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# Between Regulation and Reality: Implementation of SEMA Number 2 of 2019 in Protecting Women's Rights Post-Divorce at the Batusangkar Class 1B Religious Court

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**Abstract**

*The central issue of this thesis lies in the discrepancy between the provisions of SEMA No. 2 of 2019 and its application in judicial practice, resulting in the protection of women's rights following divorce at the Batusangkar Class IB Religious Court not being fully consistent. The objectives of this study are to examine and analyze the implementation practices of SEMA No. 2 of 2019, identify the factors hindering and supporting the implementation of SEMA No. 2 of 2019, and assess the implications of implementing SEMA No. 2 of 2019 on the fulfillment of women's economic rights and legal certainty following divorce. The research design employed is an empirical legal study using a descriptive-analytical approach. The sources of data in this study include primary and secondary data. Data collection techniques utilized include interviews and document analysis. The data analysis techniques used are data reduction, data display, and drawing conclusions. The technique used to ensure data validity is data source triangulation. The research findings indicate that SEMA No. 2 of 2019 has, in principle, been used as a guideline by judges at the Batusangkar Class 1B Religious Court; however, its application has not been consistent because,*



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*in some cases, the obligation to provide alimony has been specified in the judgment, yet the divorce certificate was issued before that obligation was fulfilled. The judges' considerations in such circumstances are generally based on pragmatic and sociological reasons, such as the wife's request, the need for legal certainty regarding the parties' status, humanitarian considerations, as well as the former husband's economic condition or the existence of an agreement between the parties. The application of SEMA is supported by a clear legal basis, the inclusion of the alimony obligation in the judgment, the husband's good faith, and the court's internal policies; however, it still faces obstacles such as the absence of parties, the lack of claims by the wife, the public's low legal literacy, and the weak enforcement mechanisms for post-divorce alimony. These conditions have implications for the fulfillment of women's economic rights, the issuance of divorce certificates, and legal certainty and substantive justice in religious court practice.*

***Keywords: SEMA 2/2019, Women's Rights, Post-Divorce***

## INTRODUCTION

Marriage in the Indonesian legal system is a physical and spiritual bond between a man and a woman that aims to form a happy and eternal family based on the One Almighty God as stated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage. From an Islamic perspective, marriage is seen as a mitsaqan ghalidzan or a strong agreement so that when a divorce occurs it will have legal consequences in the form of rights and obligations that must still be fulfilled by the parties, especially for women after the divorce.(Efendi, 2020);(Prianto & Ambarwati, 2025)Therefore, divorce is not only understood as the termination of the marital relationship, but also relates to the protection of women's rights, such as the iddah (waiting period), mut'ah (waiting for temporary dowry), and madhiyah (waiting for the period of marriage). Article 117 of the Compilation of Islamic Law explains that a divorce is valid if it is filed before a Religious Court, thus ensuring the fulfillment of women's rights after a marriage breaks down (Prasetyo, 2021).

The Supreme Court of the Republic of Indonesia, through Supreme Court Circular Letter (SEMA) Number 2 of 2019, seeks to strengthen the protection of women's rights after divorce by emphasizing that the husband's obligations in the form of payment of iddah, mut'ah, and madhiyah maintenance must be fulfilled before obtaining a divorce certificate. This policy is an implementation of Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law, which aims to provide substantive justice



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for women.(Putri & Izzuddin, 2022a)The presence of the SEMA indicates a paradigm shift in religious court practices, where divorce certificates are no longer viewed merely as administrative documents, but also as legal instruments to guarantee the implementation of women's rights after divorce.(Kurniawan et al., 2022).

Although the protection of women's rights after divorce is clearly regulated, practice in the field shows a different situation. Data from the Batusangkar Class IB Religious Court for 2023–2025 shows a high divorce rate, with a predominance of contested divorce cases over divorce by divorce by divorce. Of the total 1,715 divorce cases, 1,306 were contested divorces. This high number indicates increasing domestic conflict, which has implications for the fulfillment of women's rights after divorce. Furthermore, the majority of contested divorce cases result in default decisions, which only grant the divorce without accommodating women's economic rights, such as iddah (waiting period), mut'ah (staying period), and madhiyah (religious service).(Nabillah et al., 2022).

A similar phenomenon was also found in divorce cases. Of the 409 divorce cases during the 2023–2025 period, only 114 included an order for iddah maintenance. Furthermore, of these cases, there were 11 cases where the divorce certificate was submitted before the iddah maintenance was paid. This situation indicates that the implementation of SEMA Number 2 of 2019 at the Batusangkar Religious Court has not been optimal. There is a gap between legal norms (das sollen) and the reality of judicial practice (das sein), resulting in the protection of women's rights after divorce not being fully fulfilled.(Fasil et al., 2023).

