E-ISSN: 3031-0458

Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory

RECONSTRUCTING WOMEN'S POST-DIVORCE MAINTENANCE RIGHTS IN INDONESIAN ISLAMIC FAMILY LAW

Fauziah Hayati
Universitas Islam Negeri Antasari Banjarmasin, Indonesia
E-mail: fauziahhayatikerjasama@gmail.com

Received 03-10-2026| Revised form 20-10-2026 | Accepted 07-11-2026

Abstract
Wives file roughly three quarters of all divorce cases in Indonesia, yet the maintenance rules they rely on were written mainly for divorces started by husbands. This mismatch is contested, because courts and scholars still disagree on whether a wife who sues for divorce deserves iddah maintenance and mut'ah. Supreme Court circulars issued in 2018 and 2019 changed the guidance, and the question is now urgent because compliance remains uneven. Existing research falls into three strands: studies of the factors that shape entitlement, studies of judicial process, and studies of economic impact. Most draw on fiqh doctrine, maqasid al-shari'ah, or feminist critiques of male authority, but few connect these with enforcement. This article asks how post-divorce maintenance rights are currently structured, which factors weaken them, and what model could rebuild them. It treats maintenance as a bundle of five claims rather than a single payment. We used a normative-juridical design with qualitative content analysis of statutes, the Compilation of Islamic Law, Supreme Court regulations and circulars, and recent Indonesian and international scholarship. Findings were coded across textual, critical, and transformative dimensions and interpreted through maqasid al-shari'ah and Fraser's theory of justice. Three findings stand out. Entitlement depends more on who files for divorce and on the nusyuz label than on need. Nusyuz works as an unevenly applied gatekeeper, while rules on quantification and enforcement are thin. A three-tier model that presumes entitlement, structures quantification, and secures payment fits both Islamic legal objectives and constitutional equality. Women's maintenance rights are limited less by Islamic doctrine than by procedural design. We recommend codifying a presumption of entitlement, adopting a court guideline for amounts, and building enforcement tools that do not depend on the wife's own litigation.
Keywords: post-divorce maintenance; iddah maintenance; mut'ah; maqasid al-shari'ah; Indonesian Religious Courts

Abstrak
Istri mengajukan sekitar tiga perempat dari seluruh perkara perceraian di Indonesia, tetapi aturan nafkah yang menjadi sandaran mereka disusun terutama untuk perceraian yang diajukan suami. Ketidaksesuaian ini diperdebatkan, karena pengadilan dan para sarjana belum sepakat apakah istri yang menggugat cerai berhak atas nafkah iddah dan mut'ah. Surat Edaran Mahkamah Agung tahun 2018 dan 2019 mengubah arah pedoman, dan persoalannya kini mendesak karena kepatuhan di lapangan masih tidak merata. Penelitian terdahulu terbagi dalam tiga arus: kajian tentang faktor yang membentuk hak, kajian tentang proses peradilan, dan kajian tentang dampak ekonomi. Sebagian besar bersandar pada doktrin fikih, maqasid syariah, atau kritik feminis atas otoritas laki-laki, tetapi jarang menghubungkannya dengan pelaksanaan putusan. Artikel ini menanyakan bagaimana hak nafkah pasca perceraian saat ini disusun, faktor apa yang melemahkannya, dan model apa yang dapat membangunnya kembali. Nafkah diperlakukan sebagai kumpulan lima tuntutan, bukan satu pembayaran tunggal. Kami memakai desain normatif-yuridis dengan analisis isi kualitatif terhadap undang-undang, Kompilasi Hukum Islam, peraturan dan surat edaran Mahkamah Agung, serta literatur Indonesia dan internasional terkini. Temuan dikodekan pada dimensi tekstual, kritis, dan transformatif, lalu ditafsirkan melalui maqasid syariah dan teori keadilan Fraser. Ada tiga

