides legitimacy for the application of sharia law in various aspects of Muslim society's life. Sharia law in Malaysia is primarily applied in personal and family matters, including marriage, divorce, and inheritance (Cahyani et al., 2023). Each state has the authority to regulate Islamic law through its own laws, known as the Islamic Religious Administration Law.

In Malaysia, the Mufti plays a crucial role in issuing fatwas, or Islamic legal opinions. A fatwa becomes legally valid and binding after receiving approval from the Sultan or Yang di-Pertuan Agong (King) (H'ng et al., 2022). This demonstrates that while the Mufti enjoys independence, their decisions must still align with royal

authority. Syariah courts have exclusive jurisdiction over cases related to Islamic law. In recent years, there has been a trend toward increased power for Syariah courts, with civil courts tending to defer some cases involving religious rights to the Syariah courts. The position of Islamic law in Malaysia is paramount and forms an integral part of the country's legal and governmental structure (Shahrul & Ishak, 2024). With its status as the official religion and the presence of a fatwa-issuing body and Syariah courts, Islamic law serves to regulate various aspects of Muslim life, though it continues to face challenges in its implementation.

The position of Islamic law in Indonesia is complex, reflecting the interplay between religious law and national positive law. Islamic law is not positioned as the formal state law, but as a source of law that influences the national legal system (Safa'at, 2018). Islamic legal principles are integrated into various laws, such as Law No. 1 of 1974 concerning Marriage and Law No. 7 of 1989 concerning Religious Courts. Religious Courts have the authority to handle cases related to Islamic law, such as marriage, divorce, and inheritance. (Iskhaq & Kusriyah, 2023). This demonstrates the formal recognition of Islamic law within the judicial system. Aceh is the only province in Indonesia that implements Islamic law more comprehensively through qanun (local regulations) (Fuad et al., 2022). This implementation is based on Law No. 44 of 1999 and Law No. 11 of 2006 concerning Aceh Governance, which grants Aceh the authority to regulate religious affairs in accordance with Sharia. In some regions, Islamic law interacts with local customary law. For example, in Riau and Padang, there is a proverb that states, "Adat bersendi syara', syara' bersendi kitabullah," reflecting the close relationship between customary law and Islamic law (Yunaldi, 2021). Despite the recognition of Islamic law, challenges remain in its implementation, such as differing interpretations between religious law and positive law, and issues of human rights and gender equality. The position of Islamic law in Indonesia is an integral part of the national legal system, although not universally applied. Islamic law serves as a source of values in lawmaking and is recognized in the judicial structure through Religious Courts, and has specific application in Aceh. However, challenges in implementation and harmonization with positive law remain a significant concern for legal development in Indonesia.

Regarding the above description, in relation to the fulfillment of child support, Malaysia can fully refer to Islamic law as the country's official law, while in Indonesia, child support is regulated in the Marriage Law and the KHI because Indonesia explicitly does not declare Islam as the official state religion. The regulation of children's rights after divorce in Indonesia is governed by the Marriage Law and the KHI. Article 41 of the Marriage Law states that both the mother and father remain obligated to maintain and educate their children after

divorce, based on the best interests of the child. The father is responsible for the cost of the child's maintenance and education. If the father is unable to fulfill his obligation, the court may decide that the mother should also bear the costs. Article 45 of the Marriage Law emphasizes that parents must continue to maintain and educate their children until they marry or can stand on their own, even if the marital relationship has ended. Referring to Article 105 of the KHI, which states that the cost of maintaining the child after divorce is the responsibility of the father. This shows that even though the marriage has ended, the parents' obligations to the child remain. Article 156 of the KHI stipulates that nafkah hadhanah (maintenance costs) are the responsibility of the father, and this applies until the child reaches adulthood or becomes self-sufficient.

In terms of custody, both the Marriage Law and the KHI regulate that:

- a. The mother is usually granted custody of a child who is not yet mumayyiz (under the age of 12), but if there are valid reasons, custody can be transferred to the father or another relative through a court decision.
- b. In disputes regarding custody, the court will make a decision based on the best interests of the child.

