



**LEGAL SOCIALIZATION AND COMPLIANCE BEHAVIOR TOWARDS
CHILD SUPPORT AFTER DIVORCE AMONG MUSLIM FATHERS IN
SELANGOR, MALAYSIA**

By

NURUL NADIA BINTI JAMALUDIN

**Thesis Submitted to the School of Graduate Studies, Universiti Putra
Malaysia, in Fulfilment of the Requirements for the Degree of
Master of Science**

January 2024

FEM 2024 14

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Abstract of thesis presented to the Senate of Universiti Putra Malaysia in
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Though the issue of neglecting child supports among Muslim fathers have been reported as one of the causes of divorce, and become worst post-divorce, there are still many fathers out there who are willing to comply with the Shariah Court orders on child supports. Throughout literature, it is accepted that legal socialization is related to one's ability to comply with the law. From criminal law perspectives, the development of legal socialization involved social and cognitive factors. However, the extent of these two factors within the context of Islamic Family Law is uncertain. Hence, using a phenomenological approach, this study attempts to explore the extent of social and cognitive factors in the development of legal socialization within the context of Islamic Family Law, specifically on compliance to a child support order. By collecting the views of those who have experienced divorce process, semi-structured interviews were carried out among a total of four Muslim fathers. Thematic analysis by using an Nvivo software, have identified four

major themes which are 'contribution of socialization process', 'positive thoughts', Informant's experiences with legal system' and 'self-attitude'. Each of the themes was discussed accordingly together with the conclusion and implications of the study.

Keywords: Child Support, Compliance Behaviour, Divorce, Family Law, Legal Socialization

SDG: GOAL 3: Good Health and Well-Being, GOAL 16: Peace, Justice and Strong Institutions,

Abstrak tesis yang dikemukakan kepada Senat Universiti Putra Malaysia
sebagai memenuhi keperluan untuk ijazah Master Sains

**SOSIALISASI PERUNDANGAN DAN PEMATUHAN TERHADAP NAFKAH
ANAK SELEPAS BERCERAI DALAM KALANGAN LELAKI MUSLIM DI
SELANGOR, MALAYSIA**

Oleh

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Walaupun isu pengabaian nafkah anak dalam kalangan bapa Muslim telah dilaporkan sebagai salah satu punca perceraian, dan menjadi yang lebih teruk selepas perceraian, masih ramai bapa di luar sana yang sanggup mematuhi perintah Mahkamah Syariah mengenai nafkah anak. Merentasi literatur, sosialisasi perundangan adalah berkait dengan keupayaan seseorang untuk mematuhi undang-undang. Dari perspektif undang-undang jenayah, perkembangan sosialisasi perundangan adalah melibatkan faktor sosial dan kognitif. Bagaimanapun, sejauh mana kedua-dua faktor ini dalam konteks Undang-undang Keluarga Islam belum dapat dipastikan. Oleh itu, dengan menggunakan pendekatan fenomenologi, kajian ini cuba meneroka sejauh mana faktor sosial dan kognitif dalam perkembangan sosialisasi perundangan dalam konteks Undang-undang Keluarga Islam, khususnya mengenai pematuhan kepada perintah nafkah anak. Dengan mengumpul pandangan mereka yang pernah mengalami proses penceraian, temu bual separa

berstruktur telah dijalankan dalam kalangan empat bapa beragama Islam. Analisis tematik menggunakan perisian Nvivo, telah mengenal pasti empat tema utama iaitu 'sumbangan proses sosialisasi', 'pemikiran yang positif', 'pengalaman informan dengan sistem perundangan' dan 'sikap diri'. Setiap tema telah dibincangkan dengan sewajarnya berserta kesimpulan dan implikasi kajian.

Kata Kunci: Nafkah Anak, Tingkah Laku Pematuhan, Perceraian, Undang-undang Keluarga, Sosialisasi Perundangan

SDG: MATLAMAT 3: Kesihatan yang Baik dan Kesejahteraan, MATLAMAT 16: Keamanan, Keadilan dan Institusi Yang Teguh,

ACKNOWLEDGEMENTS

First and foremost, I would like to thank Allah for this journey and because of His will, I was finally able to complete this study. Then, I would like to express my deepest gratitude to my supervisor, Dr Muslihah Hasbullah, for her continuous support, patience, and guidance throughout the course of my research. Her expertise and encouragement have been invaluable, and I am profoundly grateful for her mentorship. I would also like to thank the members of my thesis committee, Dr. Rojanah Kahar, for her insightful feedback and constructive suggestions, which have greatly enhanced the quality of this work.

