

Strengthening Child Custody Laws Due to Divorce in Bireuen Regency

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ABSTRACT

Objective: This study examines the strengthening of legal protections for child custody and maintenance following divorce in Bireuen Regency. The research aims to identify the factual outcomes of the Bireuen Syariah Court rulings, analyze obstacles to the enforcement of child maintenance, propose ideal solutions, and describe the contributions of legal reforms. **Method:** Employing a qualitative field research approach, data were collected through interviews, observations, and documentation. **Results:** Data from the Bireuen Syariah Court for the period 2021-2025 records 650 cases concerning divorce and child custody claims; however, only 25% of child maintenance orders have been effectively enforced. The findings indicate that: (1) the Bireuen Syariah Court consistently awards custody rights to mothers and maintenance obligations to fathers, yet compliance rates remain low; (2) primary challenges include legal, economic, and social factors; (3) ideal solutions involve strengthening regulations, implementing wage garnishment for child support, and enhancing mediation processes; (4) legal reforms have contributed to increased legal awareness, improved mediation practices, reinforcement of customary and Sharia law, and greater access to justice. **Novelty:** The study recommends stricter supervision of court order enforcement and a multidimensional approach to safeguard children's rights post-divorce.

INTRODUCTION

Children are both a trust and a blessing from Allah SWT, possessing inherent dignity and worth as complete human beings. Within the frameworks of Islamic law and positive law, children ought to receive rights that correspond to the principles of child protection. Islamic law explicitly regulates the obligations of parents to provide sustenance and protection to their children, including after divorce. Similarly, positive law in Indonesia, through the Child Protection Act, emphasizes the importance of recognizing and fulfilling children's rights to create a healthy and safe environment conducive to their growth and development. Legal strengthening refers to a series of efforts aimed at enhancing the existing legal system to make it more effective, just, and acceptable to all layers of society. Such strengthening involves not only amendments or additions to regulations but also improvements in the capacity, quality, and integrity of institutions responsible for law enforcement, as well as changes in societal legal attitudes and culture [1], [2], [3].

Historically, the development of Islamic law experienced stagnation due to the belief that the door to *ijtihad* (independent reasoning) had been closed. During this period, the Muslim community relied solely on Islamic law derived from the interpretations of past *mujtahids*, whose contexts were markedly different in terms of social and geographical settings from the present. A portion of society still regarded the

contents of fiqh texts as sacred and beyond alteration by any competent authority [4]. The reform of Islamic law is driven by changes in conditions, situations, places, and times. This aligns with the theory of qaul al-qadim and qaul al-jadid put forth by Imam Shafi'i, which posits that legal rulings may change due to changes in the legal evidence established in specific circumstances [5]. Child custody in Islam is referred to as hadhanah. According to Sayyid Sabiq, hadhanah denotes the responsibility of caring for young children, whether male or female, or those who lack intellectual capacity, are unable to distinguish between right and wrong, are incapable of self-care, and do not know how to act for their own benefit or protect themselves from harm [6]. This care encompasses economic support, health, education, protection, nurturing, attention, affection, and all essential needs of the child [7]. Scholars unanimously agree that the obligation to provide hadhanah, which includes educating and caring for the child, is mandatory. However, there is divergence of opinion regarding whether hadhanah constitutes the right of the parents especially the mother or the child. The Hanafi and Maliki schools hold that hadhanah is the right of the mother, who may choose to relinquish it. In contrast, the majority of scholars maintain that hadhanah is a shared right between the parents and the child. Wahbah Zuhaili asserts that hadhanah is a joint right among the mother, father, and child, and in cases of dispute, the priority is given to the rights or interests of the child [8].

Parental obligations toward children are explicitly delineated in the divine scripture of Allah SWT, specifically in QS. Al-Baqarah verse 233. In his exegesis, Syaikh Muhammad Ali Ash-Shabuni elucidates that the duty of mothers is to breastfeed their children for a duration of two years, whereas fathers are responsible for providing adequate sustenance, including food and clothing, to divorced mothers to facilitate their assistance in raising the children. This provision of sustenance is to be commensurate with an individual's capacity, as Allah SWT does not burden anyone beyond their ability [9].

