

LEGISLATIVE RATIO OF SEMA NUMBER 3 OF 2023 IN GUARANTEEING SUBSTANTIVE JUSTICE IN DIVORCE CASES

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Abstract

The high divorce rate in Indonesia, particularly within the religious courts, has drawn serious scrutiny in the practice of family law enforcement. The most dominant grounds for divorce, namely persistent disputes and arguments, are often presented with weak and subjective evidence, potentially creating legal uncertainty and injustice for certain parties, particularly women. To address this issue, the Supreme Court issued Supreme Court Circular Letter (SEMA) Number 3 of 2023, which tightens the requirements for granting a divorce petition on the grounds of persistent disputes, through a new formulation requiring two cumulative elements: first, proven inability to live in harmony between husband and wife, and second, a minimum of six months of separation of residence, unless domestic violence (DV) is proven. This study aims to examine the Ratio legis of the issuance of SEMA 3 of 2023 and its implications for the fulfillment of substantive justice in divorce cases in the Religious Courts. Using a normative juridical approach with qualitative analysis methods, this study examines related laws and regulations, legal literature, and theories of justice and legal certainty. The research findings indicate that SEMA 3 of 2023 plays a significant role in normatively unifying evidentiary standards and emphasizing judges' prudence in deciding divorce cases. However, in practice, these provisions can also create barriers to access to justice for economically, socially, and psychologically vulnerable parties, particularly in proving separation and domestic violence. Therefore, the fulfillment of substantive justice through the implementation of SEMA is highly dependent on judges' sensitivity in understanding the factual realities of households and their ability to interpret norms progressively, flexibly, and contextually.

Keywords: *justice, divorce, SEMA3.*

INTRODUCTION

The background to the issuance of Supreme Court Circular Letter Number 3 of 2023 (hereinafter referred to as SEMA 3 of 2023) is inseparable from the social and legal dynamics faced by religious courts in Indonesia, particularly in handling divorce cases. As the highest judicial institution, the Supreme Court has the authority to issue regulations to fill legal gaps and create uniformity in judicial practice. This is explicitly regulated in Article 79 of Law Number 14 of 1985 in conjunction with Law Number 5 of 2004 in conjunction with Law Number 3 of 2009 concerning the Supreme Court, which provides legitimacy for the Supreme Court to regulate technical matters that are not sufficiently regulated in existing legislation. In fact, the practice of divorce in Religious Courts shows a significant increase every year, with the most common reasons being persistent disputes and quarrels. This condition, as stipulated in Article 116 of the Compilation of Islamic Law (KHI) and Article 19 of Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law, stipulates that divorce can be granted if it is proven that there is no longer any hope for the couple to live in harmony as husband and wife.¹ A problem that subsequently emerged in religious court practice

¹ Salma, S., Wahida, H., & Samsudin, M. a. B. (2022). IGNORING FAMILY LAW ADMINISTRATIVE PROCEDURE: Falsifying death of spouses for the registration of new marriage in Lengayang Muslim community. *Al-Ahwal Jurnal Hukum Keluarga Islam*, 15(1), 1–20. <https://doi.org/10.14421/ahwal.2022.15101>

was the inconsistency of judges' decisions regarding divorce cases based on ongoing conflict. Previously, in SEMA Number 1 of 2022, judges were given guidance that divorce cases could be granted if it was proven that the couple had been in conflict and quarreling continuously or had lived apart for at least six months. However, this provision was still considered insufficiently detailed and open to multiple interpretations in its implementation, particularly regarding the requirement to prove "there is no hope of living in harmony again."² In response to this issue, the Supreme Court then clarified the regulations through SEMA 3 of 2023 which cumulatively requires that divorce cases based on continuous disputes and quarrels can only be granted if it is proven that both parties have no hope of living in harmony again and have been living apart for at least six months, unless it is found that one of the parties has committed Domestic Violence (DV). The legal rationale behind the issuance of SEMA 3 of 2023 aims not only to create uniformity in decisions among religious courts throughout Indonesia but also to strengthen the principle of substantive justice. The concept of substantive justice here refers to justice that is not limited to formal-procedural rules alone but also takes into account social realities and the psychological conditions of the spouses in the household. By requiring a minimum of six months of separation, the Supreme Court seeks to ensure that divorce is the final solution after all attempts at reconciliation have completely failed. However, this policy is not without challenges.

