

**LEGAL PROTECTION OF THE RIGHTS OF WIVES IN DIVORCE  
CASES IN RELIGIOUS COURTS ACCORDING TO SUPREME COURT  
REGULATION NUMBER 3 OF 2017**

**Thariq Athila Liandi, Lailatus Sururiyah**

Email: thariqathila18@gmail.com

Universitas Muhammadiyah Sumatera Utara

**ABSTRACT**

Marriage according to law is an innate bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the one Godhead. Separation or divorce is an attempt to release the bond of husband and wife from a marriage caused by certain reasons. Divorce occurs because there is no way out. Seeing the many injustices received by the wife who filed a divorce lawsuit because she did not get her rights again after the divorce. The Supreme Court issued Supreme Court Regulation Number 3 of 2017, this regulation is present as a legal instrument that provides greater space for judges in the Religious Courts to uphold substantive justice and protect the rights of women, including wives in divorce cases. The type of research used in this thesis is normative legal research. This normative legal research method is a research method that focuses on the study of applicable legal norms or rules. This method is often used in research in the field of law or other sciences related to certain norms or rules.

The results of this study show that the Protection of Wife's Rights in Divorce Cases in Religious Courts shows that Supreme Court Regulation Number 3 of 2017 can provide legal certainty in the form of iddah alimony and alimony that is still provided by the male party even though the divorce lawsuit comes from the woman. The main obstacle lies in the inconsistency of judges' interpretation of substantive justice due to the lack of gender sensitivity training. low public awareness of these rights. In addition, the legal consequences of the husband who does not carry out this order are subject to sanctions on the husband, namely administrative sanctions imposed on the husband who does not carry out this regulation after the divorce from the wife.

**Keywords: Legal Protection, Wives Rights, Divorce Lawsuit, Religious Courts, Supreme Court Regulation Number 3 of 2017**

**A. Introduction**

Marriage is one of the engagements, Every engagement must have a purpose, including marriage. Marriage has the purpose of forming a happy and eternal family, along with that the purpose of marriage is also regulated in Number 1 of 1974, namely marriage as husband and wife is to form a happy and eternal family based on the provisions of the One Godhead.<sup>1</sup> However, every marriage does not always achieve the desired happiness, sometimes all happiness will end in separation or divorce, Separation or divorce is an attempt to release the bond of husband and wife from a marriage caused by certain reasons. Divorce occurs because there is no way out (*dissolution marriage*).<sup>2</sup>

Divorce is also explained in civil law as the abolition of the marriage bond through a Judge's Decision on a claim made by one of the parties in the bond of a marriage, either the husband or the wife's side carried out in the Religious Court.

The Religious Court is one of the law enforcement agencies or judicial bodies that carry out their duties given by laws specifically for Muslims or who submit themselves to Islamic law voluntarily which begins with the process of accepting, examining, adjudicating, and resolving cases stated in Articles 49 to 53 of Law Number 7 of 1989 Jo. Law Number 3 of 2006 Jo. Law Number 50 of 2009 About Religious Justice.<sup>3</sup>

Often in the process of handling cases, a kind of discriminatory treatment stereotype is often found. So that the decision does not meet the legal objectives which certainly do not meet justice for both parties to the case. In the Religious Court, in divorce, women sue for their rights fairly.<sup>4</sup>

Seeing the many injustices received by the wife who filed a divorce lawsuit because she did not get her rights after the divorce. In order to obtain legal protection in a fair and proportionate manner, seeing this, the Supreme Court as a court institution took the initiative to take steps in the form of issuing Supreme Court Regulation (PERMA) Number 3 of 2017 concerning Guidelines for Adjudicating Women's Cases Facing the Law.

This Supreme Court regulation is present as a legal instrument that provides greater space for judges in the Religious Courts to uphold substantive justice and protect the rights of women,

---

<sup>1</sup> Rufaida, R. (2021). "Legal Consequences of Divorce". *ECONOMY: Journal of Sharia Economics & Islamic Law*, No. 2, page 74.

<sup>2</sup> Syaifuddin M., Turatmiyah S., Yahanan A., (2022). *Divorce law*. Jakarta: Sinar Grafika, page 6.

<sup>3</sup> Lailatus Sururiyah. (2025). "Sharia Economic Dispute Resolution in the Perspective of the Authority of the Religious Courts". In *National Seminar on Law, Social and Economic*, No. 1, page 152.