Normative regulations concerning parental responsibilities post-divorce are codified in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI). Article 41 of the Marriage Law stipulates that both mother and father retain the obligation to care for and educate their children solely based on the best interests of the child. Article 45 paragraph (1) mandates that both parents must maintain and educate their children to the best of their abilities. Furthermore, Article 45 paragraph (2) asserts that this obligation persists until the child marries or attains independence, and this duty remains effective even if the parents' marriage is dissolved [10], [11].

Article 105 of the Compilation of Islamic Law specifies that custody of children who are not yet discerning or under the age of 12 is granted to the mother. For children who have reached discernment, custody rights may be chosen by the child between the father or mother, while the financial responsibility for their care rests with the father. Article 149 letter (d) of the KHI obligates the former husband to provide financial support for the hadhanah of children under the age of 21. Additionally, Article 156 of the KHI regulates that all hadhanah expenses are the responsibility of the father according to his

financial capacity, at least until the child reaches maturity and is capable of self-care [12], [13].

Generally, it can be stated that issues concerning child custody and support are regulated under Law Number 1 of 1974 and the Compilation of Islamic Law (KHI). However, in judicial practice, two main issues arise. First, Article 41 of Law No. 1 of 1974 generally stipulates that both father and mother are obliged to care for the child solely for the child's best interests. In contrast, Articles 105 and 156 of the KHI assign custody of children who are not yet mature (*mumayyiz*) to the mother, and prioritize the maternal family over the paternal family. Second, there are no provisions within Law No. 1 of 1974 or the KHI that impose legal sanctions on parents (either father or mother) who neglect their duty to care for or financially support their child, nor are there legal regulations that ensure the welfare of the child following the parents' divorce [14].

Judicial decisions must align with the *maqashid al-shari'ah*, which aim to identify the objectives intended by the lawgivers in legislating the law [15]. A harmonious or heterogeneous interaction between various elements will influence the outcomes and determine the success of these objectives [16]. Such decisions should prioritize guaranteeing the fulfillment of children's rights to live, grow, develop, and participate optimally in accordance with human dignity and worth, while ensuring protection from violence and discrimination. This is essential for realizing Indonesian children who are of high quality, possess noble character, and enjoy well-being. However, field realities reveal a significant gap between legal provisions and their implementation. Data from the Sharia Court of Bireuen indicate that in 2024, there were 488 divorce cases and 206 counterclaims regarding child custody. Concerning the obligation to provide child support, legally binding divorce rulings (*inkracht*) stipulate that the father is responsible for financing his children until they reach adulthood. Nonetheless, there are instances where fathers fail to fulfill their child support obligations as ordered by the Sharia Court. A critical issue is the absence of regulations overseeing the enforcement of divorce rulings issued by the Sharia Court [17].

Research by Purwaningsih highlights that child custody rights following divorce under positive law include provisions in Law Number 1 of 1974 concerning Marriage, which mandates that parents are responsible for caring for their children until the children marry. Law Number 23 of 2002 on Child Protection asserts that the parent most entitled to care for the child is the one closest to the child. Although Article 105(a) of the Compilation of Islamic Law states that custody of a child who has not reached the age of discernment, or under 12 years old, is the right of the mother, this right is not absolute, as various reasons may prevent the mother from being granted custody [18]. Research by Sari concluded that the fulfillment of child support rights following divorce in the Ulu Talo District of Seluma Regency indicates that the child's needs after divorce are solely borne by the mother (the former wife) and supported collectively by the maternal grandparents. However, according to Article 156(d) of the Compilation of Islamic Law, all costs related to *hadhanah* and child support are the responsibility of the father according to his ability, at least until the child reaches adulthood and can care for

themselves (21 years old) [19]. Umar stated that the regulations concerning child custody after divorce, as stipulated in Law Number 1 of 1974 and the Compilation of Islamic Law, have not yet guaranteed the realization of children's rights post-divorce, including the rights to proper care, education, and adequate financial support [14]. The absence of coercive measures to enforce children's rights remains a significant obstacle.