One crucial issue in its implementation is proving the minimum six-month separation. In many cases, couples with limited financial means do not always have separate physical residences, even though emotional and communication ties have been completely severed. This undoubtedly presents a practical obstacle that can hinder access to justice for couples who have lost the essence of a harmonious household life. Furthermore, the exception of domestic violence also presents its own challenges in the evidentiary process. Although Law Number 23 of 2004 concerning the Elimination of Domestic Violence expressly prohibits all forms of domestic violence, the reality on the ground shows that the legal process for proving domestic violence is often difficult and complex. Many victims are reluctant to report their cases to the police, or even don't understand that they are victims of domestic violence due to factors such as ignorance or psychological pressure. Thus, the Ratio legis SEMA 3 of 2023 also reflects the Supreme Court's efforts to create a balance between the idealism of family integrity as the goal of marriage as regulated in Article 1 of the Marriage Law and the social reality in the form of domestic violence and household conflicts that can no longer be resolved harmoniously.

Philosophically, this regulation demonstrates a combination of the principles of justice outlined by John Rawls, namely providing protection for vulnerable parties while ensuring that human rights, including freedom from violence, are maintained. Furthermore, in terms of legal utility, this provision seeks to prioritize greater benefits for society, namely reducing the number of rash divorces without an optimal reconciliation process. However, the implementation of this provision must be accompanied by concrete steps in the form of outreach, training for judges, and facilitating a more humane and pro-victim evidentiary process. Without these steps, there is a risk that this policy will actually increase the burden on justice seekers, especially those who are economically and socially disadvantaged. Therefore, SEMA 3 of 2023 was presented as a response to the complex challenges of divorce cases in Indonesia. This policy is designed to ensure that every divorce decision truly reflects the principle of substantive justice, which goes beyond merely resolving the case formally, but essentially provides justice and optimal protection for each individual in the religious court process.

Formulation Of The Problem

1. What is the basis for the Ratio legis for the issuance of SEMA Number 3 of 2023 in divorce cases at the Religious Court?
2. What are the implications of implementing SEMA Number 3 of 2023 on the fulfillment of substantive justice for the parties in divorce cases?

METHOD

This research uses a normative legal research method, focusing on the study of applicable legal norms as the primary analytical material. The approaches used in this research are the statute approach and the conceptual approach,³ This allows the author to examine the regulations that form the basis for the issuance of SEMA Number 3 of 2023 and

² Rasyid, N. W. Z. (2024). Implementasi SEMA Nomor 1 Tahun 2022 Tentang Dikabulkannya Gugatan Perceraian Perspektif Sadd al-Žari'ah. *BUSTANUL FUQAHĀ Jurnal Bidang Hukum Islam*, 5(1), 21–37. <https://doi.org/10.36701/bustanul.v5i1.1297>

³ Soekanto, S., & Mamudji, S. (2015). Penelitian hukum normatif: suatu tinjauan singkat. In *Rajawali Pers eBooks*. http://catalogue.ubharajaya.ac.id/slms/index.php?p=show_detail&id=367

understand the concept of substantive justice that forms the basis of its considerations. The legal materials used in this study consist of primary legal materials, such as Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, the Compilation of Islamic Law, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, and SEMA Number 3 of 2023 itself. In addition, secondary legal materials such as scientific journals, legal literature, and expert opinions are also used to enrich the analysis. The analytical technique used is qualitative analysis, which involves systematically and argumentatively describing and interpreting legal materials to discover their normative meaning and relevance to judicial practice. All of these methods are used to answer the proposed problem formulation, namely by exploring the legal and philosophical basis of SEMA Number 3 of 2023 as an interpretive and applicable legal product in divorce cases. This study will also assess how SEMA is applied in practice, particularly regarding proving grounds for divorce and how this contributes to fulfilling the principle of substantive justice for parties in litigation in Religious Courts.