The fulfillment of children's rights after divorce encompasses quality education, emotional and psychological support from both parents, and financial well-being, including daily living expenses, education, and healthcare. The regulation of fulfilling children's rights after divorce in the Indonesian Marriage Law and the KHI emphasizes the responsibility of parents to ensure the child's well-being remains protected. Both laws provide a clear legal framework regarding parental obligations in meeting the child's needs even after the marital relationship has ended, with an emphasis on the best interests of the child as the primary priority.

The regulation of fulfilling children's rights after divorce in Malaysia is governed by several laws and enactments that refer to the principles of Islamic law. Enactment No. 5 of 2004 is the main regulation governing Islamic family law in Malaysia, including child custody after divorce (Saputri & Julianto, 2023). According to this enactment, the mother has primary custody rights for children, especially young children (not yet mumayyiz), while the father is responsible for providing financial support. In the context of divorce, the mother is generally considered the primary caregiver. However, if a child is mumayyiz (12 years old and above), they have the right to choose with whom they wish to live. This aligns with the principle that decisions should consider the best interests of the child.

The father is obligated to provide financial support for the child after divorce. This obligation includes daily living expenses, education, and healthcare. This is stipulated in Section 72 of the Islamic Family Enactment, which affirms the

father's responsibility to support his child. In Malaysia, the protection of children's rights applies not only while parents are together but must also continue after a divorce. This includes the child's right to shared assets and the fulfillment of their basic needs. The Syariah Courts in Malaysia have jurisdiction to handle cases related to divorce and child custody (Wahyudani et al., 2023). They are tasked with ensuring that decisions made are always oriented towards the best interests of the child. In comparison to Indonesia, while there are similarities in the basic principles regarding financial support and custody rights, Malaysia has more detailed regulations and a stronger enforcement mechanism through institutions like the Family Support Agency (BSK) to assist in resolving issues related to financial support and custody (Jimmi Pasla, 2025).

The provision for children's rights after divorce in Malaysia is handled seriously through Islamic family enactments and Syariah courts. Mothers are usually granted primary custody, while fathers are responsible for financial support. The protection of children's rights continues even after the parents have divorced, ensuring that their needs are met in accordance with the principles of Islamic law and the best interests of the child. This research comparing child support provisions in Indonesia and Malaysia found that although there are similarities in the basic principle that the father is responsible for providing support, there are differences in enforcement mechanisms. In Malaysia, for example, the Syariah Court has the power to directly deduct the father's salary to ensure child support is paid, whereas in Indonesia it still depends on the judge's decision without such an automatic mechanism.

The following is a comparative table of the fulfillment of children's rights after divorce between Indonesia and Malaysia.

Tabel 1. Comparison of Fulfillment of Children's Rights After Divorce Between Indonesia and Malaysia

Aspect	Indonesia	Malaysia
Legal basis	- Law No. 1 of 1974 concerning Marriage - Compilation of Islamic Law (KHI)	- Enactment No. 5 of 2004 (Islamic Family Law) - Section 72 The Benefits of an Islamic Family
Child Support Obligation	- The father is responsible for the costs of maintaining the child (Article 41 of the Marriage	- The father is responsible for providing a living (Section 72 Islamic Family Benefits)

	Law) - The father's obligations remain even if a divorce has occurred (Article 45 of the Marriage Law) - Maintenance is the responsibility of the father (Article 105 KHI)	- The obligation to provide for living expenses includes daily living expenses, education and children's health.
Child Custody Rights	- Mothers usually have custody of children under the age of 12, but this can be transferred to the father or another relative through a court decision (Article 41 of the Marriage Law).	- The mother has primary custody of children who are not yet mumayyiz (under the age of 12 years) - Children aged 12 years and over have the right to choose who they live with (Enakment No. 5 of 2004)
Best Interests of the Child	- Arrangements for custody and maintenance must take into account the best interests of the child (Article 41 of the Marriage Law) - The court prioritizes the best interests of the child in deciding custody.	- The best interests of the child are the basic principle in making decisions regarding custody and maintenance (Enakment No. 5 of 2004)
Implementation of Islamic Law	- Islamic law is not positioned as formal state law, but as a source of law that influences	- Islamic sharia law is applied as state law, especially in family and divorce matters. - Sharia Court