Research on the implementation of SEMA Number 2 of 2019 is crucial because it directly relates to the effectiveness of legal protection for women after divorce. When the iddah (waiting period) is not met before the divorce certificate is issued, women become economically and legally vulnerable. Once the divorce certificate is issued, the legal relationship between husband and wife formally ends, making it increasingly difficult for women to assert their rights. Therefore, the implementation of SEMA Number 2 of 2019 requires in-depth study to determine the extent to which this policy is able to guarantee the protection of women's rights in religious court practices.(Fauziyah et al., 2023).

Furthermore, the urgency of this research lies in the importance of evaluating the consistency of the implementation of Supreme Court policies by Religious Court judges. As the official guideline for judicial institutions, the SEMA should serve as the primary reference in maintaining uniformity in legal practice and protecting the rights of justice seekers. However, empirical evidence indicates that normative, administrative, and sociological barriers persist that


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impact its implementation, such as low legal awareness on the part of husbands, limited court authority in enforcing decisions, and the absence of consistent operational standards regarding the submission of divorce certificates and the payment of iddah maintenance. These conditions make this research relevant for contributing to strengthening the legal protection system for women after divorce in the religious court environment.

The novelty of this research lies in its focus on the effectiveness of the implementation of SEMA Number 2 of 2019 in the practice of submitting divorce certificates at the Batusangkar Class IB Religious Court. This research not only examines the legal norms related to the obligation to pay iddah maintenance, but also empirically examines how the mechanism for implementing this regulation is implemented by judges and court officials. Furthermore, this study presents concrete data on the relationship between iddah maintenance decisions and the practice of submitting divorce certificates before fulfilling the obligation, a practice rarely examined in previous research.

This research also offers a new perspective by positioning the divorce certificate as an instrument for protecting women's rights, rather than simply an administrative document. Therefore, this research is expected to make academic and practical contributions to the development of Islamic family law, particularly regarding strengthening mechanisms for protecting women's rights after divorce by optimizing the implementation of SEMA Number 2 of 2019.

The research gap in this study lies in the discrepancy between normative provisions and empirical reality regarding the implementation of the iddah maintenance obligation before the submission of a divorce certificate. Most previous studies have focused more on the protection of women's rights after divorce from a normative and conceptual perspective, without in-depth examination of the technical implementation of SEMA Number 2 of 2019 at the Religious Court level. However, practice in the field shows that in some divorce cases, the divorce certificate is still submitted before the iddah maintenance obligation is fulfilled, despite the Supreme Court's explicit regulation.

Furthermore, previous research has generally not addressed the factors hindering the implementation of SEMA Number 2 of 2019, whether from a legal, administrative, or sociological perspective. Therefore, this study aims to fill this gap by empirically analyzing the implementation of SEMA Number 2 of 2019 at the Batusangkar Class IB Religious Court, the obstacles encountered in its implementation, and its implications for the protection of women's rights after divorce.



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**METHODOLOGY**

This research is an empirical legal research with a descriptive analytical approach that aims to examine the effectiveness of the implementation of the Supreme Court Circular Letter (SEMA) Number 2 of 2019 at the Batusangkar Class IB Religious Court in guaranteeing the fulfillment of iddah maintenance before the submission of a divorce certificate. The empirical legal approach is used to see how legal provisions are applied in judicial practice, particularly regarding the protection of women's rights after divorce. This research was conducted at the Batusangkar Class IB Religious Court because a gap was found between normative provisions and the reality of implementation in the field regarding the fulfillment of iddah maintenance before the submission of a divorce certificate. The research period was carried out from September 2025 to February 2026 which included the stages of initial research, proposal preparation, proposal seminar, field research, writing of research results, and munaqasyah. The data sources in this study consist of primary data and secondary data. Primary data were obtained through interviews with judges, clerks, administrative officers for the submission of divorce certificates, and parties who had divorce cases at the Batusangkar Religious Court. Secondary data was obtained through literature studies in the form of laws and regulations, scientific journals, books, legal articles, and court decisions relevant to the research.

The data collection technique in this study was carried out through semi-structured interviews and documentation. Interviews were used to obtain in-depth information regarding the implementation of SEMA Number 2 of 2019, the obstacles encountered, and the mechanism for fulfilling the iddah maintenance before the submission of the divorce certificate. Meanwhile, documentation was conducted by collecting various documents such as court decisions, case administration reports, and data on the implementation of iddah maintenance payments related to the research object. Data analysis was conducted descriptively and qualitatively using a deductive approach through three stages: data reduction, data presentation, and drawing conclusions or verification. Data reduction was carried out by selecting and simplifying relevant data, then the data was presented in a systematic narrative form for easy understanding. Furthermore, conclusions were drawn gradually throughout the research process to obtain valid, objective, and scientifically accountable research results.



