



UNIVERSITAS ANDALAS

**TANGGUNG JAWAB AYAH DALAM PEMENUHAN NAFKAH ANAK
PASCA CERAI TALAK DI SUMATERA BARAT**

TESIS

**Disusun Dalam Rangka Memenuhi Persyaratan
Program Magister Hukum**

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TANGGUNG JAWAB AYAH DALAM PEMENUHAN NAFKAH ANAK PASCA CERAI TALAK DI SUMATERA BARAT

Hidayatul Husna, 24201112012, Program Studi Magister Hukum, Fakultas Hukum, Universitas Andalas, 171 halaman, 2026, Pembimbing : Dr. Yasniwati, S.H., M.H., dan Dr. Devianty Fitri, S.H., M.Hum.

ABSTRAK

Perceraian, khususnya cerai talak, merupakan fenomena yang sering terjadi di masyarakat, yang berdampak pada hak anak atas nafkah dari ayah. Meskipun Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan (Pasal 41 dan 45) serta Kompilasi Hukum Islam mewajibkan ayah bertanggung jawab atas biaya hidup, hadhanah, pendidikan, dan kesehatan anak hingga usia 21 tahun. Pemenuhan Nafkah Anak Pasca cerai talak di Sumatera Barat dengan menggunakan 6 putusan cerai talak pada Pengadilan Agama di Sumatera Barat. Rumusan masalah: (1) Apa faktor penyebab seorang ayah tidak memberikan nafkah kepada anak pasca cerai talak di Sumatera Barat ? (2) Bagaimana tanggung jawab ayah dalam pemenuhan nafkah anak pasca cerai talak di Sumatera Barat? (3) Bagaimana kepastian hukum terhadap pemenuhan hak anak pasca cerai talak di Sumatera Barat ? Penelitian menggunakan metode hukum yuridis empiris dengan studi lapangan melalui wawancara terhadap Advokat, Panitera, Hakim Pengadilan Agama, dan mantan suami/istri di Sumatera Barat. Hasil Penelitian terkait pemenuhan nafkah anak pasca perceraian, sering sekali, orang tua mengabaikan tanggung jawabnya sehingga tidak berjalan sesuai dengan isi Putusan Majelis Hakim dikarenakan Pelaksanaan putusan ini kurang adanya perhatian bagi para pihak untuk mendapatkan hak nya sesuai dengan isi putusan Pengadilan. Ayah wajib memenuhi nafkah materiil (pangan, pakaian, tempat tinggal) dan immateriil (pendidikan, kesehatan, akhlak) sesuai kemampuan, meskipun hak asuh pada ibu. Penyebabnya adalah faktor ekonomi dan faktor komunikasi yang telah putus setelah terjadinya perceraian. Sedangkan Kepastian hukum mengenai nafkah anak pasca cerai talak masih lemah. Meskipun peraturannya jelas, implementasinya belum efektif. Beberapa putusan pengadilan tidak secara eksplisit mengatur besaran dan mekanisme nafkah anak, serta tidak dilengkapi instrumen pengawasan dan sanksi bagi ayah yang lalai. Akibatnya, anak-anak dari keluarga yang bercerai rentan mengalami kehilangan hak-hak dasar seperti pendidikan, kesehatan, dan kesejahteraan. Salah satu ciri atau asas yang terkandung dalam putusan pengadilan berupa putusan adalah daya eksekusinya. Jika putusan memuat perintah untuk menggugat, maka putusan tersebut memiliki daya eksekusi. Jika pihak yang kalah menolak untuk mematuhi putusan secara sukarela, putusan tersebut dapat dieksekusi berdasarkan Pasal 195 HIR atau Pasal 206 RBg.

Kata kunci: *cerai talak, nafkah anak, tanggung jawab ayah*

FATHERS' RESPONSIBILITIES CHILDREN'S SUSTAINABILITY AFTER DIVORCE IN WEST SUMATRA

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ABSTRACT

Divorce, especially divorce by talaq, is a common phenomenon in society, which impacts children's rights to support from their fathers. Although Law Number 1 of 1974 concerning Marriage (Articles 41 and 45) and the Compilation of Islamic Law require fathers to be responsible for the cost of living, hadhanah, education, and health of children until the age of 21. Fulfillment of Child Support after divorce by talaq in West Sumatra using 6 divorce decisions at the Religious Court in West Sumatra. Problem formulation: (1) What are the factors causing a father not to provide support to children after divorce by talaq in West Sumatra? (2) What is the father's responsibility in fulfilling child support after divorce by talaq in West Sumatra? (3) How is the legal certainty regarding the fulfillment of children's rights after divorce by talaq in West Sumatra? The research uses empirical juridical legal methods with literature studies and empirical interviews with Religious Court judges, former husbands/wives, and legal practitioners in West Sumatra. Research findings related to the provision of child support after divorce indicate that parents often neglect their responsibilities, thus failing to comply with the Panel of Judges' Decisions. This is due to the lack of attention given to the parties in enforcing their rights as stipulated in the Court's decision. Fathers are obligated to provide material (food, clothing, shelter) and immaterial (education, health, and morals) support to the best of their ability, even though custody rests with the mother. This is due to economic factors and a breakdown in communication after the divorce. Legal certainty regarding child support after a divorce remains weak. Although the regulations are clear, their implementation is ineffective. Some court decisions do not explicitly regulate the amount and mechanism of child support, and lack oversight instruments and sanctions for negligent fathers. As a result, children in divorced families are vulnerable to the loss of basic rights such as education, health, and welfare. One of the characteristics or principles of a court decision is its enforceability. If the decision includes an order to sue, it has enforceability. If the losing party refuses to comply voluntarily, the decision can be enforced under Article 195 HIR or Article 206 RBg.

Keywords: *divorce, child support, father's responsibility*