Puspytasari and Firman revealed that the regulation of child support payments resulting from divorce, under both Islamic Law and National Law, already establishes the obligation to provide child support even after divorce [17]. Nonetheless, the implementation of legal protection for child support payments is still suboptimal. Possible measures include execution lawsuits and claims of child abandonment. Hidayat, Rahmawati, and Maulidan explained that hadhanah, or the care and education of children, is carried out by parents as a form of responsibility in fulfilling children's rights [20]. The mandate of hadhanah is enshrined in the Qur'an, specifically in Surah al-Baqarah verse 233 and Surah at-Tahrim verse 6, which emphasize that every Muslim must protect themselves and their families from the fire of hell and consistently practice piety. Syahrain concludes that the provisions concerning the determination of child custody for minors resulting from divorce within Islamic law in Indonesia, particularly under Law Number 1 of 1974 on Marriage, are not explicitly regulated [21]. However, Articles 105 and 156 of the Compilation of Islamic Law (KHI) under Presidential Instruction Number 1 of 1991 provide clear and definitive regulations on this matter. The enforcement of legal provisions in disputes over child custody does not align with contemporary societal developments, indicating the necessity for a revision of Law Number 1 of 1974. Bireuen Regency, as one of the regencies in Aceh Province that implements Islamic law within its judicial system including cases of divorce and child custody serves as a strategically significant location for study. The influence of customary law and Islamic sharia in resolving family cases makes Bireuen an important context for examining the strengthening of legal frameworks concerning hadhanah (child custody) and child support following divorce.

In practice, discrepancies exist between the applicable legal frameworks (national law, Islamic law, and customary law) and their implementation on the ground with regard to child custody and support. Legal reform is essential to ensure the optimal protection of children's rights. Given this context, the urgency to strengthen legal regulations on child custody resulting from divorce in Bireuen Regency is pronounced. There is a need for legal reforms that can bridge the gap between normative prescriptions (*das Sollen*) and actual practice (*das Sein*), as well as establish effective mechanisms for monitoring and enforcing court rulings. This study aims to offer concrete solutions to issues surrounding hadhanah and child support post-divorce, and to provide recommendations to the Aceh government, the Sharia Court, and the community to improve the legal system related to the protection of children's rights.

METHODOLOGY

This study employs a qualitative approach and is characterized as field research, involving direct engagement in the field to gather data from informants deemed by the

researcher to provide the necessary information at the Syariah Court of Bireuen concerning the strengthening of child custody law resulting from divorce in Bireuen Regency. Qualitative research is a research procedure that produces descriptive data in the form of written or spoken words from people and observable behaviors [22], [23]. This type of research utilizes purposive sampling, selecting samples based on specific predetermined criteria [24]. The researcher aims to depict the findings in the field based on data obtained from interviews with informants and analyzes these data using qualitative analysis. This study is categorized as descriptive research, which means providing an objective portrayal of the research subject by posing questions to informants to obtain the required answers [25], [26].

The criteria for informants in this study include: (1) four judges from the Syariah Court of Bireuen, consisting of the Chairperson, Vice Chairperson, and two judges; (2) five children post-divorce; and (3) five religious figures and academics, including the leader of a *dayah*, the Head of Islamic Sharia in Bireuen, the Rector of IAI Almuslim Aceh, and the Dean of the Faculty of Sharia. These criteria were established to obtain a sampling unit possessing the desired characteristics for sample selection. The research object consists of the opinions and legal foundations provided by the judges of the Syariah Court of Bireuen, as well as religious leaders and academics from Bireuen, regarding child custody law following divorce in Indonesia. Purposive sampling was chosen because the researcher requires informants who thoroughly understand and are directly involved in the issue under investigation [24], [27].