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## RESULTS AND DISCUSSION

### Implementation of SEMA Number 2 of 2019 in the Practice of Decisions and Fulfillment of Women's Rights Post-Divorce

The implementation of Supreme Court Circular Letter (SEMA) Number 2 of 2019 in religious court practice shows that there are institutional efforts to strengthen the protection of women's rights after divorce, especially economic rights in the form of maintenance.(Naufal, 2025). Maintenance is linguistically known as expenditure of assets or anfiqu (إنفاق), reduction of ownership or nafaqa (نفك), fulfillment of needs or fāqa (فاق), consumptive nature that is used up or fanā (فني), and adjusted to the ability of the provider or faḍala (فضل). This etymological meaning is an important basis for the construction of the concept of maintenance in Islamic jurisprudence and family law, including in the regulation of wife's maintenance in the form of iddah maintenance, madhiyah maintenance, and mut'ah after divorce.(Irfan, 2023)

النَّ.فَقَةُ شَرْعًا :تَ.وْفِيْر مَا يَتَّاجُ إِلَيْوِ God willing

*"According to Islamic law, sustenance is the provision of a person's needs in the form of food, clothing and shelter in a proper manner."*(az-Zuḥailī)

A valid divorce is one conducted in a proper judicial institution and has legal consequences that must be enforced. Through Circular Letter No. 2 of 2019, the Supreme Court affirmed the judge's authority to not only determine the obligation to provide iddah, mut'ah, and madliyah maintenance in the verdict, but also to link the fulfillment of these obligations to the submission of the divorce certificate. This policy does not create a new norm, but rather strengthens the effectiveness of existing norms by providing a progressive procedural instrument.(Saputra, 2025).

SEMA Number 2 of 2019 is basically intended as a judicial guideline for judges so that they are not only oriented towards the formal settlement of divorce cases, but also ensure the fulfillment of the substantive rights of parties who are socially and economically in a vulnerable position, namely women, the rules for post-divorce maintenance are also clearly regulated in Article 149 of the KHI and Article 41 of Law Number 1 of 1974, it is explained that after a divorce, women are still entitled to their rights for their welfare, namely iddah and mut'ah maintenance, and other rights with the aim of ensuring that women do not suffer during the iddah period and as a consolation for the fact that they have been divorced(Nurhasnah, 2024)This right can be claimed through the Religious Court (reconventional process), by requesting a desired nominal amount, but adjusted to the needs and not excessive.

The finding of 11 cases where divorce certificates were still submitted even though the obligation to provide support had not been fully fulfilled, 8 of which cases did not have a request



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from the woman, but the judge still included the right to support in the decision, which indicates that the judge did not apply SEMA Number 2 of 2019 mechanically, but through the use of judicial discretion. This discretion is evident in the judge's consideration pattern which weighs between normative compliance with SEMA and the concrete factual conditions faced by the parties. In this context, the judge's discretion departs from the understanding that SEMA Number 2 of 2019 is an internal guideline of the Supreme Court which is administratively and ethically binding, but still must be operationalized through a casuistic assessment of the case.

Judges serve not only as mouthpieces of the law, but also as judicial actors empowered to assess the feasibility, economic capacity, and concrete circumstances of the parties in order to reach a just decision. Analyzed through a progressive legal framework, the practice of judicial discretion can be understood as an effort to position the law as a means to achieve substantive justice, not merely as a formal goal. Progressive law views the application of the law as inseparable from the social, humanitarian, and real-world contexts of those seeking justice. As Satjipto Rahardjo put it, he positions the law as a tool to achieve substantive justice, not merely normative certainty.(Rahardjo, 2009).

Judges cannot be passive, but are required to explore, follow, and understand the values of justice that exist in society. The interpretation of a rule or law can lead to legal discoveries by connecting events or by delving deeper into legal facts during the trial process, which can then be compared and viewed from the perspective of applicable legal provisions.(Wafiroh, 2023)Progressive law, as proposed by Satjipto Rahardjo, holds that law is created for humans, not humans for the law. Therefore, law enforcement must not stop at the rigid application of normative texts, but must be oriented toward substantive justice, humanity, and the public interest.

This aligns with the principle of al-maslahah in Islamic law, which considers the benefit and prevents harm for both parties. The purpose of this procedure is to provide justice, legal protection, and ensure the arrangement of rights and obligations after divorce.(Wahyudani & Firdaus, 2026)In this context, the court not only acts as a legal institution, but also as an institution that guarantees the values of justice and welfare for families in conflict.

