



Failure to Provide Maintenance by a Husband as Grounds for Divorce: An Analysis of the Temporal Discrepancy Between Supreme Court Circular Letter (SEMA) No. 1 of 2022 and Article 116 of the Compilation of Islamic Law (KHI)

Ardi Akbar Tanjung¹, Kelik Wardiono², Khudzaifah Dimiyati³, Wardah Yuspin⁴, Mohammed Razi Ellathodi⁵

^{1,2,3,4} Universitas Muhammadiyah Surakarta, Indonesia

⁵ Ma'din Academy, Malappuram, Kerala, India

* Corresponding Author: ardi.akbar15@gmail.com

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According to both Indonesian national law and Islamic law, marriage is regarded as a sacred covenant (*mitsaqan ghalizān*) that establishes reciprocal rights and obligations between spouses, including the husband's duty to provide maintenance (*nafkah*). Failure to fulfill this obligation may constitute grounds for divorce, particularly through the mechanism of *taklik talak* violation under Article 116 of the Compilation of Islamic Law (KHI). However, Supreme Court Circular Letter (SEMA) No. 1 of 2022 introduces a different time requirement, creating a normative discrepancy with the KHI and the *sigbat taklik talak* contained in the marriage certificate. This study examines the differences between these regulations and their implications for legal certainty, substantive justice for wives, and the practice of religious courts. This research employs a normative legal method, drawing on statutory and conceptual approaches. The findings indicate that the discrepancy in time limits creates a conflict between substantive law and judicial guidelines, resulting in inconsistent court decisions and legal uncertainty. The twelve-month requirement may disadvantage wives, particularly those in vulnerable economic conditions, by delaying access to divorce and post-divorce rights. From the perspective of substantive justice and *maqāṣid al-sharī'ah*, such a prolonged period may undermine the protection of human dignity and welfare. Therefore, this study recommends harmonizing the relevant norms by maintaining the KHI as substantive law, designating SEMA as a technical guideline for evidentiary matters, and differentiating its application based on the nature of the marital violation.



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INTRODUCTION

According to both Indonesian national law and Islamic law, marriage is

regarded as a sacred and solemn covenant (*mitsāqan ghalīzan*) aimed at establishing a family characterized by *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion). One of the legal consequences of marriage is the emergence of reciprocal rights and obligations between husband and wife, particularly the husband's responsibility to provide maintenance (*nafkah*) for his wife and family. This obligation is not merely material but also encompasses moral and social dimensions, serving to preserve the wife's dignity and well-being.¹

Article 34(1) of Law No. 1 of 1974 on Marriage stipulates that a husband is obliged to protect his wife and provide for the household according to his means.² This provision clearly establishes the husband's responsibility to safeguard his wife and fulfill the family's household needs, including the obligation to provide financial maintenance for his wife and family.³

One of the fundamental obligations of a husband is to provide maintenance (*nafkah*) for his wife. This obligation is grounded in the Qur'an, particularly Surah Al-Ṭalāq (65:6), which instructs husbands to provide accommodation and financial support for their wives according to their means, especially during pregnancy and childcare periods.⁴ In Islamic jurisprudence, the husband's obligation to provide maintenance is generally proportional to his financial capacity and includes food, clothing, housing, household expenses, healthcare, and children's education. This obligation becomes enforceable after *tamkīn* (the wife's willingness to fulfill marital obligations), while it may cease in cases of *nushūz* (marital disobedience) by the wife.⁵

Among Indonesian Muslims, it remains common practice for the groom to recite the *sighat taklik talak* immediately after *akad nikah*. *Taklik talak* refers to a conditional divorce declaration that becomes effective upon the occurrence of specified conditions.⁶ Article 1(e) of the Compilation of Islamic Law (KHI) defines *taklik talak* as a pledge pronounced by the husband after marriage and recorded in the marriage certificate, whereby divorce is contingent upon certain future circumstances. Although reciting *taklik talak* is not mandatory, once declared, it

¹ Fitri Mustafa et al., "The Deconstruction of Marriage Law in Islam: A Critical Analysis of The Practice of Contract Marriage in The Modern Era: Dekonstruksi Hukum Perkawinan Dalam Islam: Analisis Kritis Terhadap Praktik Kawin Kontrak Di Era Modern," *Al Hairy | Journal of Islamic Law* 1, no. 1 (2025): 51–74.