RESULTS AND DISCUSSION

1. The ratio legis basis for the issuance of SEMA Number 3 of 2023 in divorce cases at the Religious Court

In legal studies, understanding a normative product such as the Supreme Court Circular Letter (SEMA) cannot be separated from its conceptual and theoretical context. The basic concept underlying the existence of SEMA is the existence of space in the Indonesian legal system for interpretive and administrative norms formed by the judiciary as an explanation or to fill legal gaps. In Indonesian positive law, SEMA is not a statutory regulation in the formal hierarchy as contained in Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation. However, SEMA has internal binding force for all judicial bodies under the Supreme Court because it functions as a guideline for the implementation of technical judicial duties. The existence of SEMA also serves as a concrete form of implementation of the Supreme Court's functions as regulated in Article 79 of Law Number 14 of 1985 in conjunction with Law Number 5 of 2004 in conjunction with Law Number 3 of 2009 concerning the Supreme Court, which gives the Supreme Court the authority to further regulate matters necessary for the smooth administration of justice. From a legal theory perspective, the discussion of SEMA Number 3 of 2023 cannot be separated from the three main theories that form the backbone of legal policy making, namely the theory of legal certainty, justice, and utility.

Hans Kelsen, in his normative theory, emphasized that law must provide certainty through hierarchically and logically structured norms. Legal certainty serves as the basis for judges not to act arbitrarily but to submit to the prevailing system of norms.⁴ However, in reality, the demands of substantive justice, as developed by John Rawls, require that the legal system not only provide formal certainty but also accommodate the values of social justice.⁵ In this context, legal decisions or interpretations by judges must be oriented towards the principle of distributive justice, which takes into account factual conditions, the vulnerability of the parties in the case, and the balance of relations within society. Furthermore, the theory of utilitarianism developed by Jeremy Bentham and John Stuart Mill emphasizes the importance of law in achieving the greatest possible benefit for society, even if this may sacrifice the formal aspects of a legal rule.

These three theories are important when analyzing the rationality or ratio legis of the issuance of SEMA Number 3 of 2023. This SEMA contains the formulation of the results of the plenary session of the Supreme Court chambers, specifically the Religious Chamber, which stipulates that divorce on the grounds of continuous disputes and quarrels can only be granted if there is evidence of a long-standing marital conflict, no hope of living in harmony, and there has been a separation of residence for at least six months, except in cases where evidence of domestic violence (DV) is found. This formulation is an improvement on SEMA Number 1 of 2022 which previously provided more flexible space for proving disputes without a minimum time limit for separation of residence. Substantively, the new provisions in SEMA Number 3 of 2023 affirm the existence of new standards in proving divorce cases, particularly with the reasons as stated in Article 116 letter (f) of the Compilation of Islamic Law, namely continuous disputes and quarrels. In previous practice, this reason was often used as the basis for divorce with minimal evidence, sufficient with two family or neighbor witnesses, without any objective indicators of the duration of the conflict or the impact it caused. As a result, many judges granted divorce cases with this reason loosely, thus raising concerns about the abuse of divorce rights and the failure of

⁴ Suwito, D. S., & Muhtar, M. H. Ahmad. "Contemplating the Morality of Law Enforcement in Indonesia.". *Journal of Law and Sustainable Development*, 11.

⁵ Harahap, T. K., Prayuti, Y., Latianingsih, N., Damanik, A., Maheni, T., Farida, I., & Muhtar, M. H. *Mustaqim*. (2023). *PENGANTAR ILMU HUKUM*. Penerbit Tahta Media.hlm. 132

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mediation efforts as part of the court's obligations according to Article 39 paragraph (1) of Law Number 1 of 1974.⁶ Therefore, the birth of SEMA Number 3 of 2023 can be understood as a response to the need for a more careful, consistent alignment of judicial practices and guaranteeing protection for vulnerable parties, especially women. However, the application of this legal formulation has complex consequences. On the one hand, the addition of the evidentiary requirement of "six months of separate residence" can be seen as strengthening the objective requirements for divorce. However, on the other hand, this provision has the potential to complicate matters for parties experiencing unhealthy household conditions who are physically or financially unable to leave the house or to prove the separation administratively. In many cases, wives who are victims of domestic violence or neglect do not have access to other accommodation due to limited resources or economic dependence. If, at the same time, the victim is unable to legally prove the existence of domestic violence—because a medical examination and police report are not yet available—then the divorce petition is at risk of being rejected. This indicates a tension between the principle of legal certainty that the Supreme Court is attempting to establish through this technical formulation, and the principle of substantive justice, which should protect the vulnerable and provide space for informal evidence that reflects social reality.