My deepest gratitude goes to my parents, Jamaludin bin Dulah and Salmi binti Othman who constantly encouraged me without giving up, even though it took me a long time to complete this study. Without my parents' prayers and support, it would have been impossible for me to have the strength to finish this study in the end. Also, special thanks to some of my friends (Afiah, Norli, Bahirah) who were always there to help me and provide emotional support, encourage me to be motivated again after going through phases of disappointment and facing unexpected challenges.

To BTS, they may not know that they have been part of the motivation for me to complete this dream that I started, but I still want to say thank you for every song and message of theirs that has comforted and inspired me.

This thesis was submitted to the Senate of Universiti Putra Malaysia and has been accepted as fulfilment of the requirement for the degree of Master of Science. The members of the Supervisory Committee were as follows:

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TABLE OF CONTENTS

	Page
ABSTRACT	i
ABSTRAK	iii
ACKNOWLEDGEMENTS	v
APPROVAL	vi
DECLARATION	viii
LIST OF TABLES	xii
LIST OF APPENDICES	xiii
 CHAPTER	
 1 INTRODUCTION	 1
1.1 Background of Study	1
1.2 Problem Statement	7
1.3 Research Question	9
1.4 Objectives of Study	10
1.5 Significant of Study	10
1.6 Limitation of Study	11
1.7 Definition of Terminology	11
1.7.1 Legal Socialization	11
1.7.2 Social Factors	12
1.7.3 Cognitive Factors	13
1.7.4 Compliance Behavior	14
1.8 Chapter Summary	15
 2 LITERATURE REVIEW	 16
2.1 Introduction	16
2.2 Legal Socialization	16
2.3 Contribution of Social Factor in Development of Legal Socialization	25
2.4 Contribution of Cognitive Factors in Development of Legal Socialization	28
2.5 Compliance Behavior	29
2.6 Maqasid Shariah	31
2.7 Islamic Family Law	33
2.8 Responsibility of Father	35
2.9 Chapter Summary	37
 3 RESEARCH METHODOLOGY	 38
3.1 Introduction	38
3.2 Research Design	38
3.2.1 Phenomenological Approach	39
3.3 Sampling Method	40
3.4 Data Collection Method	43
3.5 Data Analysis Method	48
3.5.1 Validity and Reliability of Data	52

3.6	Ethics	54
3.7	Chapter Summary	54
4	FINDINGS AND DISCUSSION	55
4.1	Introduction	55
4.2	Demographic Characteristic	55
4.3	Textual Description	56
4.3.1	Mr. A	56
4.3.2	Mr. B	57
4.3.3	Mr. C	58
4.3.4	Mr. D	58
4.4	Findings and Discussion	58
4.4.1	To Explore the Extent of Social and Cognitive Factors Contribution in Development of Legal Socialization in the Context of Compliance with Islamic Family Law	60
4.4.2	To Investigate the Effect of Legal Socialization on Individual's Legal Socialization on Individual's Compliance Behavior towards Islamic Family Law	80
4.5	Chapter Summary	93
5	CONCLUSION, IMPLICATIONS AND RECOMMENDATION OF STUDY	94
5.1	Conclusion of Study	94
5.2	Implications of Study	100
5.3	Recommendations	101
	REFERENCES	103
	APPENDICES	109
	BIODATA OF STUDENT	114
	LIST OF PUBLICATIONS	115

LIST OF TABLES

Table	Page
3.1 Interview Question	46
4.1 Summary of Demographic Data	56
4.2 Outline of Objective and Findings	59



LIST OF APPENDICES

Appendix	Page
A Interview Questions	109
B Ethical Approval from JKEUPM	111



CHAPTER 1

INTRODUCTION

1.1 Background of Study

Law is made to regulate behavior of citizens and to fulfil its regulatory role, law should always be obeyed at all the time. However, the acceptance of the laws among citizens are not always satisfying. Some choose to comply while some against it.

Compliance behavior could be assumed as an action or response to a party that is have authority in giving instructions or rules. According to Bayoumi et al., (2020), there are two social values that able to influence people's compliance behavior towards law. Firstly, a value where people view that legally forbidden behavior is also immoral behavior. Second value is people's perception about legitimacy of the legal authority.