<sup>4</sup> Elsyah Wardhani, et.al, 2025, *Women and the Law: Protection of Rights in a Gender Perspective*. Jambi: PT. Sonpedia Publishing Indonesia, page 28.

including wives in divorce cases. This regulation plays a strategic role in strengthening the position of the wife in a lawsuit divorce case because it emphasizes that the wife's rights cannot be ignored even if the divorce initiative comes from the wife's side. This is an important legal basis so that the judge does not immediately consider the wife nusyuz and eliminate the wife's rights just like that, but it must be ensured that these rights are fulfilled fairly.

The protection of wife's rights is not only normative but must also be followed by real implementation in the Religious Court so that the judge's decision reflects substantive justice in accordance with the mandate of the Supreme Court Regulation. Therefore, the author is encouraged to conduct an in-depth study whose results are outlined in a thesis entitled "**Legal Protection of Wife's Rights in Divorce Cases in Religious Courts According to Supreme Court Regulation Number 3 of 2017**".

## **B. Research Methods**

A study cannot be called research if it does not have a research method.<sup>5</sup> Research methods are one of the factors of a problem that will be discussed. The study was conducted using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from research results, studies, and reviews of several writings which are then summarized into a scientific paper.<sup>6</sup>

## **C. Discussion**

### **1. Legal Certainty of Wife's Rights in Divorce Cases Filed in Religious Courts According to Supreme Court Regulation Number 3 of 2017**

The process of divorce cases often finds discriminatory treatment and actions, moreover discrimination against women who file a divorce lawsuit, unfairness in the judge's consideration in deciding the case results in women not being able to clearly file a divorce lawsuit against the male side. Therefore, the Supreme Court issued a Supreme Court Regulation Number. 3 Year 2017.

This regulation has content that is specific to the guidelines for adjudicating cases of women who are in conflict with the law, in this case women who are in conflict with the law,

---

<sup>5</sup> Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).

<sup>6</sup> Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.

women as victims, women as witnesses or women as parties. This perma also regulates what things should be considered by judges when examining and adjudicating women's cases that are against the law before the judge decides a case.

The guidelines for adjudicating women's cases face the law aim to understand and apply the principles and sense of justice as they should, so that women get equal rights in the law, as well as provide a way to ensure the implementation of courts based on predetermined laws.<sup>7</sup>

Supreme Court Regulation Number 3 of 2017 provides strong legal certainty for the rights of wives in divorce cases in lawsuits in the Religious Court by emphasizing the principles of gender equality and non-discrimination, so that judges are obliged to consider the social, economic, and psychological context of the wife to ensure the fulfillment of rights fairly.

The legal certainty of wife's rights is no longer limited to talaq divorce cases alone, but is extended to lawsuit divorce where the wife as the plaintiff can demand mut'ah, iddah alimony, and child hadhanah costs as long as it is not proven nusyuz, as accommodated through the Supreme Court Circular Letter Number 3 of 2018 which was born from the Plenary Meeting of the Religious Chamber and explicitly refers to the Perma to integrate rights due to talaq in the lawsuit divorce decision.

This certainty is strengthened by the provisions of Article 41 letter c of Law Number 1 of 1974 concerning Marriage jo. Article 149 of the Compilation of Islamic Law which requires the ex-husband to provide post-divorce living expenses, where Perma Number 3 of 2017 is a guideline for judges to apply the principle *of restorative justice* to protect the wife from disproportionate economic losses.

Supreme Court Regulation Number 3 of 2017 provides solid legal certainty for the rights of wives in divorce lawsuits by transforming KHI from a discriminatory instrument to an inclusive justice tool, where every element of the process from mediation, examination, verdict, to execution is designed to protect the bargaining position of wives who are often economically and socially weak, although challenges such as lack of socialization in rural areas and patriarchal cultural resistance require strengthening through Surat The Supreme Court's circular is continued and continuous training, so that in the end this legal certainty is not only a normative formality but a concrete guarantee that divorce is no longer a disaster for the wife

---

<sup>7</sup>Meilinda, S. (2024). "Implementation of Supreme Court Regulation Number 3 of 2017 on Women's Rights Due to Divorce Lawsuit at the Syar'iyah Court of Lhokseumawe (Analysis of Decision Number 105/Pdt. G/2023/Ms. NGOs)". *Jeulame: Journal of Islamic Family Law*, No.3, page 39.

but a just and dignified solution in accordance with the spirit of the Qur'an, Surah An-Nisa verse 35 which commands justice for both parties in a fractured household.<sup>8</sup>

## **2. Implementation of Supreme Court Regulation Number 3 of 2017 on Legal Protection of Wives' Rights in Divorce Cases in Religious Courts**

Supreme Court Regulation Number 3 of 2017 concerning guidelines for adjudicating women's cases in accordance with the law is very broad, in chapter III about the litigation process where public services, case examinations, and verdicts are included in the implementation of Supreme Court Regulation Number 3 of 2017, in article 2 not only the trial process is regulated, but also from the time women enter the court to the verdict that becomes a legal product.