The implementation of Circular Letter No. 2 of 2019 at the Batusangkar Class 1B Religious Court has essentially been implemented and used as a guideline by judges in deciding divorce cases. The majority of cases demonstrate a correspondence between the verdict and the implementation of the iddah and mut'ah maintenance obligations. The findings of 11 cases in the study where divorce certificates were submitted even though these obligations had not been fully


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fulfilled reflect the use of judicial discretion in responding to certain factual conditions, not merely non-compliance with the Circular Letter. From a progressive legal perspective, this discretionary practice demonstrates the judge's efforts to balance legal certainty and the social realities of the parties. However, this condition also indicates limitations in the mechanism for implementing the decision, particularly regarding the effectiveness of fulfilling the iddah and mut'ah maintenance obligations, so that the normative objective of Circular Letter No. 2 of 2019 in providing substantive protection for women after divorce has not been fully realized optimally.

**Judges' Considerations in the Implementation of SEMA Number 2 of 2019**

A judge's discretion in considering a case is an essential part of a court decision, reflecting the judge's thought process in assessing facts, applying the law, and achieving justice. In Islamic civil cases, including divorce, judges use considerations based not only on positive law but also on Islamic law and substantive justice values.(Pian, 2021). Theoretically, according to Gustav Radbruch in his writing(Rizkiana & Yunanto, 2020)teaches that the law must contain 3 (three) basic values, namely the value of justice (philosophical aspect), the value of certainty (juridical aspect), and the value of utility (sociological aspect) which then become the basic aspects for judges' considerations in examining, trying and deciding cases.(Rizkiana & Yunanto, 2020).

The regulations related to SEMA No. 2 of 2019 are not applied mechanically, but rather through a judicial assessment process that considers the relationship between normative provisions, the factual circumstances of the parties, and the goal of protecting women's rights after divorce. Judges generally use SEMA No. 2 of 2019 as a guideline in formulating decisions, particularly regarding the determination of iddah and mut'ah maintenance.(Basri, 2025)and the regulation of the submission of divorce certificates. However, in practice, the judge's considerations are also influenced by concrete factors during the trial process, as well as considerations of legal certainty. These factors shape the judge's discretion in determining the extent to which the SEMA provisions are strictly applied or adapted to the circumstances of the case. Judicial discretion is used because written law has limitations in anticipating the full complexity of concrete issues, including divorce cases in religious courts, which are fraught with social, economic, and psychological dimensions.(Ihzafitri et al., 2022).

Judges use considerations that are not only based on positive law, but also on spiritual beliefs and real-life values in court.(Alva, 2023)Theoretically, the judge's considerations consist of legal, sociological, and philosophical considerations. The Batusangkar District Court Judge's considerations are generally based on pragmatic and sociological reasons for the woman's


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request.

1. In religious court practice, judges generally still adhere to the principle of ne ultra petita. This demonstrates a pragmatic approach by judges, whereby post-divorce protection of women's rights can only be optimized if supported by a firm request from the parties concerned. If the woman does not request her rights, the judge will not impose the husband's obligation regarding wife support in the ruling.
2. The need for certainty regarding the parties' legal status. This approach is pragmatic because judges seek to avoid potential legal stagnation, which could be detrimental to the parties, such as delays in issuing a divorce certificate or executing a divorce declaration, or failure to fulfill alimony obligations stipulated in the court decision for extended periods, even exceeding six months.
3. Humanitarian considerations and prudence. Judges not only assess cases from a normative perspective, but also consider the psychological conditions of the parties, the potential for further conflict, and the social impact of the decision.(Putri & Izzuddin, 2022b)The judge's caution is reflected in his efforts to determine a verdict that does not create an excessive burden or new conflicts after the divorce.
4. The ex-husband's economic situation or the agreement and consent of both parties. In practice, judges often adjust the woman's rights to the ex-husband's actual economic situation or to the agreement and consent of both parties, which are taken into account in sociological considerations.

The judge's considerations in a case cannot be separated from the judge's independence as a basic principle that ensures that the judge can examine, try and make decisions in cases based on law and justice freely, without any interference.handfrom any party(Arifin, 2024)However, judicial independence is not unlimited. Judges remain bound by the national legal system, the principles of justice, and the judicial policies issued by the Supreme Court.