Since Malaysia is a multiracial country, there are laws specifically enforced for the Muslims. Apart from being required to comply with the civil law. Muslims communities are also bound by the Shariah Law in various aspect of life. Islamic laws consist of social law such as Economic Law (*Muamalat*), Family Law (*Munakahat*) and Shariah crime (*linayah*). As contended by Bayoumi et al., (2020), the Islamic legal institution or the authority of the governors that is responsible to enact the Shariah law is restricted to be consistent with the principles of Islam and the spirit of Shariah with its entire fundamental characteristic. In the Quran (4:59), compliance behavior towards the

governors or legal authority is strongly viewed within the context of obedience to Allah and his Messenger SAW as well, as long as the laws enforced by the authority is align or consistent with the principles of Islam.

Islamic laws and their role in regulating Muslim affairs are rooted in the Islamic teaching which the primary sources are the Quran and Sunnah of the Prophet SAW. In Islam, every law or regulation come with function to protect public interest and avoiding harm. In other words, every law or regulation in Islam comes with purposes or objectives, and it known as Maqasid Shariah (Duguri et al., 2021). Imam Al-Haramain, in his book entitled *Ghiyats al-Umam fi al-Tayyats al-Zhulam*, mentioned that the only way to be free from the problem or issue of the fail of ethics in Muslim community is by establishing Maqasid Shariah which is universal and uplift it from *zhanniy* (speculative) to *qat'iy* (definite) and as the principle, the highest goal in Islam (Mufti of Federal Territory's Office, 8 February, 2019). It makes sense why Muslims are bound with Islamic Family Law, as every rule or regulation about marriage and family affairs come with function to protect the interest of family members (Ali et al., 2020). According to Islamic Family Law, in the religious sphere, the rights and obligations of women and men are the same except in situations which result from biological process, which is in the social sphere, men are positioned as head of family and are obligated to providing family maintenance, as enforced in Islamic Family Law (Awang, 2022). Meanwhile, women are more versatile in private sphere as they have the special roles of caring for children pregnancy until birth.

A father is responsible towards maintaining and fulfilling his responsibilities in the development and upbringing of the children. Even if the marriage breakdowns, responsible to the children will always be continuous in terms of providing child support for basic needs, accommodation and education. All these rights are enforceable in the court of law. As for the responsibility as a father, Islamic Family Law (State of Selangor) Enactment 2003 highlighted the responsibility in providing child support after divorce in Section 73 (Duty to maintain children), which the act stated that, it shall be the duty of a man to maintain his children, no matter whether the children are in his custody or in custody of any other person, and the responsibility also mentioned specifically, which the father have to provide the children with accommodation, clothing, food, medical attention, and education as are reasonable with regard to his affordability. It is important for a Muslim's father to comply with the Islamic Family Law in providing child support after divorce due to a reason that, the child will be responsible for socializing himself to meet the needs of life in the future, as the father's responsibility in providing child support also include education (Asman et al., 2022). Not just that, Asman et al., (2022) also mentioned the compliance behavior from the father in providing child support will help the child to grow into a healthy person and intelligent person as the child had access to his or her medical attention and education as one of the basic needs, which provided by the father.

As mentioned in early paragraph of this chapter, not every citizen will accept the law willingly. Reported in Sinar Harian article regarding this issue, based on statistic from Family Support Division (Bahagian Sokongan Keluarga,

BSK), The Shariah Judiciary Department (Jabatan Kehakiman shariah Malaysia, JKSM), there are about 5964 total cases of claim maintenance of wife and children within five years (Ali, 2021). Also, in year 2021, a total of 150 cases of alimony arrears were reported in Selangor, and the number of cases still does not reflect the total number because there are still similar cases not reported (Ali, 2021). From the numbers reported, we can see that while some people have issue to comply with the law and Shariah court order, and was sentenced to prison for their failure in providing child support (Abu Bakar, 2022) some demonstrated compliance behavior towards the law and Shariah court order.