In this study, the author utilizes two sources of data, namely primary data and secondary data. Primary data constitute the main data derived from field research, which involved interviews with 15 informants comprising 5 Syariah Court judges, 5 children post-divorce, and 5 religious figures and academics located in Bireuen Regency. The informants' identities include their names, ages, education levels, occupations, and addresses. The selection of informants for interviews was aligned with the research requirements and deemed sufficiently adequate. Secondary data serve as complementary data obtained from library research. To collect secondary data, the author reviewed and analyzed *fiqh* texts, fatwas, symposium proceedings, books, journals, magazines, and Syariah Court rulings relevant to the discussed topic. These secondary data sources function to reinforce and supplement the primary data gathered from the field [23], [28].

The data collection process was carried out in several stages as follows [29]. Interviewing involves a conversation with a specific purpose. This dialogue occurs between two parties: the interviewer, who poses questions, and the informant, who responds to these questions [30], [31]. The interview targets included judges of the Syariah Court in Bireuen, children post-divorce, and academic figures, aimed at understanding the legal aspects of child custody resulting from divorce in Indonesia. The interview model employed was semi-structured, allowing for an in-depth exploration of informant data. This approach enables the researcher to adapt questions based on informants' responses, thereby obtaining richer and more comprehensive data [24], [32].

2) Documentation entails conducting research by collecting data, information, and

theories through literature sources such as books, magazines, journals, newspapers, seminar materials, lecture notes, as well as relevant legislation and judicial decisions related to the research topic. Documents may include written texts, images, or significant works produced by individuals [24], [33]. Documentation studies serve as a complementary method alongside observation and interviews in qualitative research [23].

After the data has been collected, the subsequent step involves data processing through the following stages. First, editing entails the selective screening of the obtained data, correcting errors, and refining the data. The collected data are then re-examined and reviewed more thoroughly. The purpose of editing is to eliminate errors and deficiencies in the data, ensuring that the data are ready for further processing [34], [35]. Through the editing process, the researcher revisits all data related to child custody law resulting from divorce in Indonesia. Second, description involves elaborating and systematically organizing the accumulated data. This descriptive stage aims to present data concerning child custody law following divorce in Indonesia clearly, with detailed and comprehensive explanations [36], [37]. Third, the matrix stage summarizes the research findings on child custody law due to divorce in Indonesia in matrix form, facilitating easier understanding of the subject matter. Data matrices assist the researcher in identifying relationships among categories and simplify the process of drawing conclusions [38].

The data analysis employed in this study is descriptive qualitative analysis, a research procedure that utilizes descriptive data in the form of written or spoken words derived from interviews with informants [39], [23]. Subsequently, an analysis is conducted on the issues previously formulated based on data obtained from informant interviews, involving a thorough examination and review with reference to theoretical foundations and relevant literature concerning child custody law following divorce in Indonesia. The data analysis process in qualitative research is conducted interactively and continuously until data saturation is achieved [24], [40]. The data analysis technique used follows the model proposed by Miles and Huberman, which comprises three concurrent activities: (1) data reduction, (2) data display, and (3) conclusion drawing/verification [36], [38]. Data reduction involves summarizing, selecting the main points, focusing on essential aspects, and identifying themes and patterns. Data display in qualitative research may take the form of brief descriptions, charts, category relationships, flowcharts, and similar formats. The final step is conclusion drawing and verification.

RESULTS AND DISCUSSION

Facts about the Bireuen Sharia Court's Decision on Child Support after Divorce

Post-divorce child support has become a significant issue regulated through various court rulings, including those issued by the Syariah Court of Bireuen. Child support constitutes the primary responsibility of the father toward the child until the child reaches

adulthood and attains financial independence. However, numerous cases reveal non-compliance with this obligation, wherein fathers fail to fulfill their child support duties following divorce, thereby prompting legal actions. From 2021 to 2025, there have been a total of 650 cases, all resulting in rulings, encompassing both divorce and custody disputes. According to an interview with M. Syauqi, Chair of the Syariah Court of Bireuen, Islamic law mandates that child support is a parental duty, particularly incumbent upon the father, after divorce. This obligation is continuous and encompasses various needs, including education, healthcare, and daily living expenses.