**Supporting and Inhibiting Factors in the Implementation of SEMA Number 2 of 2019 in Protecting Women's Rights Post-Divorce**

The implementation of this SEMA has several supporting factors that strengthen its implementation in protecting women's rights after divorce. These factors stem from legal, social, and institutional aspects, which can increase the effectiveness of SEMA in the context of Religious Courts in Indonesia. The supporting factors for the implementation of SEMA Number 2 of 2019 include:


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1. Supporting factors

The implementation of Supreme Court Circular Letter (SEMA) Number 2 of 2019 in judicial practice at the Batusangkar Class 1B Religious Court is inseparable from several factors that support its effective implementation. First, the existence of a clear and integrated legal basis is a key factor strengthening the implementation of SEMA. The existence of SEMA, supported by the Marriage Law and the Compilation of Islamic Law, provides normative legitimacy for judges to include the obligation of child support in divorce decisions.

Thus, judges have a strong legal basis to not only decide divorce cases, but also ensure the protection of women's economic rights after divorce, as regulated in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which requires judges to explore, follow, and understand the legal values and sense of justice that exist in society. This provision provides space for judges not to be rigidly bound by the formalities of procedural law, but to prioritize substantive justice.(Rizkiana & Yunanto, 2020).

*Second*, there is a progressive awareness and perspective from judges in understanding the importance of protecting women's rights. This is reflected in the practice where judges do not merely passively await the demands of the parties, but in some cases actively use judicial discretion to determine maintenance obligations even though the woman has not requested it. This approach demonstrates an orientation toward substantive justice, where judges strive to bridge the gap between formal law and the social realities faced by women after divorce. In the context of women's rights, legal protection is defined as legal guarantees provided by the state to protect women from discrimination, violence, injustice, and violations of women's rights, both in the public and private spheres, including within the institutions of marriage and divorce.

*Third*The existence of internal policies and court administrative practices that support the implementation of the SEMA is also a crucial factor. In some cases, there have been efforts to link the fulfillment of alimony obligations to the administrative process, including the submission of the divorce certificate. Although not yet fully consistent, this practice demonstrates institutional awareness of utilizing judicial procedures as an instrument of legal protection. The policy implemented by the Batusangkar Religious Court to support the implementation of the SEMA serves as a preventive measure and ensures that the parties are aware of their rights and obligations, in accordance with Decree No. 1669/DJA/HK.00/5/2021 of the Directorate General of Religious Courts concerning Guarantees for the Fulfillment of the Rights of Women and Children Post-Divorce.

*Fourth*, the factor of good faith from the husband in carrying out the obligation of


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maintenance also contributes to the effectiveness of the implementation of SEMA. In the majority of cases studied, the obligation of maintenance had been fulfilled before the submission of the divorce certificate, which shows that the success of the implementation of legal norms is not only determined by law enforcement officials, but also by the legal awareness of the parties involved in the case.(Damayanti et al., 2025)Thus, the husband's good faith acts as a bridge between the legal norms outlined in the decision and the justice experienced by the woman after the divorce.

Although the implementation of SEMA Number 2 of 2019 has been supported by various factors that support the protection of women's rights after divorce, in practice, a number of inhibiting factors are still found that affect the effectiveness of its implementation in court.

2. Inhibiting Factors

On the other hand, the implementation of SEMA Number 2 of 2019 still faces various obstacles that hinder the optimal protection of women's rights after divorce. First, the absence or inactivity of the parties in court is a major obstacle. In many cases, particularly those decided by default, the woman is absent or does not file a claim regarding her rights, limiting the judge's ability to include alimony obligations in the verdict. Furthermore, the husband's absence from court also impacts the suboptimal mediation and amicable settlement efforts, which should be part of the legal process in religious courts.

*Second*The absence of women's rights demands is also a significant factor. Normatively, the Supreme Court's Circular Letter emphasizes the importance of including rights in decisions through petitions or lawsuits. However, in practice, many women do not understand their rights or do not have access to legal aid, so these rights are not requested and ultimately not included in the decision. In the context of implementing Supreme Court Circular Letter Number 2 of 2019, the panel of judges is actually given the space to use ex officio authority to determine women's rights even though they have not been requested.(Wahidah, 2024)However, in practice, not all judges exercise this authority to the fullest. Some judges still adhere to the principle of prudence and the ultra petita principle, thus tending to limit their rulings to what the wife explicitly requests.

*Third*Low levels of public awareness and understanding of the law exacerbate this situation. Many women do not understand their rights to iddah (waiting period), mut'ah (waiting period), or madhiyah (waiting period) after divorce. This results in suboptimal legal protection due to a lack of support from those who should be protected.(Afifah, 2023)in his article "Progressive Legal Review of SEMA No. 2 of 2019 Concerning Support in Divorce Cases" Lack of legal knowledge in the community is an inhibiting factor that not only affects the substance of the decision, but also the effectiveness of its implementation. This obstacle shows that the successful


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implementation of SEMA Number 2 of 2019 cannot be separated from efforts to increase public legal awareness on an ongoing basis. This finding emphasizes the need for synergy between judicial institutions, government, and civil society in providing legal education so that the protection of women's rights after divorce does not stop at the normative level, but is truly realized in practice.