This study is focuses on the issue of Islamic Family Law which is the responsibility to provide child support after divorce. Compliance behavior is considered as a response from people towards law. Previous literature has suggested that legal socialization is a process that influence people's decision about how to react towards law and legal authority, either to comply or not to comply. This has brought to the issue of socialization of social values among adults and sustaining legal culture among them, which is it usually shaped by their interactions with law (Tyler & Darley, 2000). A person's values, attitudes, and behavior with respect to rules and laws are developed through a specific form of socialization, i.e. legal socialization. Legal socialization is the process through which individuals acquire attitude and beliefs about the law, legal authority and legal institution (Cohn et al., 2012; Piquero et al., 2005). As people accumulate knowledge and experiences, their attitude and behavior towards law can shift either into positive or negative direction.

Therefore, the act of responsible in providing child support among Muslim is considered or viewed as compliance behavior towards the Islamic Family Law. As past literature has discussed a compliance behavior is related to people's development of legal socialization, they also has identified dimensions of legal socialization that may shape people's compliance which are: - legitimacy of the law, legal cynicism, and moral disengagement (Fagan & Tyler, 2005). However, all the past literature of legal socialization were studied in perspective of crime, such as juvenile crime and civil crime. From the past studies of legal socialization which focuses on juvenile crime and civil crime, they have discussed and agreed that social and cognitive as two different factors that influence the development of legal socialization, which directly give an impact towards compliance behavior (Kolivoski et al., 2016; Trinkner & Cohn, 2014; Piquero et al., 2005; Fagan & Tyler, 2005; Cohn & White, 1986). Every detail of development of legal socialization in perspective of crime and development of legal socialization from perspective of Islamic Family Law might have slightly difference as it involves different aspects.

Based on prior studies of legal socialization that has been published, it shows that only the western literature is found emphasizes and explained the concept of legal socialization in the studies of law-related behavior among adults, children and adolescents (Hardy et al., 2019; Brownell et al., 2016; Fagan & Tyler, 2005; Luftey & Mortimer, 2003; Fickenauer, 1998). These literature even explained about a root process for people to go through before they develop their legal socialization, which is, before a person learn about law-related, they will naturally learn about language, norms, values, belief, attitude, behaviour

and how things work generally through socialization processes (Hardy et al., 2019; Brownell et al., 2016; Fagan & Tyler, 2005; Luftey & Mortimer, 2003; Fickenauer, 1998). Based on this literature, people will be exposed to law through socialization processes, which it help them in learning idea about law related value, and by that, their legal socialization will be developed. Above explanation is about legal socialization and the development from the perspective of juvenile and civil crime which conducted by previous studies (Hardy et al., 2019; Brownell et al., 2016; Fagan & Tyler, 2005; Luftey & Mortimer, 2003; Fickenauer, 1998). However, no studies about development of legal socialization from perspective of Islamic Family Law issue are found so far. So does the issue of complying with Islamic Family Law in providing child support, where most of past studies regarding this issue discussed about the factors of non-compliance behavior towards this Islamic Family Law (Abe Sophian et al., 2020; Abd Majid & Saleh Hudin, 2017). But until now, no recent study has discuss about this issue in context of compliance behavior towards this Islamic Family Law, and how the compliance behavior could be explained or related with development of legal socialization. Therefore, by focusing on issue of compliance with Islamic Family Law in providing child support after divorce, it is time to access and understand the extent of social and cognitive contribution in development of legal socialization in the context of Islamic Family Law, also to explain how legal socialization effects an individual's compliance behavior towards this Islamic Family Law.

1.2 Problem Statement

Nowadays, issue of neglecting child support, has been blowing up, and there are some other Muslim men who are a husband and also a father who reportedly have failed to obey this obligation as stated in Islamic Family Law. The attitude and behavior of neglecting child support have been reported as the causes of divorce, which it become worst at the phase of post-divorce compared than during marriage. Therefore, the problem recognized in the study is, despite of the cases of failure to comply with the Islamic Family Law, there are some other Muslim men who are willing to comply with this Islamic Family Law and Shariah Court order regarding the responsibility in providing child support after divorce.

Why it is important to comply with the law? This is because, Islamic Family Law considers collective rights and duties when it comes to marriage and family relations, and it is not just a contract between a men and women to live together (Awang, 2022). But it is a sacred contract which comes from divine law and connected with the right of Allah and the rights of human (Awang, 2022). Therefore, for those couple who have children from marriage, even if the marriage has been dissolved, their responsibility as a mother and father towards their child remain the same and need to be carried out. Regardless of the status of their marriage, either married or divorced. As for the responsibility of a father, according to the Islamic Family Law, the emerge of the father's obligation to provide child support or a living to the children after divorce is due to the heredity cause (*nasab*) (Asman et al., 2022). This demonstrate compliance behavior towards this law is very important. Hence, this study

would like to examine this issue from the perspective of compliance behavior towards the obligation in providing child support after divorce, with the hope of gaining a clear understanding of how individual's compliance behavior towards the law has been shaped. Ultimately this study can serve as a guide for agencies related to family institutions in promoting the development of positive legal socialization among family members. The cultivation of positive legal socialization must begin from childhood within every family institution, so that it can produce future members of the society who hold positive values towards the law, thereby complying with the law.