From a sociological perspective, the causes of divorce in Indonesia are increasingly complex. Data from the Religious Courts shows that over 70% of divorce cases are filed by wives, and more than half of these are based on ongoing disputes.⁷ This phenomenon demonstrates that domestic conflict often occurs latently, is not always accompanied by physical actions, and is difficult to identify with the naked eye. In such situations, formal provisions regarding the duration of separation are often substantively irrelevant because many couples remain living together but experience emotional alienation and prolonged conflict. Therefore, evidence in divorce cases should ideally not be limited to administrative evidence alone, but should also consider the psychological aspects and power relations that occur within the household. This aligns with Satjipto Rahardjo's progressive legal approach, which argues that law should not be trapped by mere normative texts but must be driven by a humanitarian mission to achieve true justice.

In practice, judges, as executors of judicial power, have discretion to comprehensively assess evidence. Therefore, the provisions of SEMA Number 3 of 2023 should be interpreted as administrative guidelines, not absolute limits. If an unhealthy relationship, psychological distress, or impossibility of living in harmony is found, the six-month period may be waived as long as the judge deems extraordinary circumstances to exist⁸ which could endanger the survival of the household or the well-being of the child. This principle is also emphasized in Law Number 23 of 2004 concerning the Elimination of Domestic Violence, which states that acts of violence in any form, whether physical or non-physical, constitute a violation of human rights and must be prevented by the state, including through judicial mechanisms. From a legal perspective, the provisions of SEMA Number 3 of 2023 must be read in harmony with Article 5 of the Domestic Violence Law, Article 116 of the Compilation of Islamic Law (KHI), and Article 19 of Government Regulation Number 9 of 1975. In legal doctrine, the process of legal discovery (rechtsvinding) by judges can be carried out using systematic and teleological interpretation methods. This method encourages judges to not only read norms grammatically but also interpret their social purpose and function. Thus, judges still have room to decide based on their beliefs and sense of justice, without having to sacrifice the integrity of the legal system. A narrow interpretation of SEMA will actually create rigidity in the evidentiary process and distance the law from the social substance that lives in society.

In the context of its legal ratio, SEMA Number 3 of 2023 is intended to encourage judges to be more thorough, cautious, and cautious in granting divorce cases. The Supreme Court appears to view the high divorce rate as a social problem that cannot be adequately addressed through mediation or formal approaches alone. Therefore, this tightening of evidentiary requirements can be understood as a preventative measure to prevent the judiciary from becoming a mere tool for legitimizing divorce. However, if this provision is implemented without contextual sensitivity, it will undermine the judiciary's function as a protector of citizens' constitutional rights, particularly the right to a safe and violence-free life.

Based on this description, it can be concluded that SEMA Number 3 of 2023 carries the important mission of creating uniformity in decisions and improving the quality of evidence in divorce cases. However, to achieve substantive

⁶ Hidayatullah, M. Y., & Mustafa, A. D. (2024). Penambahan nafkah anak pasca Perceraian perspektif Teori Keadilan Gustav Radbruch. *Sakina Journal of Family Studies*, 8(1), 48–63. <https://doi.org/10.18860/jfs.v8i1.6482>

⁷ Rahman, N. J. F., & Hamdani, N. F. F. R. S. (2024). Faktor-Faktor Penyebab Tingginya Angka Perceraian di Kabupaten Purwakarta Tahun 2021-2023. *Jurnal Riset Hukum Keluarga Islam*, 97–104. <https://doi.org/10.29313/jrhki.v4i2.5192>

⁸ Verheyen, W., & Pecinovsky, P. (2022). Strike as an extraordinary circumstance. *European Labour Law Journal*, 13(2), 323–335. <https://doi.org/10.1177/20319525221076477>

justice, its implementation must be accompanied by a holistic understanding of household dynamics and the socioeconomic conditions of the parties involved. Judges must still be given broad interpretive space to assess concrete circumstances, without being constrained by rigid proceduralism. SEMA should be a tool, not a hindrance, in efforts to realize a fair, civilized, and human rights-respecting justice system.