² Ibnu Elmi A S Pelu and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ab: Journal of Islamic Studies* 59, no. 2 (2021): 287–316.

³ A Kumedi Ja'far and Agus Hermanto, "Reinterpretation Of The Rights And Duties Of Contemporary Husbands And Wives," *Samarab: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021): 648–67.

⁴ Abd Rouf, "Reevaluating the Legal Status of Misyār Marriage: Contextual Insights from Figures of the Indonesian Ulema Council in Malang City," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 14, no. 2 (2024): 232–60.

⁵ Abdillah Afabih et al., "Educational Alimony for Wives: A Study of Jasser Auda's Maqāshid As-Syariah," *International Journal of Islamic Khazanah* 16, no. 1 (2026): 1–15.

⁶ Asman Asman, Marilang Marilang, and Kurniati Kurniati, "Existence of Marriage Agreements in Islam Development Studies in the Community of Malay Border Indonesia-Malaysia," *Jurnal Ilmiah Al-Syir'ab* 19, no. 1 (2021): 16–29.

becomes legally binding and cannot be revoked.

In Indonesian Islamic family law, the violation of maintenance obligations is a significant ground for divorce. Article 116 of the KHI recognizes several grounds for divorce, including the husband's violation of *taklik talak*. The standard *sighat taklik talak* contained in the marriage certificate provides that a wife may seek divorce if the husband, among other violations, fails to provide mandatory maintenance for three consecutive months.⁷ Consequently, a wife may file for divorce on the basis that the husband has breached the agreed conditions of *taklik talak*.

However, a normative issue emerged following the issuance of Supreme Court Circular Letter (SEMA) No. 1 of 2022. To reinforce the principle of preserving marriage and making divorce more difficult, the Circular stipulates that divorce petitions based on a spouse's failure to fulfill maintenance obligations may only be granted if such failure has continued for at least twelve months. The regulation reflects the Supreme Court's commitment to protecting the institution of marriage by encouraging reconciliation and preventing hasty divorces.⁸ This approach is also grounded in the understanding that marriage constitutes a sacred and enduring covenant (*mitsaqan ghalizan*), the dissolution of which should not be based on temporary conflict or neglect.⁹

Nevertheless, the twelve-month requirement creates a normative discrepancy with Article 116 of the KHI and the *taklik talak* clause in the marriage certificate, which recognizes three months of non-maintenance as sufficient grounds for divorce.¹⁰ This divergence raises important legal questions regarding the relationship between substantive Islamic family law and judicial administrative guidelines.

The discrepancy is particularly evident in three aspects. First, while Article 116 of the KHI and the *taklik talak* clause constitute substantive legal norms, SEMA No. 1 of 2022 functions as an internal judicial guideline. Second, the KHI derives its authority from marital agreements and substantive family law, whereas SEMA primarily regulates judicial procedure. Third, there is a significant disparity in the required period of non-maintenance: three consecutive months under the *taklik talak* clause compared with twelve months under SEMA No. 1 of 2022.

This normative tension has the potential to create legal uncertainty, inconsistent judicial decisions, and challenges to substantive justice, particularly for economically vulnerable wives whose maintenance rights remain unfulfilled. Accordingly, it is necessary to examine the legal implications of the differing time

⁷ Hibnu Nugroho, "Kedudukan Taklik Talak Menurut Hukum Fikih Dan Kompilasi Hukum Islam," *Al-Bayyinah* 2, no. 1 (2018): 73–90.

⁸ Laurie S Kohn, "Justice Delayed by Design: The Harms of Our Protracted Divorce System," *Villanova Law Review* 70, no. 1 (2025): 169–218.

⁹ Kazi Abdul Mannan and Khandaker Mursheda Farhana, "The Significance and Procedure of Marriage: A Content Analysis of the Holy Qur'an," 2025.