The determination of the child support amount is generally based on mutual agreement between the parties involved but can also be established through court decisions. According to Supreme Court Regulation (SEMA) No. 3 of 2015, issued by the Supreme Court, child support payments should ideally increase annually by 10% to 20%. Under Islamic law, the provision of child support is an obligatory duty for parents, especially fathers, following divorce. Nevertheless, practical implementation of child support in Syariah Courts, including in Bireuen, faces several challenges that require attention from judicial institutions, government bodies, and the broader community [41]. In divorce situations, the rights of the child are of paramount importance, and the Syariah Court is tasked with safeguarding these rights through equitable rulings. In Decision Number 208/Pdt.G/2024/MS.Bir, the Shari'ah Court of Bireuen examined and adjudicated a religious civil case at the first instance, rendering a verdict concerning divorce, child custody (Hadhanah), and child support disputes between Lindawati Binti Armia Jalil as the Plaintiff and Musyawir Bin M. Idris as the Defendant. The judges of the Shari'ah Court of Bireuen considered that the legal facts fulfilled the Islamic legal norms articulated in the Qur'an, specifically in Surah Ar-Rum, verse 21. This verse elucidates the divine wisdom and power of Allah in creating life partners for human beings, intended to foster love and tranquility within the marital relationship. The verse encompasses spiritual, emotional, and social dimensions of marriage, thereby establishing a harmonious social order [42]. Within the framework of Islamic law, this verse underpins the understanding and implementation of matrimonial norms in Muslim communities.

According to the principles of Fiqh, the prevention of harm (*dar'u al-mafasid*) takes precedence over the pursuit of benefits (*jalb al-mashalih*). This maxim embodies a fundamental principle in Islamic law, emphasizing that averting damage must be prioritized above securing advantages. This concept is rooted in the *maqasid al-shariah*, which prioritizes the protection of essential interests (*daruriyyat*) that could potentially harm individuals or society [43]. The judge concluded that the marital relationship between the Plaintiff and the Defendant had reached the status of a broken marriage, with no remaining hope for reconciliation. Accordingly, pursuant to the provisions of Article 39, paragraph 2 of Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, the divorce petition was granted. Regarding child custody, based on Article 105 of the Compilation of Islamic Law and the Islamic legal principles contained in the *Kitab I'anatut Thalibin*, the Plaintiff, as the biological mother, holds the

primary right to custody (hadhanah). Within the Islamic legal framework, custody is generally awarded to the mother for children who have not yet reached the mumayyiz stage i.e., the capacity to distinguish and comprehend good and bad on the premise that the mother is better able to provide the necessary care and affection during the child's early developmental phase [44].

In Decision Number 20/Pdt.G/2024/MS.Bir, the Syariah Court of Bireuen, having examined and adjudicated the case at first instance through a Single Judge session, rendered its judgment in the divorce lawsuit filed by Putri Wahyuni Binti Ismail (Plaintiff) against Azwir Bin Alamsyah (Defendant). The judge endeavored to mediate between the parties but achieved only partial success. Based on the facts revealed during the trial, the judge opined that the marital condition of the Plaintiff and Defendant was fragile, fractured, and irreparable, concluding that it was no longer feasible to sustain their marriage. This is in accordance with the provisions of Article 19 letter (b) of Government Regulation Number 9 of 1975 in conjunction with Article 116 letter (b) of the Compilation of Islamic Law of 1991, which stipulates that if either the husband or wife leaves the other party for more than two years and there is no hope of reconciliation, the condition is met. The judge concurs with the Supreme Court of the Republic of Indonesia's Jurisprudence Number 136/K/AG/1997 dated 26 February 1998, which states that separation of residence serves as an indication of continuous disputes and conflicts. The judge further references the sharia argument from the book *Ghayatul Maram*, which asserts that if the wife can substantiate her claim before the judge with evidence or the husband's acknowledgment, and the suffering is such that it is impossible to maintain the continuity of the marital life between them, and the judge is unable to reconcile the parties, then the judge may issue a divorce (talak bain) from the husband to the wife.