temuan utama. Hak nafkah lebih bergantung pada siapa yang mengajukan cerai dan pada label nusyuz daripada pada kebutuhan. Nusyuz bekerja sebagai penjaga gerbang yang diterapkan tidak seragam, sementara aturan penghitungan dan pelaksanaan masih tipis. Model tiga tingkat yang mengandaikan hak, menata penghitungan, dan menjamin pembayaran sejalan dengan tujuan hukum Islam dan kesetaraan konstitusional. Hak nafkah perempuan lebih dibatasi oleh rancangan prosedur daripada oleh doktrin Islam. Kami merekomendasikan kodifikasi praduga hak, pedoman pengadilan untuk besaran nafkah, dan alat pelaksanaan yang tidak bergantung pada gugatan lanjutan istri.
Kata kunci: nafkah pasca perceraian; nafkah iddah; mut'ah; maqasid syariah; Pengadilan Agama

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1. Introduction

Divorce in Indonesia has become a women's legal issue as much as a family one. Statistics Indonesia reports that wife-initiated petitions (*cerai gugat*) made up 75.2 percent of the 516,344 divorces recorded in 2022 and 76.0 percent of the 463,654 recorded in 2023, and the share reached about 78 percent in 2024 (Badan Pusat Statistik, 2023, 2024, 2025). The trend is controversial because Islamic doctrine, the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI), and judicial habit have long treated the woman who files as the party who ended the marriage, and so as less deserving of support. Supreme Court Circulars (SEMA) 3 of 2018 and 2 of 2019 tried to correct this. The emergency now lies in implementation, because a judgment that awards maintenance on paper does not always put money in a woman's hands (Dahlan et al., 2023; Wardana & bin Junoh, 2026).

The urgency is practical before it is theoretical. Women often leave a marriage with the children and a weaker income position, and divorced women face a stigma that makes recovery harder (Parker et al., 2016; Raday, 2019). Maintenance after divorce is meant to bridge that gap, through iddah maintenance, *mut'ah*, arrears, and child support. When these claims fail, the cost falls on women and children first (Hutasoit et al., 2024; Ulya & Endriyanti, 2023). Article 28D(1) of the 1945 Constitution also guarantees equal recognition and protection before the law, and a rule that thins a woman's financial protection because she used her right to divorce sits uneasily with that guarantee.

Comparative scholarship on Muslim family law shows how reform enters through different doors. Welchman (2007) and Voorhoeve (2012) trace statutory change across Muslim-majority states, Sonneveld (2012) follows *khul'* divorce in Egyptian courts, and ethnographies by Hirsch (1998), Stiles (2009), and Bano (2012) show how litigants and judges negotiate the law in practice. The shared gap is that this work concentrates on access to divorce and its grounds. The financial consequences of divorce, and who actually pays, receive far less sustained attention (Asari et al., 2017; Shahid, 2018).

Indonesian scholarship is richer on courts. Cammack et al. (1996), Bowen (2003), Nurlaelawati (2010), Salim (2015), and Lindsey and Butt (2018) explain how the 1974 Marriage Law and the KHI shape Religious Court practice. Since 2018 a growing number of

articles ask how courts apply SEMA 3/2018, SEMA 2/2019, and Supreme Court Regulation (Perma) 3 of 2017 (Fitri, 2024; Jannah et al., 2025; Patimah et al., 2023; Ramdani & Syafitri, 2021). Most are single-court or small-sample decision studies. What is missing is an integrated reading that follows each maintenance claim from entitlement through quantification to enforcement, and that proposes a model rather than only describing variation.

Indonesian law recognizes post-divorce maintenance, but the recognition is uneven across divorce types and across claims, and the machinery that turns entitlement into payment is weak. Three questions guide the study. First, how do current statutes, the KHI, and Supreme Court guidance structure a divorced woman's maintenance claims? Second, which legal, doctrinal, and institutional factors weaken those claims in practice? Third, what model of reconstruction would align the claims with Islamic legal objectives and with equality before the law?