The women referred to in Supreme Court Regulation Number 3 of 2017, are women who are facing legal proceedings, women as victims, women as witnesses or women as parties. In article 5, judges are prohibited from showing a demeaning attitude, blaming or intimidating women, not justifying discrimination against women using culture, customs, and other traditional practices or interpretation of gender bias, and even issuing statements that contain gender stereotypes. Then in Article 7, the judge must reprimand or prevent litigants who behave, blame and intimidate women from dealing with the law during the trial examination process.

Supreme Court Regulation No. 3 of 2017 concerning Guidelines for Judging Women in Front of the Law has revolutionized the paradigm of legal protection of wives' rights in divorce cases in lawsuit divorce cases in the Religious Court since its issuance on July 31, 2017, where this regulation emerged as a direct response to the Supreme Court's finding that plaintiffs' wives often experience systemic marginalization in divorce proceedings due to classical fiqh interpretations that place the burden of proof *nusyuz* proportionately to the wife, thus leading to the denial of the right to *iddah*, *mut'ah*, and the division of joint property even though the husband is proven to be negligent in domestic maintenance or commits domestic violence, with this PERMA explicitly requiring judges to apply a gender-sensitive approach through Article 4 which requires consideration of the wife's socio-economic context such as financial dependence, history of domestic violence, psychological impact on children, and

---

<sup>8</sup> Scott, 2025. *Marriage and Inheritance Law in the National and Sharia Law System in Indonesia*. Payakumbuh: Serasi Media Teknologi, Page 117.

accessibility of post-divorce work throughout the trial cycle from lawsuit registration to execution of the judgment.<sup>9</sup>

Religious Court judges are required to identify the facts of the trial thoroughly, including evidence of the wife's helplessness due to divorce, so the verdict must include the fulfillment of the wife's financial rights in the lawsuit petition to avoid historical discrimination in which the wife often loses her rights simply because of her initiative to end the marriage.

The implementation of Article 19 of Supreme Court Regulation No. 3 of 2017, from the field side, can be seen in the obligation of judges to ensure the substantive fulfillment of the wife's rights, where in case Number 383/Pdt.G/2022/PA. The Crp shows that the judge proactively cited PERMA in considering the facts to grant iddah alimony of Rp5 million per month for three months of qabul, mut'ah equivalent to one BMT, and child support up to the age of 21 years by withholding the issuance of a divorce certificate by the clerk until the husband pays off the obligation, so that the wife's rights are no longer declarative but can be forcibly executed through the court bailiff if the husband breaks the promise.

The implementation of this Regulation in Religious Courts throughout Indonesia requires an active, substantive, and multidisciplinary approach of judges where the trial focuses not only on the reasons for divorce such as physical, psychological, economic, or serious disputes that are not resolved through mediation, but also on proving the defendant's economic status through the summoning of financial witnesses, examination of bank financial documents, digital transaction records, or even the appointment of public accountants to expose embezzlement of hidden assets or false claims of financial incapacity, thus creating a national jurisprudential transformation that makes the Supreme Court a progressive and responsive policymaker in protecting women from discrimination against patriarchal inheritance laws.

The implementation of PERMA is strengthened by the Supreme Court Circular Letter Number 1669/DJA/HK.00/5/2021 which integrates gender guidelines into the operational standards of judges of the Religious Court and the Letter of the Minister of Religion Number 1014 of 2021 which requires monthly reporting of the implementation of PERMA by the head of the court to the Directorate General of Religious Justice Agencies, where judges are now

---

<sup>9</sup> Khofifah, L., Madyan, S., & Jannah, S. (2024). "Protection of Women's Mentality in the Implementation of Perma Number 3 of 2017 in Divorce Lawsuit Cases at the Malang Regency Religious Court". *Hikmatina Journal*, no. 2, page 187.

obliged to conduct mandatory *gender-sensitive* mediation at the first trial to dig up the roots of conflicts such as years of neglect of alimony.

The implementation of this regulation is not only a technical instrument of the judiciary but an agent of social transformation that makes the Religious Court the last bastion of gender justice in Indonesian Islamic family law, ensuring that every wife of the plaintiff leaves the courtroom not as a victim of divorce but as an independent and dignified legal subject with her rights fully and sustainably.