Another justification that explains the importance of compliance behavior towards Islamic Family Law in providing child support is that the child will be responsible for socializing himself to meet the needs of life in the future, as the father's responsibility in providing child support also includes education (Asman et al., 2022). Therefore, the compliance behavior from the father in providing the child support will help the child to grow into a healthy person and intelligent person as the child had access to his or her medical attention and education as the basic needs, which provided by father (Asman et al., 2022). As according to previous study, it is clearly that Shariah recognizes the rights of children to access the essential maintenance, such as food, clothing, residence, education, medical attention and etc (Abdul Aziz et al., 2021). This shows how the compliance behavior of the father figure towards Islamic Family Law can influence the development and future of the child. Therefore, this study attempts to focus on the positive value of compliance behavior towards the law, to provide some basic guidance on how the formation of compliance

behavior towards the law begins.

Based on prior studies of legal socialization, it shows that only the western literature emphasized and explained the concept of legal socialization in the studies of law related issue among adults, adolescents, and child, either in context of civil or juvenile crime (Hardy et al., 2019; Brownell et al., 2016; Fagan & Tyler, 2005; Luftey & Mortimer, 2003; Fickenauer, 1998). Meanwhile, regarding the issue of Islamic Family Law in providing child support after divorce, most of past studies discussed this issue by focused on the non-compliance behavior towards this Islamic Family Law (Abe Sophian et al., 2020; Abd Majid & Saleh Hudin, 2017). Therefore, by focusing on issue of Islamic Family Law in providing child support after divorce, it is timely to access and understand the extent of social and cognitive factors in the development of legal socialization in the context of Islamic Family Law and to explain how legal socialization effects individual's compliance behavior towards Islamic Family Law.

1.3 Research Question

- I. How do social and cognitive factors contribute to the development of legal socialization in the context of compliance with Islamic Family Law?
- II. How legal socialization affects individual's compliance behavior towards Islamic Family Law?

1.4 Objectives of Study

- I. To explore the extent of social and cognitive factors contribution in development of legal socialization in the context of compliance with Islamic Family Law.
- II. To investigate the effect of legal socialization on individual's compliance behavior towards Islamic Family Law.

1.5 Significant of Study

The significant of addressing compliance behavior is to provide new perspectives on the issue of post-divorce and good examples among the laymen about compliance behavior in providing child maintenance in accordance with the Islamic family law. Rather than focus on non-compliance behavior, it will be helpful to address the positive side of this issue, in order to promote a good and responsible parenting behavior from the informants' experience. Apart from that, this study presents family unit as a foundation and in order to develop good understanding of Islamic family law among Muslim community, we have to understand that it is a must to start with a family unit. Therefore, another significance of this study is, it might be helpful to any related agency or policy makers to gain insight or understand the importance of family unit as a core in securing compliance behavior with Islamic family law in providing child maintenance after divorce, and to maintain a Muslim community with good understanding of Islamic family law and demonstrate compliance behavior in future, it is a process that must begin in individual early age.

1.6 Limitation of Study

Since the state of Selangor has been reported as the highest number of divorce cases, this study has been carried out in Selangor only. So, there is possible that data of this study was collected with potential of bias due to small number of samples. Another limitation recognized while conducting this study is, not every participant was willing to disclose every single detail regarding their background and experience in dealing with divorce process with their ex-partner. Therefore, it might have a missing participant's information in this study.