The statement in the book *Ghayatul Maram* highlights the application of sharia principles in the context of divorce in a profound manner. This legal norm underscores the responsibility of the judge in resolving domestic disputes. It aligns with the principle that judges should endeavor to reconcile both parties before deciding to ratify the divorce [45], [46]. Islamic law indeed emphasizes the importance of investigating the causes of discord and making efforts to avoid divorce, if possible, in order to protect family stability [47]. Decision Number 242/Pdt.G/2024/MS.Bir states that the Sharia Court of Bireuen has examined and adjudicated a religious civil case at the first instance, issuing a ruling in a divorce lawsuit between Zaniah Binti Bukhari as the Plaintiff and Hendrik Bin Sayuti as the Defendant. In her petition, the Plaintiff alleges that conflicts arose between her and the Defendant due to matters of financial support, asserting that the Defendant has failed to provide maintenance for the past seven months. Furthermore, the Plaintiff and Defendant have been living separately since August 2023. Pursuant to Article 105(a) of the Compilation of Islamic Law, considering that the child of the Plaintiff and Defendant is still very young and requires maternal care, the Plaintiff requests custody of the child. Although the Defendant is deemed to have acknowledged or at least not contested the Plaintiff's claims, in accordance with the provisions of Article 283 of the

RBg in conjunction with Article 1865 of the Civil Code, the Plaintiff remains obligated to substantiate the validity of her claims.

Based on the evidence presented, the Judge concluded that the marital relationship between the Plaintiff and Defendant has been proven to have broken down due to disputes and quarrels. Paul Scholten's theory of legal discovery (*Rechtvinding*) is particularly pertinent in analyzing this decision. Scholten posits that legal discovery involves more than the mere application of existing regulations to facts; often, the law must be uncovered through interpretation, analogy, or *rechtverwijning* (refinement or concretization of law). In the context of child custody (*hadhanah*), judges in religious courts consider multiple factors when determining custody rights, including the conduct of each parent and the psychological condition as well as the long-term welfare of the child [48], [49].

Obstacles in the Implementation of Post-Divorce Child Support in Bireuen Regency

The implementation of child support payments following divorce in Bireuen Regency faces various complex challenges, both legally and socially. The Supreme Court issued Circular No. 3 of 2015, which regulates the determination of child support, stipulating that child support should increase by 10%-20% annually, excluding education and healthcare expenses. However, in practice, discrepancies are evident, as some court decisions mandate lower increments, such as 2.5% and 5%. According to an interview with M. Wali Syam, a judge at the Bireuen Sharia Court, one common challenge is the non-compliance of former husbands in paying child support, despite orders from the Sharia Court.

This non-compliance highlights a significant gap between legislative theory and the realities on the ground. An interview with Siti Salwa, also a judge at the Bireuen Sharia Court, revealed that many cases demonstrate deficiencies in the implementation of court decisions, particularly regarding supervision and enforcement. This is attributed to the absence of regulations governing the oversight of judicial rulings. Child support is a responsibility imposed on parents, especially fathers, in accordance with Sharia legal principles and applicable laws. In the context of divorce, child support issues constitute a complex matter requiring special legal attention. This observation aligns with findings that indicate neglect of child support obligations by fathers, influenced by various factors including economic and social conditions [50].

Research by Mansari and Moriyanti indicates that judicial sensitivity towards child support serves as a key indicator of success in divorce case management. Judges are required not only to enforce the law but also to ensure the equitable fulfillment of children's rights post-divorce. The alignment between positive law and Sharia law is also crucial, particularly in guaranteeing equal rights for both parties. From an economic perspective, the inability of former husbands to provide support presents a distinct challenge. Rising living costs have intensified difficulties when former husbands request modifications to child support orders. The increase in living expenses is the primary justification for such requests, which are often rejected by the Sharia Court, thus generating conflict between legal obligations and financial capacity [51], [52].