¹⁰ Putri Cicilia Tambun, Novea Elysa Wardhani, and Syamhudian Noor, "Pertimbangan Hakim Pengadilan Agama Tentang Perceraian Dengan Alasan Pisah Rumah Singkat (Studi Putusan Nomor 375 Pdt. G/2024/PA. Plk)," *Al-Hikmah: Jurnal Agama Dan Ilmu Pengetahuan* 22, no. 1 (2025): 105–15.

limits for maintenance violations and their impact on the administration of justice within Indonesia's Religious Courts.

METHOD

This study employs a normative legal research method that examines legal norms derived from statutory regulations, court decisions, and relevant legal doctrines.¹¹ The method is used to address the normative inconsistency between Supreme Court Circular Letter (SEMA) No. 1 of 2022 and Article 116 of the Compilation of Islamic Law (KHI) regarding the time threshold for violations of maintenance obligations as grounds for divorce.

This research is descriptive-analytical in nature and aims to systematically explain the legal provisions governing maintenance obligations in Islamic family law while identifying differences in time requirements between the KHI and SEMA No. 1 of 2022.¹² Using a statutory and conceptual approach, the study examines key legal concepts, including maintenance obligations (*nafkah*), *taklik talak*, the principle of making divorce difficult, and the objectives of Islamic marriage law.

The primary legal materials include the Compilation of Islamic Law (KHI), Supreme Court Circular Letter No. 1 of 2022, Law No. 1 of 1974 on Marriage, and the *sighat taklik talak* as contained in the marriage certificate. Secondary legal materials consist of Islamic family law textbooks, academic journal articles, prior research, and scholarly opinions on Islamic marriage law. Tertiary materials are used to support interpretation and clarification.

Data collection is conducted through library research, involving the identification and analysis of statutory regulations, legal doctrines, and scholarly works on maintenance obligations, *taklik talak*, and divorce in Islamic family law.¹³

RESULTS AND DISCUSSION

Normative Disparity in the Regulation of Maintenance Violations

There is a fundamental disparity between Supreme Court Circular Letter (SEMA) No. 1 of 2022 and Article 116 of the Compilation of Islamic Law (KHI) regarding the time threshold for failure to provide maintenance (*nafkah*) as grounds for divorce. Under the KHI and the *taklik talak* clause in marriage certificates, the husband's failure to provide maintenance for three consecutive months constitutes a valid legal basis for a divorce claim under Article 116(g). This provision offers relatively immediate legal protection to wives whose economic rights are neglected.

From an economic perspective, the absence of maintenance for three months may result in significant material hardship for wives and children, particularly

¹¹ Nasir Majeed, Amjad Hilal, and Arshad Nawaz Khan, "Doctrinal Research in Law: Meaning, Scope and Methodology," *Bulletin of Business and Economics (BBE)* 12, no. 4 (2023): 559–63.

¹² Qadriani Arifuddin et al., *Metodologi Penelitian Hukum* (PT. Sonpedia Publishing Indonesia, 2025).

¹³ Mahanum Mahanum, "Tinjauan Kepustakaan," *ALACRITY: Journal of Education*, 2021, 1–12.

regarding basic needs such as food, clothing, housing, and education. As noted by Tihami and Sahrani, even short-term failure to provide maintenance can destabilize household economic security due to the continued financial dependence of wives on husbands.¹⁴ Such instability often extends to psychological impacts, including stress, anxiety, insecurity, and loss of trust. Drawing on Maslow's hierarchy of needs, unmet basic needs undermine psychological well-being and relational stability.¹⁵

In Islamic legal thought, maintenance is a fundamental moral and legal obligation arising from marriage and may only be suspended under specific conditions such as *nushūz*.¹⁶ Scholars such as Abdul Manan affirm that violations of maintenance obligations, as regulated through *taklik talak*, provide a legal basis for divorce claims under Article 116(g) of the KHI.¹⁷ Accordingly, failure to fulfill maintenance obligations directly affects marital continuity and may justify dissolution of marriage.