*Fourth*The weak enforcement mechanism for court decisions is a crucial structural obstacle. Although the obligation to provide support is stipulated in the court decision, there is no effective mechanism to ensure that this obligation is actually fulfilled before the divorce certificate is issued. As a result, in some cases, the divorce certificate is still issued even though the support obligation has not been fulfilled, ultimately weakening women's legal standing. The absence of firm sanctions in court regulations regarding the execution of support after divorce indicates a structural gap in the system of protecting women's rights.

These findings confirm that the implementation of SEMA Number 2 of 2019 is not fully supported by a regulatory framework capable of ensuring compliance with court decisions. Therefore, strengthening policies and law enforcement mechanisms is needed that not only emphasize normative obligations but also provide effective sanctions and enforcement instruments to ensure the fulfillment of women's rights after divorce.

*Fifth*, there are pragmatic and sociological considerations by judges that in some situations actually become inhibiting factors. Considerations such as the need for certainty of the parties' legal status, the economic condition of the ex-husband, and the existence of an informal agreement between the parties are often reasons for submitting a divorce certificate even though the obligation to provide child support has not been fulfilled. This indicates a tug-of-war between formal legal certainty and substantive justice in judicial practice. The failure to pay child support during the iddah period despite being stipulated in the verdict is not primarily caused by a lack of legal basis, but rather by weak enforcement mechanisms and the empirical conditions of the parties. This phenomenon demonstrates the gap between the law as a written norm and the law in social reality. Furthermore, the use of judicial discretion becomes relevant in situations where the husband is absent, uncooperative, or shows bad faith.

**Implications of SEMA Practice Number 2 of 2019 on the Fulfillment of Women's Rights Post-Divorce and Submission of Divorce Certificates**

The implementation of Circular Letter No. 2 of 2019 at the Batusangkar Class IB Religious Court has significant implications for the practice of fulfilling women's rights after divorce,


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particularly in relation to the determination of the obligation to provide for the iddah, mut'ah, and madhiyah periods, as well as the mechanism for submitting divorce certificates. This Circular Letter has become a normative reference for judges in formulating decisions that are more protective of women, thus conceptually strengthening women's legal position in divorce cases.

1. Implications for the Fulfillment of Women's Economic Rights Post-Divorce

In practice, SEMA Number 2 of 2019 encourages panels of judges to actively include women's economic rights in their decisions, either at the request of the parties or through the use of the judge's ex officio authority.(Ihzafitri et al., 2022). The positive implication of this practice is the increased consistency of the inclusion of post-divorce maintenance in decisions compared to before the enactment of SEMA Number 2 of 2019. Weak execution mechanisms, absence and non-cooperation of the partieshusband, as well as women's limited access to further legal remedies, are factors that limit the effectiveness of the SEMA in ensuring the real fulfillment of rights. Thus, the implications of the SEMA for the fulfillment of women's economic rights remain partial and dependent on the good faith of the parties.

2. Implications for Submission of Divorce Certificate

One of the important implications of the implementation of SEMA Number 2 of 2019 is the emergence of a policy of postponing the submission of divorce certificates until the conditions are met.obligationThis policy is intended as a control mechanism to encourage the fulfillment of women's rights after divorce before the legal status of divorce acquires full administrative force.

In practice at the Batusangkar Class IB Religious Court, the submission of a divorce certificate is often used as a means of moral and administrative pressure to force the husband to fulfill his obligations. A positive implication of this policy is increased husband compliance in fulfilling the iddah and mut'ah maintenance obligations before the divorce certificate is submitted. However, on the other hand, this policy also creates legal dilemmas, particularly when maintenance obligations cannot be met for a prolonged period due to the husband's financial inability or absence.

Delaying the delivery of divorce certificates under these circumstances has the potential to create legal uncertainty for women. A marriage that has not been fully resolved administratively can impact other civil rights, such as population registration and access to social services. This demonstrates that the policy of withholding divorce certificates, while oriented toward protecting women's rights, does not yet provide a fair and proportional solution.

3. Implications for Legal Certainty and Substantive Justice

On the one hand, the SEMA strengthens the normative basis for judges to protect women's


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rights after divorce. On the other hand, limited implementation mechanisms mean that this protection has not yet been fully felt by women seeking justice. From a progressive legal perspective, this implication shows that the law has moved towards greater justice, but is not yet fully responsive to social realities. The law still requires judicial courage and more systemic policy support so that the goal of protecting women's rights does not stop at mere decisions, but is realized in the concrete and sustainable fulfillment of rights.