An Ideal Solution to Ensure the Fulfillment of Children's Rights to Support After Divorce in Bireuen Regency

Based on interviews with key informants, several alternative solutions for child support payments can be proposed. M. Wali Syam, a judge at the Syariah Court of Bireuen, suggested that one viable option is to deduct child support payments from the pooled savings of judges and staff, as proposed by court leadership. This method of deducting savings offers a practical solution that benefits children requiring financial support following divorce. Siti Salwa, also a judge at the Syariah Court of Bireuen, emphasized that from an Islamic legal perspective, enforcement of religious court decisions regarding child support rights must be prioritized. Court rulings on hadhanah (custody) and child support should be effectively implemented to generate positive outcomes for the children and their families. This underscores the necessity of strong legal institutions and diligent oversight to ensure child support is upheld appropriately. The fulfillment of child support rights post-divorce in Bireuen Regency demands careful attention and suitable regulation.

In this context, it is important to refer to Indonesian laws governing child support, namely the Compilation of Islamic Law (KHI) and the Marriage Law. Article 80 of the KHI stipulates that post-divorce child support is the father's responsibility, based on his capacity, further detailed in Article 156(d) of the KHI, which affirms that all expenses related to hadhanah and child support fall under the father's obligation. Another feasible alternative is the deduction of child support payments directly from the obligated parent's salary. This concept involves regular monthly deductions transferred directly into the child support account. A similar approach is applied in Malaysia, where child support is collected via deductions from the Employees Provident Fund (KWSP) [50]. This model could be adapted and implemented within Indonesia's financial system to ensure consistent child support provision.

The Bireuen Regency government could also provide social assistance to children who face difficulties in receiving support due to parental divorce. Such aid could include food assistance, educational support, or healthcare services. Economic empowerment programs for parents experiencing financial hardship post-divorce are equally critical. Child custody, known as "penguasaan anak," "pemeliharaan anak," or "hadhanah" is etymologically derived from the term "al-janb," meaning beside or under the armpit (Manzhur, n.d.), or the act of placing something near the ribs as if carrying or cradling it [53]-[55]. Terminologically, hadhanah refers to the upbringing or care of a child who is not yet capable of self-care due to lack of maturity or mental competence [8].

It has become a consensus among scholars that the law of child custody is obligatory, as neglecting the care and education of young children who are not yet mature can have detrimental effects on their well-being and future, potentially threatening their very existence. The obligation of child custody is grounded in the child's welfare [8]. This aligns with the maqasid al-shari'ah principle, which prioritizes the protection and welfare of children as fundamental values in Islamic law [56],[61].

The Contribution of Legal Reform Science to the Implementation of Post-Divorce Child Support in Bireuen Regency

Legal reform in Indonesia has had a significant impact on the enforcement of child support obligations following divorce, particularly in Bireuen Regency. The importance of fair and effective legal regulations in ensuring the fulfillment of child support, which constitutes a fundamental right after divorce, cannot be overstated. Although Indonesia has made progress in legal development post-reform, serious challenges remain in law enforcement, including issues of corruption and inconsistent application of the law.

The scholarly contribution of legal reform to the implementation of child support in Bireuen Regency can be observed through several key aspects: First, there has been an increased legal awareness regarding children's rights. Legal reforms, especially those concerning human rights and child rights, have strengthened legal protections for children after divorce. In Bireuen Regency, despite the predominance of religious (Sharia) law, national legal principles as outlined in Law Number 1 of 1974 concerning Marriage and Law Number 23 of 2002 on Child Protection play a significant role in ensuring that child support is provided fairly and in accordance with the child's needs. Second, the mediation process in child support disputes has been refined. Post-reform efforts have enhanced mediation in family dispute resolution, providing the involved parties opportunities to reach agreements without prolonged litigation. In Bireuen, child support issues are addressed through approaches grounded in familial values and social justice. Third, changes have occurred in customary and Sharia law practices. Given that the majority of Bireuen's population is Muslim, Sharia law holds an important position in regulating child support after divorce. Legal reforms have contributed by reinforcing the clearer implementation of child support obligations for both fathers and mothers and by mitigating disparities in customary law practices that have occasionally disadvantaged children or mothers.