2. Implications of the Implementation of SEMA Number 3 of 2023 on the fulfillment of substantive justice for the parties in divorce cases

The application of fair law and upholding the substantive values of justice are the main pillars of the judicial system in a state based on law.⁹ In the context of divorce cases handled by Religious Courts, the principle of substantive justice becomes increasingly important given the personal, private, and often asymmetrical nature of marital relationships that end up in court. Therefore, the Supreme Court Circular Letter (SEMA) Number 3 of 2023, which specifically regulates grounds for divorce in the form of persistent disputes and arguments, requires critical examination to determine the extent to which this new norm impacts the fulfillment of substantive justice for the parties involved. Normatively, SEMA Number 3 of 2023 was born from the results of the Plenary Meeting of the Supreme Court Chamber held in November 2023. One of the main focuses in the formulation of the Religious Chamber is the refinement of the previous formulation stated in SEMA Number 1 of 2022. This latest formulation stipulates that divorce cases on the grounds of continuous disputes and quarrels can only be granted if it is proven that the husband and wife are experiencing ongoing conflict, there is no longer any hope of living in harmony, and followed by a separation of residence for at least six months, unless legal facts are found to exist Domestic Violence (DV). This policy is actually a form of affirmation of the Supreme Court's concern over the high divorce rate in Indonesia, which according to data from the Religious Courts has increased sharply in the last two decades and is largely dominated by reasons of disputes that are not accompanied by strong evidence.

The implementation of SEMA Regulation Number 3 of 2023 has two significant implications. On the one hand, this policy can be seen as a step forward in upholding consistency in jurisprudence and emphasizing judges' responsibility to delve deeper into legal facts. The Supreme Court appears to be aware of the lax practice of assessing grounds for divorce, often based solely on one-sided testimony or unsupported by concrete facts. This has the potential to create a moral hazard in society, where divorce is seen as a quick solution to marital problems when reconciliation should still be possible. Therefore, by tightening evidentiary requirements, such as requiring a six-month separation, the Supreme Court is striving to ensure that divorce decisions are not the result of fleeting emotions or one-sided desires, but are based on mature and objective considerations. However, on the other hand, the implementation of these provisions also raises various problems in fulfilling substantive justice, especially for parties in vulnerable positions, such as women victims of domestic violence or wives who lack economic or social support. In judicial practice, many cases are found where domestic conflict does not always result in physical violence that can be proven medically or legally, but rather psychological, verbal, or emotional, the impact of which is no less serious. In this context, the demand for proof of separation from home for six months becomes unrealistic, especially for couples who, due to economic circumstances or family ties, still live together even though they no longer communicate harmoniously or even live in constant tension.

Another issue that arises concerns the technicalities of proving the element of "separation of residence." SEMA Number 3 of 2023 does not explain in detail what is meant by "separation of residence," whether it must be in the form of an administratively recorded change of address or whether an acknowledgment from both parties, corroborated by witnesses, is sufficient. In reality, many parties are unable to provide written proof of their new residence, especially when the wife or husband is temporarily living with their parents, relatives, or even a house without ownership documents in their own name. In situations like this, the demand for formal proof can actually lead to injustice and prevent parties who have actually suffered in the household from obtaining justice through a divorce decree. The problem becomes even more complex when the element of "no hope of living in harmony" is used as a cumulative requirement that must be proven along with the elements of quarrels and separation of residence. Although this element is interpretive and allows judges room for judgment, in many cases, judges are trapped in an overly textual approach, thus ignoring the factual conditions of the parties in an unhealthy relationship. Furthermore, if the plaintiff cannot prove domestic violence, then

⁹ Muhtar, M. H., Khasanah, D. D., Anita, A. A., Abas, M., Bagus, M., Cahyandari, D., Setiawan, E. B., Jenar, S., Putri, F. A. W., Taufik, A., Widodo, M. F. S., & Susmayanti, R. (2024). *Menimbang keadilan: Dinamika hukum dan demokrasi di persimpangan zaman*. Sada Kurnia Pustaka. Hlm. 82

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they will remain bound in a marriage that no longer has a spiritual or social foundation, simply because they did not meet the element of separation period. This raises a fundamental question: should family law be subject to entirely administrative requirements, or should it prioritize the principle of protecting human rights and dignity, especially the right to live free from psychological suffering. Another consequence of the implementation of SEMA Number 3 of 2023 is the emergence of tension between formal justice and substantive justice. Formal justice is reflected in the existence of time parameters and concrete evidence that can be verified by judges, while substantive justice demands recognition of social realities and inner dynamics that are not always revealed in documents. In this regard, judges are required to possess legal sensitivity and progressive interpretative skills to avoid being trapped in rigid proceduralism. Unfortunately, not all judges have the capacity or courage to make creative legal discoveries, especially when they must intersect with provisions in circulars that are considered internally binding.