In contrast, SEMA No. 1 of 2022 requires proof of non-fulfillment of maintenance obligations for a minimum of twelve months before a divorce claim can be granted. This provision reflects a judicial policy aimed at preserving marital unity and discouraging divorce. The Supreme Court assumes that marital conflict, including economic neglect, may be temporary and potentially resolvable through reconciliation and reflection. From a conflict transformation perspective, as emphasized by Lederach, family disputes need not necessarily result in dissolution but may be managed through structured mediation and reconciliation processes. Similarly, SEMA provides temporal space for dialogue and potential improvement of circumstances before divorce is considered a last resort (*ultimum remedium*).

Furthermore, the twelve-month threshold is intended to establish procedural consistency and evidentiary objectivity in divorce adjudication. According to Tyler's theory of procedural justice, perceived fairness in legal processes is essential for maintaining legal legitimacy (Yunanto, 2019). Thus, SEMA seeks to prevent overly subjective or inconsistent judicial decisions by standardizing evidentiary requirements.

This normative divergence produces significant legal and socio-legal implications, as illustrated in the following table:

¹⁴ H M A Tihami and Sohari Sahrani, *Fikih Munakabat: Kajian Fikih Nikah Lengkap* (Rajawali Pers, 2010).

¹⁵ Yusuf Yahya, "Kontribusi Pemikiran Imam Syathibi Dan Abraham H. Maslow Tentang Kebutuhan Dasar Manusia," *Jurnal Al Mashaadir* 1, no. 2 (2020): 68–93.

¹⁶ Isniyatin Faizah, "Nafkah Sebuah Konsekuensi Logis Dari Pernikahan," *The Indonesian Journal of Islamic Law and Civil Law* 1, no. 1 (2020): 75–92.

¹⁷ Stijn Cornelis Van Huis, "Khul 'over the Longue Durée: The Decline of Traditional Fiqh-Based Divorce Mechanisms in Indonesian Legal Practice," *Islamic Law and Society* 26, no. 1–2 (2019): 58–82.

Aspect	KHI Article 116 & <i>Taklik Talak</i>	SEMA No. 1 of 2022	Legal Problem
Legal Basis	Article 116(g) KHI and <i>sighat taklik talak</i> in the marriage certificate	Supreme Court Circular Letter No. 1 of 2022	Normative conflict between substantive law (KHI) and judicial guideline (SEMA)
Nature of Regulation	Substantive and contractual (based on marital agreement and legal norms)	Procedural and internal judicial policy	Risk of SEMA shifting the substance of substantive family law norms
Time Disparity	Failure to provide maintenance for 3 consecutive months	Minimum 12 months of non-provision of maintenance	Significant time gap creates legal uncertainty

However, this divergence creates normative disparity within the religious court system, where judges must reconcile two competing legal orientations: the KHI, which emphasizes the protection of wives’ substantive rights, and SEMA, which prioritizes the preservation of marital unity and judicial consistency.

Implications of Disparity for Legal Certainty

The legal certainty of justice seekers is significantly influenced by uncertainty regarding time limits. According to Gustav Radbruch, one of the fundamental values of law, alongside justice and utility, is legal certainty. Legal certainty requires clear, consistent, and predictable rules to be applied.¹⁸ Uncertainty for justice seekers, particularly wives filing for divorce, arises from the disparity in the time limit for breach of maintenance obligations (*nafkah*) between the Compilation of Islamic Law (KHI) and Supreme Court Circular Letter (SEMA) No. 1 of 2022. In situations where the KHI provides a clear legal basis for breach of *taklik talak*, but judges prioritize SEMA as a judicial guideline, a conflict arises between substantive and procedural-administrative legal standards within the judiciary. This condition obscures legal certainty, as the parties find it difficult to predict court decisions.