Fourth, the enhancement of access to justice. Legal reforms have also contributed to improved access to justice, wherein the community becomes more aware of their rights concerning child support, particularly for mothers who often suffer disadvantages following divorce. More intensive legal counseling provided by governmental bodies and civil society organizations in Bireuen Regency has assisted involved parties in understanding child support rights. Fifth, the strengthening of the Sharia Court. As a component of the Sharia Court system, the religious courts in Bireuen Regency play a crucial role in resolving child support issues after divorce. Legal reforms offer a clearer and more definitive legal basis for religious courts to determine the amount of child support and parental obligations post-divorce. This development is instrumental in facilitating more targeted and efficient law enforcement.

Research by Pitriani and Bahri emphasizes the importance of specific regulations and strict law enforcement to ensure that child support rights are adequately fulfilled [57]. Safitri and Ahmad note that non-compliance with child support obligations can occur due to the lack of stringent legal sanctions [58]. Therefore, government and legal institutions need to develop clear sanction mechanisms, including fines or legal actions,

to reduce violations of child support obligations. Azani and Cysillia demonstrate how legal products issued by the Sharia Court influence the fulfillment of child support rights. By enhancing the authority of the courts in enforcing decisions and providing training and socialization to judges regarding the importance of child protection, the handling of child support cases is expected to become more efficient while prioritizing the best interests of the child [59]. Gausia and Rochim assert that policy integration across various institutions can accelerate the fulfillment of rights for children and women post-divorce. Through collaboration among local government, the Sharia Court, and civil society organizations, greater synergy is anticipated in the implementation of child support rights and enhanced accountability [60].

CONCLUSION

Fundamental Finding: The decisions of the Bireuen Sharia Court concerning child support post-divorce reveal that, despite efforts to ensure the provision of child maintenance, challenges such as low compliance by former husbands and variability in legal enforcement must be addressed. The three rulings analyzed (Case Numbers 208/Pdt.G/2024/MS.Bir, 20/Pdt.G/2024/MS.Bir, and 242/Pdt.G/2024/MS.Bir) consistently award child custody (hadhanah) to the mother while the child is not yet mumayyiz (under 12 years old) and assign the obligation of child support to the father according to his capacity. However, implementation in practice continues to face compliance difficulties. The obstacles in enforcing child support payments in Bireuen Regency result from a complex interplay of legal factors (absence of supervisory regulations over judicial decisions and complicated execution procedures), economic factors (inability of former husbands to fulfill support obligations and high execution costs), and social factors (low legal awareness among the public, social stigma, and breakdown of communication between former spouses). **Implication:** Addressing these issues requires a holistic and collaborative approach involving legal institutions, government, and society. An ideal solution to guarantee the fulfillment of child support rights should include strengthening regulations with strict sanctions, implementing wage or mandatory savings garnishment mechanisms, enhancing the role of mediation, providing social assistance and economic empowerment programs, utilizing technology for payment monitoring, and applying a comprehensive legal protection framework that ensures children's access to support, education, and welfare. The integration of legal, social, and educational approaches offers an optimal solution for the enforcement of children's rights post-divorce in Bireuen Regency. **Limitation:** The scholarly contribution to legal reform encompasses six aspects: raising legal awareness of children's rights, refining mediation processes, modifying customary and Sharia legal practices toward greater inclusivity, improving access to justice, strengthening the role of the Sharia Court, and applying social justice principles prioritizing the best interests of the child. **Future Research:** The scholarly contribution to legal reform encompasses six aspects: raising legal awareness of children's rights, refining mediation processes, modifying customary and Sharia legal practices toward greater inclusivity, improving access to justice,

strengthening the role of the Sharia Court, and applying social justice principles prioritizing the best interests of the child.

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