Two bodies of law frame the inquiry. In Islamic law, the Qur'an links divorce with provision in several places (Q 2:228, 2:233, 2:236, 2:241, and 65:6-7), and classical jurists differed on how far maintenance extends after an irrevocable divorce. Hanafi scholars gave maintenance and housing, while Maliki and Shafi'i scholars generally limited it to housing unless the wife was pregnant (Dahlan et al., 2023; Ibn Rushd, 1996). In positive law, Article 41(c) of Law 1/1974 lets the court oblige the former husband to provide living costs, and Articles 149, 152, and 158 to 160 of the KHI turn that discretion into specific duties for husband-initiated divorce. We read these rules through maqasid al-shari'ah (Auda, 2008; Ibn Ashur, 2006), which asks what a rule protects, and through Fraser's (2009) theory of justice, which separates redistribution, recognition, and representation.

The study has three objectives: to map how current norms structure five maintenance claims in husband-initiated and wife-initiated divorce, to identify the factors that weaken those claims, and to propose a reconstruction model that courts, legislators, and the Supreme Court can use.

The contribution is threefold. Conceptually, the article treats post-divorce maintenance as a bundle of five claims, each with its own entitlement, quantification, and enforcement problem. Methodologically, it applies one coding grid across statutes, circulars, and recent case-based scholarship, so patterns can be compared across instruments rather than court by court. Practically, it offers a model that can be adopted through a Supreme Court regulation without waiting for a new family code. We argue that the main barrier is procedural design rather than Islamic doctrine, and that reform should start where the money actually moves.

2. Literature Review

Research on Muslim family law over the past two decades has moved from codification toward questions of gender, authority, and practice. Early comparative work described how states reformed classical rules through procedure and selective use of doctrine (Welchman, 2007; Hallaq, 2009). Reformist and feminist scholars then asked whether the rules themselves rest on a historical bargain between maintenance and obedience, and whether that bargain still matches how families live (Barlas, 2002; Mir-Hosseini, 2003, 2006; Wadud, 1999). In Indonesia, the KHI of 1991 drew attention as a compromise between fiqh, custom, and state law (Nurlaelawati, 2010; Salim, 2015). Since 2018 the literature has turned to judicial guidance and to how courts use it. This progression matters for maintenance, because each stage asks a different question: whether the rule is fair, whether it is applied, and whether it is paid. We organize that work into three trends: the factors that shape entitlement, the process that converts entitlement into a judgment, and the impact of the outcome on women and children.

The first trend identifies factors that shape whether a woman receives maintenance. The most visible is the initiator of divorce. In a set of South Jakarta Religious Court decisions from 2014 to 2016, most *khul'* cases ended with child custody and a *talak ba'in sughra* but little else, while husband-initiated cases usually carried iddah maintenance and mut'ah (Dahlan et al., 2023). Later studies add the husband's economic condition, the wife's needs, the causes of divorce, and the wife's contribution during the marriage (Afifah et al., 2025; Patimah et al., 2023; Wardana & bin Junoh, 2026). Judicial sensitivity is a recurring factor, since outcomes often depend on whether the judge reads the wife's claim through a gender-aware lens (Aziz & Abadi, 2025; Mansari & Moriyanti, 2023; Nurlaelawati, 2018; Nurlaelawati & Salim, 2013; Ramadhita et al., 2023). Women's legal knowledge and the cost of litigation also matter (Abdullah et al., 2010; Sumner & Lindsey, 2010), and studies of informal marriage and divorce show that women who stay outside the court system negotiate their entitlements without legal backing (Platt, 2017). Mediation can change the result too: in one reported Malang decision, the spouses agreed on iddah maintenance, mut'ah, and child support, and the judges confirmed the agreement (Wardana & bin Junoh, 2026).

The second trend concerns process. Article 41(c) of Law 1/1974 and Article 24(2) of Government Regulation 9/1975 give courts room to set maintenance, and Indonesian judges have used that room to award it *ex officio*, a power Malaysian Sharia courts lack (Dahlan et al., 2023). Debate continues over whether such awards risk *ultra petita* rulings, a worry that recent work rejects on grounds of substantive justice (Setiabudi et al., 2025; Turatmiyah et al., 2019). SEMA 3/2018, SEMA 2/2019, and Perma 3/2017 added guidance on gender-aware adjudication, and studies of Religious Courts in Padang Sidimpuan, East Java, and elsewhere ask how far judges follow it (Kania et al., 2025; Saputra et al., 2024; Tarigan et al., 2023). Quantification has its own sub-literature, which finds that judges

weigh the husband's capacity and the wife's needs without a shared formula (Arrayansyah et al., 2025; Ramdani & Syafitri, 2021), and that the iddah payment period itself is unsettled (Jannah & Roibin, 2023). Procedural design also affects who gets heard: in husband-initiated cases reported from South Jakarta, ex officio awards were tied to the wife's attendance, and one panel required payment at the pronouncement of talak (Dahlan et al., 2023).