Criticism of the rigid implementation of SEMA Number 3 of 2023 also comes from the perspective of John Rawls' theory of justice, which states that justice is a principle that protects the weakest party. Within this framework, women who are victims of verbal violence, emotional neglect, or economic exploitation in the household should be prioritized for legal protection. When the law is unable to respond to their suffering simply because administrative requirements are not met, what occurs is not justice, but rather a betrayal of the moral values inherent in the law. Therefore, the implementation of SEMA should be flexible and pay attention to the principle of "legal propriety" in family cases, which are unique and cannot be equated with ordinary civil cases.

To mitigate this problem, several religious courts have begun developing a more contextual approach to interpreting the elements of SEMA Number 3 of 2023. For example, separation of residence is not always interpreted physically, but can also be understood as the absence of the husband or wife's role in daily life even though they live together. In this approach, judges provide space for plaintiffs to explain the unhealthy social and emotional conditions of their relationships and base their judgments on credible witness testimony. However, this practice remains limited and has not yet become a standard pattern, as SEMA itself does not provide broader and more inclusive interpretation guidelines. Institutionally, the Supreme Court needs to evaluate the implementation of SEMA Number 3 of 2023, incorporating reports from first-instance courts, testimonies from justice seekers, and case studies from various regions. This evaluation is crucial to determine whether the legal formulation prolongs the suffering of those seeking divorce or achieves true justice. Furthermore, ongoing training is also needed for religious judges to utilize a contextual and humanistic legal hermeneutic approach in adjudicating family cases, including understanding the reality of domestic violence, which is not always readily apparent.

From a regulatory perspective, it is important to review the relationship between the SEMA and other substantive regulations, such as Law Number 23 of 2004 concerning Domestic Violence and Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence. Both laws provide broad protection for victims of gender-based violence, including in the domestic context. Therefore, SEMA Number 3 of 2023 should not be a stand-alone norm but should be read in an integrated manner, with the spirit of victim protection. This integrative approach will encourage the creation of a justice system that is responsive to the needs of women and children, while strengthening the legitimacy of religious court institutions in the public eye. In the long term, the implementation of SEMA No. 3 of 2023 should serve as momentum for comprehensive reform of Islamic family law in Indonesia. The Compilation of Islamic Law, the primary source for divorce cases, needs to be reviewed, particularly regarding its limited grounds for divorce clauses, which do not fully reflect the complexity of modern household relations. This reform can be achieved through the drafting of a new Religious Courts Law or a revision of the Compilation of Islamic Law (KHI) with a participatory approach based on empirical research. Furthermore, it is necessary to develop special procedural legal instruments for divorce cases to provide judges with guidance in establishing evidence and providing legal considerations oriented toward protecting basic human rights.

Thus, it can be concluded that the implications of implementing SEMA Number 3 of 2023 on the fulfillment of substantive justice in divorce cases depend heavily on how the norm is interpreted and implemented by judicial officials. If implemented rigidly and textually, SEMA has the potential to become a barrier for parties seeking to leave an unhealthy marriage. However, if interpreted progressively and contextually, SEMA can actually become a tool to encourage more careful evidence collection and provide greater protection for vulnerable parties. Therefore, synergy is needed between policymakers, judicial officials, academics, and civil society to ensure that SEMA serves not only as a procedural guideline but also as an instrument of justice that lives in social reality.

CONCLUSION

This research shows that SEMA Number 3 of 2023 was introduced as a response by the Supreme Court to organize religious court practices to be more consistent, cautious, and oriented towards the principles of substantive justice, particularly in handling divorce cases due to persistent disputes and quarrels. The legal rationale of this regulation is based on the need to reduce the high divorce rate while ensuring that divorce is the last resort after reconciliation efforts have failed and the household relationship is no longer salvageable. However, in its implementation, this SEMA presents practical challenges related to proving six months of separation of residence and proof of domestic violence, which are not always easy for parties in vulnerable positions, especially women. Therefore, the successful implementation of this SEMA depends heavily on the judge's ability to interpret the norms contextually and responsively to the social dynamics faced by the parties. The implication for further research is the need for further study of evidentiary practices in divorce cases after SEMA 3 of 2023, including empirical studies in various jurisdictions to assess its effectiveness and impact on access to justice, especially for women and children, as well as an evaluation of the role of these regulations in encouraging more equitable and gender-based family law reform.

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