### **3. Legal Consequences for Husbands Who Do Not Carry out Court Decisions Based on Supreme Court Regulation Number 3 of 2017**

A judge in resolving divorce cases is required to consider all matters from both parties so as to obtain a fair and non-discriminatory verdict. However, in the trial there is discrimination received by the women in the divorce trial. In response to this, the Supreme Court issued Supreme Court Regulation Number 3 of 2017.<sup>10</sup>

Supreme Court Regulation No. 3 of 2017 reflects the strong commitment of the Indonesian judicial system to uphold gender justice and protect the rights of wives in divorce cases, where the husband's non-compliance with the verdict such as the payment of iddah alimony, mut'ah, child support, or the division of joint property.

In the context of a lawsuit divorce case that often puts the wife in a post-divorce economically vulnerable position, PERMA Number 3 of 2017 explicitly through Article 19 requires the judge to include concrete protection clauses in the decision, such as the detention of the issuance of divorce certificates by the clerk until the husband pays off his financial obligations, which if ignored allows the wife to file for forced execution through the court bailiff who is authorized to confiscate the husband's assets starting from salary, vehicles, to land titles in accordance with the Reglement op de Burgerlijke Rechtsvordering jo. Herziene Indonesisch Reglement, so that the disobedient husband not only loses formal divorce facilities but also faces direct economic pressure that forces compliance without waiting for further legal remedies.

This non-compliance can be qualified as a criminal act of refusal to execute a court decision that has permanent legal force based on Article of Law 227 Number 8 of 1981

---

<sup>10</sup> Putri, R.S., Ma'aruf. A. (2019). "Implementation of Supreme Court Regulation No. 3 of 2017 concerning Guidelines for Adjudicating Women's Cases Faced with Hikum Against Divorce Lawsuits at the Tanjung Karang Religious Court." *As-Salam: Journal of Islamic Law Studies & Education*, No. 2, page 161.

concerning the Criminal Procedure Code as amended by the new Criminal Procedure Code, with the threat of imprisonment of up to 6 months or a category III fine. The husband's inaction also triggers the consequences of further civil proceedings in the form of an edict announcement (forced publication) through print or online media in accordance with Article 195 paragraph (3) of the HIR/RBg which imposes additional costs on the husband while socially humiliating, while the wife can claim compensation for material and immaterial losses due to prolonged postponement of divorce.<sup>11</sup>

As a legal result of the husband not implementing the court decision on the divorce lawsuit, several sanctions can be imposed in the form of delays in the implementation of the talaq pledge, forced execution of property, and the imposition of forced money (*dwangsom*). The implementation of this regulation is also further strengthened by the Supreme Court Circular Letter Number 1669 of 2021 which requires an annual report on the implementation of PERMA by the head of the Religious Court, so that judges who neglect to supervise the execution can be held to disciplinary accountability by the Judicial Commission, creating a tiered supervision system that guarantees that verdicts are not just dead paper but living instruments enforced by the state.<sup>12</sup>

Forced execution of assets through a court bailiff based on Articles 195-224 of the *Herziene Indonesisch Reglement (HIR) jo. Reglement op de Burgerlijke Rechtsvordering (RV)*, up to criminal sanctions for refusal to execute court decisions with permanent legal force as per Article 227 of the Criminal Procedure Code with a maximum penalty of imprisonment of 6 months or a category III fine.

The detention of the divorce certificate becomes the strongest administrative leverage that forces the husband to remain legally bound by the marital status even though the divorce decree has been rendered, so that the husband cannot remarry or apply for a new talaq divorce, while the wife can continue to live with the right to iddah maintenance until repayment, as seen in thousands of cases in the Religious Court where the husband finally obeys after 3-6 months

---

<sup>11</sup>Istisofania, A. S., Simbolon, E. Z., & Julydya, P. D. (2025). "Analysis of the Authority of Judges in the Examination of Civil Litigation Cases." *Multilingual: Journal of Universal Studies*. No. 1, page 363.

<sup>12</sup>Farid Wajdi, 2020, *Supervision of Judges and Enforcement of the Code of Ethics in the Judicial Commission*. Jakarta: Sinar Grafika, page 121.

of detention of the deed due to the embarrassing socio-religious impact in the Muslim community.<sup>13</sup>

#### **D. Conclusion**

The legal certainty of the wife's rights in a lawsuit divorce case in the religious court according to the Supreme Court Regulation Number 3 of 2017 can be seen from the priority of judges in fulfilling mut'ah, iddah maintenance, child hadhanah, and maskan during the iddah period regardless of the wife's status as a plaintiff, so that this regulation overcomes historical inequality where these rights were previously more dominant in talaq divorce based on the Compilation of Islamic Law Articles 41 and 149. This is also strengthened by the mechanism of holding divorce certificates by SEMA Number 2 of 2019 until the husband's obligations are fully fulfilled.