Although the requirements of *taklik talak* as regulated in the KHI have been fulfilled, in judicial practice, religious court judges often refer to SEMA as a judicial guideline to delay the granting of divorce petitions on the grounds of non-provision of maintenance. In Hans Kelsen’s *Stufenbau des Rechts* theory, legal norms must

¹⁸ Robert Alexy, “Legal Certainty and Correctness,” *Ratio Juris* 28, no. 4 (2015): 441–51.

not contradict higher norms.¹⁹ The Compilation of Islamic Law, as substantive law, holds greater normative authority within the Indonesian legal system than SEMA, which is administrative and internal in nature. Problems with legal hierarchy arise when judges use SEMA as a basis to delay or reject divorce petitions, even though the requirements for breach of maintenance under the KHI have been met. This undermines legal certainty because legal practice no longer consistently refers to the norm that should serve as the primary reference.

This condition may result in divergent court decisions, even among panels of judges within the same court. Lon L. Fuller emphasizes that good law must satisfy the moral principles of law, including consistency, clarity, and absence of contradiction.²⁰ Normative inconsistency that affects procedural legal certainty indicates the absence of a clear and definite time limit regarding breaches of maintenance obligations. When judges apply different rules selectively, justice seekers are left uncertain about procedures and evidentiary requirements. The principle of *lex certa*, which demands clarity of legal norms, particularly in relation to the wife's fundamental rights to maintenance and livelihood, is contradicted by this legal uncertainty.

Impact on Substantive Justice for Wives

The findings of this study, from a substantive justice perspective, indicate that the application of the 12-month time limit stipulated in SEMA No. 1 of 2022 may disadvantage wives, particularly those in economically vulnerable conditions. Delays in access to divorce also mean delays in obtaining rights such as legal status certainty, post-divorce maintenance rights, and other related entitlements.

John Rawls emphasizes that justice is not only measured by compliance with rules, but also by how those rules affect the most vulnerable or disadvantaged groups.²¹ If a 12-month time limit is imposed under SEMA No. 1 of 2022, it may violate this principle because it places financially dependent wives in an unfavorable position. Access to legal status certainty and post-divorce rights is delayed by divorce proceedings, substantively worsening the justice position of the party that should be protected.

In the context of Islamic law, maintenance (*nafkah*) is not merely a material obligation but part of the preservation of the five fundamental principles known as *al-ḍaruriyyat al-khams*, as stated by Al-Ghazali. These include *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-ʿird* (protection of dignity). In Islamic law, maintenance is not only an economic obligation but also a means of safeguarding life and dignity. Therefore, legal policies that delay the fulfillment of maintenance rights or access to divorce may conflict with *maqāṣid al-sharīʿah*, as they neglect the protection of basic human needs

¹⁹ Hans Kelsen, *General Theory of Law and State* (Routledge, 2017).

²⁰ Najmadeen Ahmed Muhamad, "The Legal Philosophy of Lon L. Fuller: Profile," *Fuller: Profile* (December 15, 2020). *The Social Contract Journal SCJ*, 2020.

²¹ Samuel Freeman, "Rawls on Distributive Justice and the Difference Principle," *The Oxford Handbook of Distributive Justice*, 2018, 13–40.

and dignity.²² Accordingly, excessively long time restrictions may contradict the fundamental objectives of Islamic law (*maqāṣid al-sharīʿah*), which prioritize the protection of vulnerable parties.

The Principle of Making Divorce More Difficult and Its Limitations

Supreme Court Circular Letter (SEMA) No. 1 of 2022 establishes that making divorce more difficult is a means of preserving the integrity of marriage. Muhammad Abu Zahrah views marriage as a *mitsāqan ghalīẓan* (a solemn covenant), which carries legal, moral, and spiritual dimensions. Therefore, divorce is not prohibited in Islam; rather, it is regarded as a last resort after all reconciliation efforts have been exhausted. Abu Zahrah emphasizes the importance of maintaining family integrity for the welfare of both the family and society, and the principle adopted in SEMA No. 1 of 2022 is in line with this view. However, Abu Zahrah also stresses that the sacredness of marriage must be preserved through the balanced fulfillment of rights and obligations, rather than by maintaining a marital bond that has substantively deteriorated due to the neglect of fundamental obligations such as maintenance (*nafkah*).