4. Implications for Religious Court Practices

The implementation of SEMA Number 2 of 2019 also has implications for changes in the work culture of religious courts, particularly in increasing judges' sensitivity to issues of protecting women and vulnerable groups. Judges are required to be more active, not merely awaiting the demands of the parties, and to be more courageous in using their authority and discretion within the framework of substantive justice. However, research findings indicate that these changes are not evenly distributed and are still highly dependent on the individual perspectives of judges. Thus, the implications of the practice of SEMA Number 2 of 2019 at the Batusangkar Class IB Religious Court indicate normative progress in protecting women's rights after divorce, but also reveal various structural and procedural limitations. These findings provide an important basis for formulating policy recommendations and improving the justice system to ensure that the objectives of SEMA are truly achieved in practice.

## CONCLUSION

The implementation of SEMA Number 2 of 2019 at the Batusangkar Class IB Religious Court has essentially been implemented and is used as a guideline by judges in deciding divorce cases, particularly regarding the fulfillment of women's rights after the divorce. This is evident in the majority of divorce decisions that have included the obligation to pay iddah and mut'ah maintenance in the decision. However, in practice, there are still several cases where the divorce certificate is submitted before these obligations are fully fulfilled. This condition indicates the use of judicial discretion by considering certain factual situations in an effort to balance legal certainty and the social realities faced by the parties. The judge's considerations in implementing SEMA Number 2 of 2019 are not only based on legal aspects, but also consider sociological and philosophical aspects, such as the husband's economic condition, the woman's request, humanitarian considerations, prudence, and the existence of an agreement or willingness from both parties. Supporting factors for the implementation of this SEMA include a clear legal basis, the inclusion of the obligation to provide support in the verdict, the husband's good faith, and the


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Batusangkar Religious Court's internal policy, which provides court information services to help women seeking justice understand their rights. Meanwhile, inhibiting factors include the absence of one of the parties in court, the wife's lack of demand for her rights, women's low legal understanding of post-divorce rights, and the absence of firm sanctions for the execution of post-divorce support. Overall, the implementation of SEMA Number 2 of 2019 has positive implications for the protection of women's rights after divorce because it can increase transparency and accountability in the divorce process. However, its effectiveness still faces challenges in the implementation of the decision and monitoring the fulfillment of husbands' obligations, so that substantive protection of women's economic rights is not fully optimal.

**REFERENCES**

*Afifah, H. (2023). Tinjauan Hukum Progresif Terhadap SEMA No. 2 Tahun 2019 Tentang Nafkah Dalam Perkara Cerai Gugat.*

*Alva, D. R. (2023). Kebebasan Hakim Dalam Menjatuhkan Putusan Di Pengadilan. Birokrasi: Jurnal Ilmu Hukum Dan Tata Negara.*

*Arifin, I. N. (2024). Peran Yurisprudensi dalam Mewujudkan Kepastian Hukum di Indonesia: Kajian atas Putusan Mahkamah Agung. Jurnal Yurisprudensi, Hukum Dan Peradilan, 2, 68–75.*

*Basri, R. (2025). Analisis Putusan Hakim Terhadap Hak Istri Dalam Perkara Cerai Gugat Nomor 333/Pdt. 6/2023/PA. Mmj di Pengadilan Agama Mamuju. Al-Hukamaa: Jurnal Hukum Keluarga Islam.*

*Damayanti, A., Halimah, F., & Ramadhani, R. K. (2025). Alternatif Penyelesaian Sengketa (APS)." 3.1 (2025): 97. Jurnal Ekshis, 3(1). https://doi.org/10.59548/je.v3i1.361*

*Efendi, R. (2020). Perkawinan Beda Agama dalam Paradigma Sosiological Jurisprudence. AL-HURRIYAH: Jurnal Hukum Islam. https://doi.org/https://doi.org/10.30983/alhurriyah.v5i1.2396*

*Fasil, *Maulana Rihdo Al, Sudur, I. M., Suardi, A. R., Pamungkas, S., & Meilinda, F. P. (2023). Kedudukan Surat Edaran Mahkamah Agung ( Sema ) Dalam Perspektif Akademisi : Kekuatan Hukum , Ketetapan Dan Konsistensi , Pengaruh Terhadap Putusan Hukum. Usrah: Jurnal Hukum Keluarga Islam, 4, 230–240.*