Implementation of Supreme Court Regulation Number 3 of 2017 in Legal Protection of Wives Rights in Divorce Cases in Religious Courts. Supreme Court Regulation Number 3 of 2017, this regulation has provided a significant legal basis to protect the rights of wives after divorce. The PERMA addresses gender discrimination that previously occurred, where the plaintiff's wife often loses rights such as iddah alimony, mut'ah, and child support because it is considered nusyuz, by requiring judges to apply the principle of substantive justice and withhold divorce certificates until the fulfillment of rights Legal Consequences for Husbands Who Do Not Carry Out Court Decisions Based on Supreme Court Regulation Number 3 of 2017, for husbands who violate this regulation, it can cause legal consequences in the form of detention of divorce certificates by the head of court until these rights are fully fulfilled. This provision aims to prevent gender discrimination and ensure substantive justice, where judges are required to consider the economic conditions and vulnerability of the wife after the divorce, so that the husband cannot avoid responsibility for formalistic reasons such as nusyuz istr, if the husband still refuses the execution, the court can apply criminal or civil sanctions in accordance with the Civil Procedure Code and Law Number 1 of 1974 concerning Marriage

---

<sup>13</sup> Rasidi, S. A., Listyaningrum, N., Sari, N. L. A., & Risdiana, R. (2024). "Legal Protection of a Child's Unfulfilled Maintenance by a Post-Divorce Father: Islamic Law and Positive Law Perspectives." *Journal of Hindu Religious Law Widya Kerta*, No. 1, page 9.

## Bibliography

- Elsya Wardhani, et.al, 2025, *Women and the Law: Protection of Rights in a Gender Perspective*. Jambi: PT. Sonpedia Publishing Indonesia.
- Farid Wajdi, 2020, *Supervision of Judges and Enforcement of the Code of Ethics in the Judicial Commission*. Jakarta: Sinar Grafika.
- Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).
- Istisofania, A. S., Simbolon, E. Z., & Julydya, P. D. (2025). "Analysis of the Authority of Judges in the Examination of Civil Litigation Cases." *Multilingual: Journal of Universal Studies*. 5, No. 1.
- Khofifah, L., Madyan, S., & Jannah, S. 2024. "Protection of Women's Mentality in the Implementation of Perma Number 3 of 2017 in Divorce Lawsuit Cases at the Malang Regency Religious Court". *Journal of Wisdom*, Vol. 6, No. 2.
- Lailatus Sururiyah. 2025. "Sharia Economic Dispute Resolution in the Perspective of the Authority of Religious Courts". In *National Seminar on Law, Social and Economics*, Vol. 4, No. 1.
- Meilinda, S. 2024. "Implementation of Supreme Court Regulation Number 3 of 2017 on Women's Rights Due to Divorce Lawsuit at the Syar'iyah Court of Lhokseumawe (Analysis of Decision Number 105/Pdt. G/2023/Ms. NGOs)". *Jeulame: Journal of Islamic Family Law*, Vol. 3, No.1.
- Munawir, 2025, *Marriage and Inheritance Law in the National and Sharia Law System in Indonesia*. Payakumbuh: Compatible with Technological Media.
- Nur Solikin, 2019, *Introduction to Legal Research Methodology*, Pasuruan: CV. Publisher Qiara Media.
- Putri, R.S., Ma'aruf. A. 2019. "Implementation of Supreme Court Regulation No. 3 of 2017 concerning Guidelines for Adjudicating Women's Cases Faced with Hikum Against Divorce Lawsuits at the Tanjung Karang Religious Court." *As-Salam: Journal of Islamic Law Studies & Education*, Vol.1 No. 2
- Ramlan, Tengku Erwinsyahbana, Surya Perdana, 2023, *Internal Law Research Methods*.
- Rasidi, S. A., Listyaningrum, N., Sari, N. L. A., & Risdiana, R. (2024). "Legal Protection of a Child's Unfulfilled Maintenance by a Post-Divorce Father: Islamic Law and Positive Law Perspectives." *Journal of Hindu Religious Law Widya Kerta*, Vol.7, No. 1.
- Rufaida, R. 2021. "Legal Consequences of Divorce". *IQTISODINA: Journal of Sharia Economics & Islamic Law*, Vol. 4, No. 2. *Scientific Paper Making*, Medan: Umsu Press.
- Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.
- Syaifuddin M., Turatmiyah S., Yahanan A., 2022. *Divorce law*. Jakarta: Sinar Grafika.