The third trend looks at impact. Divorce changes household income, housing, and the care burden, and women usually carry more of each (Hutasoit et al., 2024; Raday, 2019). Stigma attached to divorced women compounds the economic effect (Parker et al., 2016), while longer-run demographic work shows that divorce patterns in Indonesia have shifted with law, education, and urbanization (Heaton et al., 2001; Jones, 1994). Studies of outcomes in practice report that judicial formalism can leave economic rights unrealized (Umah & Maftukhin, 2025; Ulya & Endriyanti, 2023) and that decisions on support are hard to enforce once issued (van Huis, 2010). Comparative work across Indonesia, Malaysia, and Brunei Darussalam asks whether post-divorce alimony policies deliver gender justice (Jannah et al., 2025), and research on civil servants shows a rare case where the state itself secures part of the payment through salary (Lingga et al., 2025). Read together, these studies describe impact as a chain: a thin or uncollected award affects housing, the care of children, and the woman's bargaining position in any later dispute.

Taken together, these studies are valuable, but they share limits. First, many decision studies rest on a handful of judgments from a single court, so their reach is limited, and several report methods and case selection only briefly. Second, many treat the circulars as the end of the story, and few follow a judgment to the point of payment. Third, nusyuz is often accepted as a settled gate, even though Article 84(4) of the KHI requires valid proof, and few studies ask what proof is actually demanded. Fourth, appeals to *maslahah* or maqasid appear frequently but rarely become operational rules for quantification or enforcement (Karimullah et al., 2025; Sholikhah & Jamilah, 2023). Fifth, comparative work is often descriptive, listing differences between countries without extracting design lessons (Dahlan et al., 2023; Jannah et al., 2025). Sixth, almost all the evidence concerns published decisions, which are the cases that reached judgment. Cases that were settled, withdrawn, or never filed are invisible, and they may be the ones where maintenance is weakest.

This article responds to those limits in three ways. It reads the five maintenance claims separately, because each fails at a different stage. It examines nusyuz as an evidentiary and doctrinal device rather than a label. And it moves from description to a reconstruction model, drawing design lessons, such as Malaysia's family support machinery, that Indonesian scholarship has mentioned but not developed. The novelty is not a new doctrine of maintenance. It is a stage-by-stage account of where existing doctrine loses force, paired with a model that places the remedy at each stage. The review

also sets the agenda for what follows: the study needs a corpus broad enough to include statutes, circulars, and decision studies, a unit of analysis that follows a claim from entitlement to enforcement, and a frame that can speak to both Islamic and constitutional reasoning.

3. Method

This study uses a qualitative, normative-juridical design with a socio-legal reading of case-based scholarship. We ask *what* the rules are, *why* they leave certain claims weaker than others, and *how* a reconstruction could be built. A qualitative design suits the question because the problem lies in how rules are drafted, interpreted, and combined, which counts alone cannot capture. The design follows the usual logic of doctrinal legal research, in which authoritative texts are interpreted systematically, but adds a second step that tests the texts against reported practice. Table 1 summarizes the design.