*Fauziyah, Putri, K., & Ubaidillah, L. (2023). Analisis Yuridis Perjanjian Kerja Waktu Tertentu Berdasarkan Pasal 8 Ayat (1) Peraturan Pemerintah Nomor 35 Tahun 2021 Tentang Perjanjian Kerja Waktu Tertentu, Alih Daya, Waktu Kerja dan Waktu Istirahat, dan Pemutusan Hubungan Kerja. Journal of Contemporary Law Studies.*



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*https://doi.org/https://doi.org/10.47134/lawstudies.v1i1.1949*

*Ihzafitri, E. I., Roihanah, R., Salsabila, R. A., & Mudhi'ah, Q. F. (2022). Implementasi kewenangan ex-officio hakim dalam perkara cerai talak di pengadilan agama kabupaten kediri. Jurnal Antologi Hukum, 2(2), 222–235. https://doi.org/10.21154/antologihukum.v2i2.1329*

*Irfan, E. (2023). Kewajiban Nafkah Lahir Suami-Istri Dalam Perspektif Mubadalah (Studi di Desa Peniangan Kecamatan Marga Sekampung Kabupaten Lampung Timur). Uin Raden Intan Lampung.*

*Kurniawan, M. I., Hanani, N., & Qamaria, R. S. (2022). Hambatan Pelaksanaan SEMA No. 2 Tahun 2019 terhadap Pemenuhan Hak-hak Perempuan Pasca Cerai Gugat di Pengadilan Agama Kabupaten Kediri. E-Journal Al-Syakhsiyyah Journal of Law and Family Studies, 4(1), 87–101.*

*Nabillah, A., Amirudin, & Muzaki, I. A. (2022). Fenomena Cerai Gugat di Masyarakat Pada Masa Pandemi. Asy-Syari`ah: Jurnal Hukum Islam, 8(1), 41–52.*

*Naufal, F. (2025). Budaya Hukum Hakim Pengadilan Agama Pemalang Dalam Putusan Cerai Gugat Terkait Hak Istri. UIN KH Abdurrahman Wahid Pekalongan.*

*Nurhasnah. (2024). Peluang dan Tantangan Pemenuhan Hak Perempuan Pasca Cerai Gugat di Pengadilan Agama. USRATY: Journal of Islamic Family Law. https://doi.org/https://doi.org/10.30983/usraty.v2i1.7646*

*Pian, H. (2021). Pertimbangan Hakim Terhadap Putusan Verstek Pada Perkara Perceraian Perspektif Hukum Islam Dan Hukum Positif Indonesia. UIN Fatmawati Sukarno.*

*Prianto, K. M., & Ambarwati, M. D. (2025). Perlindungan Hak Perempuan dan Anak dalam Perkara Perceraian di Pengadilan Agama. 2(1), 75–82.*

*Putri, D. N. K., & Izzuddin, A. (2022a). Pertimbangan Hakim Pengadilan Agama Singaraja Dalam Penetapan Nafkah 'Iddah, Nafkah Mut'ah Dan Eksekusinya Pada Putusan Verstek Cerai Gugat. Sakina Journal of Family Studies.*

*Putri, D. N. K., & Izzuddin, A. (2022b). Pertimbangan Hakim Pengadilan Agama Singaraja Dalam Penetapan Nafkah 'Iddah, Nafkah Mut'Ah Dan Eksekusinya Pada Putusan Verstek Cerai Gugat. Sakina: Journal of Family Studies.*

*Rahardjo, S. (2009). Hukum dan Perilaku: hidup baik adalah dasar hukum yang baik. Buku Kompas.*

*Rizkiana, A. E., & Yunanto. (2020). Diskresi Hakim Dalam Perkara Perceraian Dan Hak Asuh Anak ( Studi Di Pengadilan Negeri Pati ). 13, 865–878.*

*Saputra, E. (2025). Mendesain Ulang Keadilan: Reformasi Hukum Perceraian dalam Sistem Peradilan Agama. JIMU: Jurnal Ilmiah Multidisipliner.*



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*Wafiroh, S. (2023). Pembebanan Nafkah Dalam Perkara Cerai Gugat Perspektif Hukum Progresif (Studi Kasus di Pengadilan Agama Magetan). IAIN Ponorogo.*

*Wahidah, U. M. (2024). Penerapan Hak Ex Officio Hakim Terhadap Hak Istri Dan Anak Dalam Perkara Cerai Talak (Studi Kasus di Pengadilan Agama Kabupaten Kediri). AL MUNAZHARAH: Jurnal Hukum, Pemikiran Dan Keislaman.*

*Wahyudani, Z., & Firdaus, M. (2026). Perceraian Pasca Lulus P3K di Aceh: Telaah Maqāṣid al-Syarīʻah terhadap Stabilitas Rumah Tangga. Aceh Journal of Islamic Research, 1(1), 1–21.*



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