Nevertheless, the principle of making divorce more difficult cannot be applied comprehensively without considering the nature of the violation. Continuous non-fulfillment of maintenance obligations is more than a marital conflict; it constitutes a legal and moral failure that directly affects the health and well-being of wives and children. Abdullahi Ahmed An-Na'im argues that contemporary Islamic family law must be reinterpreted in line with human rights, particularly the protection of women and children. Rights to welfare and human dignity may be violated if divorce is delayed by excessively long procedural delays, without adequate mechanisms to protect maintenance rights. Therefore, principles that aim to preserve marriage must be limited by the principle of protecting fundamental rights within the family.

Normative Relationship and Harmonization between SEMA and KHI

SEMA functions as an internal guideline of the Supreme Court, while the Compilation of Islamic Law (KHI) constitutes substantive law applied within the religious courts. According to Hans Kelsen's *Stufenbau des Rechts* (hierarchy of norms), the legal system consists of multiple levels, where lower norms must derive their validity from higher norms and must not contradict them. KHI, as substantive law applied in religious courts, has stronger normative authority in this context compared

²² Syed Marwan Mujahid Syed Azman and Engku Rabiah Adawiah Engku Ali, "Islamic Social Finance and the Imperative for Social Impact Measurement.," *Al-Shajarah: Journal Of The International Institute Of Islamic Thought & Civilization*, 2019.

to SEMA, which is an internal administrative regulation. If SEMA is used to override or modify the substance of KHI provisions, this contradicts Kelsen's principle of normative hierarchy.

Paul Scholten emphasizes that legal interpretation must be contextual and systemic rather than partial.²³ SEMA should not be interpreted in isolation in a way that obscures the applicability of KHI as substantive law. Instead, SEMA must be understood within the broader national legal system and Islamic legal framework. With such a proportional interpretation, the Islamic marriage law system in Indonesia remains coherent and consistent. Therefore, according to Bagir Manan, judicial decisions must not exceed normative authority,²⁴ and SEMA should function as a tool to support judicial prudence rather than to eliminate or delay rights guaranteed under KHI. Internal guidelines such as SEMA are intended to enhance judicial caution, not to create new legal rules that restrict the parties' rights. Thus, while SEMA provides methodological guidance, judges in religious courts must still rely on KHI as the substantive legal basis for adjudication. A proportional interpretation helps prevent normative conflict and preserves consistency within Indonesia's Islamic family law system.

Harmonization between SEMA No. 1 of 2022 and Article 116 of KHI is essential to uphold the principle of making divorce more difficult while protecting wives' maintenance rights. Jimly Asshiddiqie emphasizes that a strong legal system requires regulatory harmonization to avoid normative conflicts that create legal uncertainty.²⁵ Harmonization does not necessarily mean uniformity; rather, it involves placing each norm within its proper scope and function.²⁶ In this context, SEMA No. 1 of 2022 and Article 116 of KHI can be harmonized by positioning SEMA as a technical guideline for evidentiary assessment, while KHI continues to function as substantive law governing the rights and obligations of spouses. One possible alternative is to apply the twelve-month threshold as a standard for proving general marital disputes, while maintaining the three-month threshold for clear and contractual breaches of *taklik talak*.

²³ A Scholten, "Peripheral Fictions? The Transregional Dimensions of Dutch Regional Writing, 1843-1919" (sl: sn, 2025).

²⁴ Nurus Zaman, "Constitution in Legal Political Perspective," *Trunojoyo Law Review* 4, no. 1 (2022): 45–68.

²⁵ Agung Barok Pratama et al., "Mining Concession Policy for Religious Organizations in Indonesia: An Analysis of Vertical Inconsistencies in the Norm Hierarchy Framework," *Al-Mazaahib: Jurnal Perbandingan Hukum* 14, no. 1 (2026): 82–96.

²⁶ Muhammad Wahdini et al., "Harmonization of Customary Law, Green Constitution and Green Fatwa: Case Forest Burning and Land for Agriculture in Central Kalimantan," *Mazhabibuna: Jurnal Perbandingan Mazhab*, 2025, 138–56.