	the national legal system. - Applied in Religious Courts (Article 105 KHI)	handles child custody and maintenance
Law Enforcement Mechanism	- Law enforcement still relies on judicial decisions with no automatic mechanism to ensure maintenance is paid.	- The Sharia Court has the authority to execute directly, such as cutting the father's salary to ensure that child support is paid (Family Support Agency, BSK)
The Role of the Mufti and Fatwa	- There is no formal binding fatwa institution in the Indonesian legal system.	- Muftis play an important role in giving legal fatwas, and these fatwas are binding once approved by the Sultan or Yang di-Pertuan Agong
Role of the Court	- Religious Courts handle cases related to child custody and support based on Islamic law and KHI	- The Sharia Court has special jurisdiction to handle child custody and maintenance after divorce, with decisions taking into account the best interests of the child.
Challenges in Implementation	- There are challenges in harmonizing religious law with positive law, as well as issues of human rights and gender equality.	- Although sharia law is recognized, the implementation of sharia law sometimes faces challenges related to the enforcement of court decisions and inconsistencies with

		positive law.
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(Source: Author's Analysis)

A comparison of Indonesian and Malaysian law regarding the fulfillment of children's rights after divorce reveals a commonality in the basic principle: the father's responsibility for child support. However, a fundamental difference lies in the enforcement mechanisms. In Malaysia, Syariah courts possess stronger authority, including the power to directly deduct the father's salary, facilitated by institutions like the Family Support Agency (BSK), to ensure child support payments. This indicates a more structured and automated system for child support oversight. In Indonesia, conversely, while a clear legal framework exists within the Marriage Law and the KHI, enforcement of child support obligations heavily relies on judicial decisions. This can lead to uncertainty in enforcing support obligations, particularly if the father fails to comply. Furthermore, differences in the application of Islamic law are evident in each country's governance structure. Malaysia designates Islam as the official religion, and Islamic law holds a strong position within the national legal system. Indonesia, while recognizing Islam as a source of values in lawmaking, does not formally establish it as state law. Nevertheless, both countries prioritize the best interests of the child as paramount in regulating custody and child support after divorce.

4. Conclusion

Children's rights are a crucial component of internationally recognized human rights, enshrined in the UN Convention on the Rights of the Child (UNCRC), and guaranteed by national laws, including those of Indonesia. Fulfilling these rights involves shared responsibility among the government, society, and the family, focusing on children's civil rights, health, education, and participation. A vital aspect of child rights protection is child support, a parental obligation, primarily the father's, both during marriage and after divorce. Support encompasses basic needs such as food, education, and healthcare. Indonesian law, including the Marriage Law and the Compilation of Islamic Law (KHI), establishes the father's responsibility for providing child support until the child achieves financial independence, with courts determining the amount based on parental ability and the child's needs. Post-divorce, the primary responsibility for child support rests with the father until the child reaches adulthood or financial independence. However, if the father is unable, the mother may be required to contribute. The amount of support is determined by the court based on the father's ability and the child's needs, without specific limitations in the law or KHI.

A comparison of Indonesian and Malaysian law concerning the fulfillment of children's rights post-divorce reveals a commonality in the basic principle of the

father's responsibility for child support. The difference lies in the enforcement mechanism; Malaysia has a more structured system through Syariah courts and the Family Support Agency (BSK), which can deduct from the father's salary to ensure payment, while Indonesia relies more on judicial decisions. Furthermore, differences exist in the application of Islamic law, with Malaysia establishing Islam as the state religion, whereas Indonesia recognizes Islam as a source of values in law but does not make it formal state law. Despite these differences, both countries prioritize the best interests of the child in regulating custody and support after divorce

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