1.7 Definition of Terminology

1.7.1 Legal Socialization

Conceptually, legal socialization is defined as formation or development of values and belief about law legal institution and people who apply and enforce the law. This definition also including attitude, behavior towards law (Trinkner & Cohn, 2014; Piquero et al., 2005). As the definition is about people's values and belief about law, legal socialization also has been explained as the way people portray or judge the law, legal institution including the legal authority as desirable, appropriate and proper (Fine & Trinkner, 2020). Definition of legal socialization conceptually does not focus on the people's response towards the law only, but the fairness of procedure that has been experienced by people, fairness of procedure that has been practiced by legal authority in the legal institution are also considered in defining the legal socialization (Tyler & Trinkner, 2018; Murphy et al., 2009). As mentioned by previous studies, other

than values and belief about law, legal institution and legal authority, attitude and behavior towards law, legal institution and legal authority are also considered as legal socialization. The attitude mentioned is referred to when someone being skeptical or cynical towards law, legal institution and the authority who make and enforce the law (Gau, 2015).

Operationally, legal socialization in this study referred as individuals understanding about Islamic Family Law in providing child support after divorce, also the way individual hold value about law and the legal system, which included Islamic legal authority and Islamic legal institution such as Shariah Court. The definition of legal socialization operationally also considered about the fairness of treatment that practiced in the Islamic legal institution.

1.7.2 Social Factors

Conceptually, social factors in psychology refer to external factors or influence that comes from other people to other individual, which may affect the individuals thought, feelings and behavior through social interaction and social norms (Lingzhi Zhang, 2022). This also explain how socializing agents in socialization process are also known as social factors as the agents are including parents, family, peer groups, school that take a role in transmit belief and attitude that encourage the formation of values (Baz Corez & Fernandez Molina, 2020).

Operationally, social factor is any socializing agent that influence individuals' legal socialization, not only the way they hold belief and value towards Islamic law and legal system, but also influencing their understanding of the Islamic law and legal system, which including Islamic legal authority and Islamic legal institution. Other external factor, individual experience and their interaction with the Islamic legal authority or Islamic legal institution are also considered in defining the terminology of social factor operationally.

1.7.3 Cognitive Factors

Conceptually. Kendra Cherry (2024) explained the term of cognitive are used in psychology to describe anything related to thinking, learning and understanding. According to Hillard (2020), cognitive refers to the mental activity that human brain receives, processes, converts and absorbs external information (Lingzhi Zhang, 2021) Therefore, as definition of cognitive factors in conceptually, it refers to the aspect of how brain works, including in remembering information, learning new things and process all the information the individual encounter in each day (Kendra Cherry, 2024).

Operationally, cognitive factors refer and focus on how individual receive and process any related legal information regarding the Islamic family law and the Islamic legal system. It also refers to how individual internalize the information which it makes them construct or critique the Islamic family law and the legal system, where as a result, it helps in forming their understanding, perception, belief and value about Islamic family law and the legal system including Islamic legal authority and Islamic legal institution.

1.7.4 Compliance Behavior

Compliance is a behavior in response to a demand that is made by legal authority or an authority figure which means, it is a positive response or in other words, an obedient to law, obedient to legal authority (Plata Caviedes, 2019).

Meanwhile the definition of compliance behavior in operational referred to individuals' compliance behavior towards Islamic Family Law in providing child support after divorce. In terms of family social unit, Muslim society are bound with Islamic Family Law, which it was developed through legislative process and has introduced under 8 fourteen different states of Malaysia (Awang, 2022; Yelwa, 2013). Even though the Islamic Family Law in the states might differ slightly in the provision of applications of law, but each state still follows similar precepts of Shariah principles in accordance with Quran Sunnah, and Muslim Jurists (Awang, 2022). As for the obligation to provide child support, Muslim men are obligated to comply with the Islamic Family Law (State of Selangor) Enactment 2003, which stated in Section 73 (Duty to maintain children), the act emphasize, it shall be a duty of a man to maintain his children, whether the children are in his custody or custody of another person. Another Islamic Family Law Acts in state of Selangor that emphasize the aspect of child support is in Section 74 (Power of Court to order maintenance for children). In Section 74, if a father neglects his responsibility in providing child support, the court may at any time order a man to pay child support for the benefit of the child of his. There is also an act enforce for those who are failed in complying with the law related to providing child support, which stated

in Section 75 (Power of Court to order security for maintenance of a child), those who failed in complying with law in providing child support will be punished as a contempt of court.

1.8 Chapter Summary

By using the issue of compliance with Islamic Family Law, specifically comply with the legal obligation in providing child support after divorce, this study seeks to explore the extent of social and cognitive factors contribution in development of legal socialization in the context of Islamic Family Law, and to investigate the effect of legal socialization on individual's compliance behavior towards the Islamic Family Law.

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