Bagir Manan emphasizes that judicial decisions must be made reasonably and fairly. As a judicial guideline, SEMA is intended to enhance judicial prudence in evaluating evidence, not to eliminate legal rights established under KHI. When combined with a contextual approach, judges can balance the protection of the institution of marriage with justice for the disadvantaged party. A rational and equitable normative method is therefore the harmonization between SEMA No. 1 of 2022 and Article 116 of KHI. Islamic family law can function in a protective, fair, and consistent manner while preserving marital integrity without sacrificing wives' fundamental rights to maintenance. This is achieved by distinguishing between the 12-month and 3-month thresholds depending on the type of violation. Thus, Islamic family law not only preserves the integrity of marriage but also ensures substantive justice and legal certainty for the affected party.

Table II. Research Findings Framework

Research Focus	Findings	Legal Implications
Disparity in Time Regulation	KHI sets 3 months of maintenance violation as grounds for divorce, while SEMA requires 12 months	Normative conflict and inconsistency in religious court practice
Impact	3-month maintenance violation creates economic vulnerability for wives and children	Economic dependence and household instability
	Maintenance violation triggers stress, anxiety, and insecurity	Impacts mental health and marital relations
Legal Certainty and Substantive Justice for Wives	Different time thresholds cause inconsistency in judges' decisions	Justice seekers cannot predict court outcomes
Normative Relationship between SEMA and KHI	The 12-month threshold may disadvantage vulnerable wives	Delays in divorce worsen wives' legal position
	SEMA is administrative, KHI is substantive law	SEMA must not override KHI substance
Need and Model of	Functional separation of	Prevents

Research Focus	Findings	Legal Implications
Normative Harmonization	norms is required	normative conflict and ensures legal consistency
	12 months for general disputes, 3 months for <i>taklik talak</i>	Ensures substantive justice and legal certainty

CONCLUSION

There is a significant normative disparity between Article 116 of the Compilation of Islamic Law (KHI) and Supreme Court Circular Letter (SEMA) No. 1 of 2022 regarding the time threshold for breach of maintenance obligations as grounds for divorce. The KHI provides relatively faster legal protection for wives by stipulating a three-month threshold for non-payment of maintenance, particularly in the context of explicit, contractual *taklik talak* violations. In contrast, SEMA No. 1 of 2022 establishes a 12-month evidentiary standard to make divorce more difficult and preserve marital unity. This discrepancy creates legal uncertainty for justice seekers, especially wives filing for divorce due to the non-provision of maintenance, as, in judicial practice, judges tend to rely on SEMA as a judicial guideline, which may delay the granting of divorce petitions. This condition not only contradicts the principles of legal certainty and normative hierarchy but also potentially disadvantages economically vulnerable wives and delays legal status certainty and post-divorce rights. From the perspective of *maqāṣid al-shari'ah*, this situation is also problematic as it may undermine the protection of *ḥijz al-naḥs* (protection of life) and *ḥijz al-'ird* (protection of dignity), given that maintenance (*naḥkah*) is a fundamental obligation of the husband with legal, moral, and spiritual dimensions. Therefore, this study contributes by affirming that SEMA should be positioned as a technical guideline supporting judicial prudence rather than a norm that overrides the substantive rights of wives guaranteed under the KHI, and by proposing a normative harmonization framework between SEMA and KHI to maintain consistency in Indonesia's Islamic marriage law system and to realize substantive justice.

As a normative implication, it is necessary to strengthen the Supreme Court's policy measures to ensure that SEMA No. 1 of 2022 is not interpreted beyond its function as an internal guideline that alters the substance of material legal norms in the KHI, particularly in divorce cases involving breach of maintenance. Furthermore, religious court judges are expected to adopt a contextual and proportional interpretative approach, namely by using the twelve-month threshold as an evidentiary standard in general marital disputes. In contrast, in cases of explicit and contractual *taklik talak* violations, the three-month threshold as stipulated in Article

116 of the KHI should remain the primary legal basis for adjudication. Thus, the main contribution of this study lies in formulating a normative harmonization model between SEMA and KHI that not only preserves legal certainty but also ensures substantive justice for parties adversely affected in divorce cases due to non-fulfillment of maintenance obligations.

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