Table 1. Research design

Element	Specification	Reason
Approach	Qualitative, normative-juridical	The object of study is legal norms and how they are applied
Orientation	Doctrinal analysis plus a socio-legal reading of case-based scholarship	Norms need to be tested against reported practice
Theoretical lens	Maqasid al-shari'ah (Auda, 2008; Ibn Ashur, 2006) and three-dimensional justice (Fraser, 2009)	Links the purpose of a rule to redistribution, recognition, and representation
Corpus	Statutes, KHI, Perma and SEMA, fiqh works, scholarship from 2015 to 2025	Covers both text and practice
Analytical unit	Five maintenance claims examined at three stages	Allows like-for-like comparison (Figure 1)
Technique	Directed content analysis with a deductive grid and inductive codes	Keeps the grid open to unexpected factors
Quality control	Triangulation, audit trail, negative case search	Reduces selective reading

The unit of analysis is the individual maintenance claim, examined at three stages. We distinguish five claims: iddah maintenance (food, housing, and clothing during the waiting period), *mut'ah*, *nafkah madhiyah* (maintenance owed for past periods of neglect), the unpaid balance of *mahr*, and child maintenance. Each claim is examined for entitlement (who qualifies), quantification (how much), and enforcement (who pays and how payment is secured). Figure 1 shows the resulting grid of fifteen cells, and each cell is coded separately for husband-initiated and wife-initiated divorce. We chose these five because they appear together in Article 149 of the KHI and in the circulars, and because each can fail independently of the others. Using claims rather than judgments as the unit lets us compare instruments and court studies on the same footing.

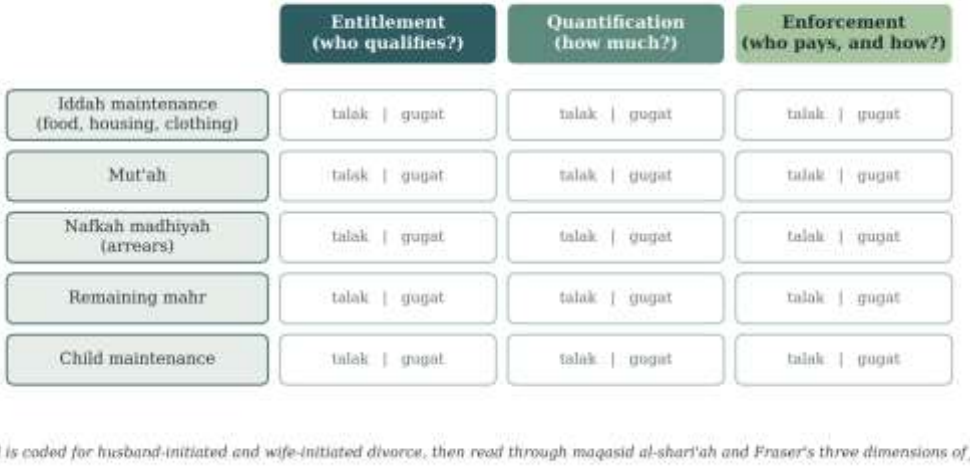


Figure 1. Unit of analysis: five maintenance claims examined across three stages

Primary sources are legal and doctrinal texts: the relevant Qur'anic verses; Law 1/1974 on Marriage; Government Regulation 9/1975; Law 7/1989 on Religious Courts as amended by Laws 3/2006 and 50/2009; the KHI (Presidential Instruction 1/1991); Government Regulations 10/1983 and 45/1990 on civil servants; Supreme Court Regulation 3/2017; and Supreme Court Circulars 3/2018 and 2/2019. For comparison we also used the Malaysian Islamic Family Law (Federal Territories) Act 1984. Secondary sources are classical and modern fiqh works, and peer-reviewed and institutional scholarship published mainly between 2015 and 2025, including studies of Religious Court decisions and national divorce statistics.

Data collection followed a structured search and screening procedure. We searched Scopus, Web of Science, Google Scholar, and the Garuda and SINTA portals with English and Indonesian terms such as post-divorce maintenance, *nafkah iddah*, *mut'ah*, *nafkah madhiyah*, *cerai gugat*, *nusyuz*, and Perma 3/2017. We kept studies that addressed maintenance consequences of divorce in Indonesia or offered a directly relevant comparison, and we excluded work that only discussed grounds for divorce. Legal texts

were retrieved from official publications and the Supreme Court's information channels, and statistics were taken from Statistics Indonesia. Where a decision study reported a court judgment number, we relied on the authors' account of the reasoning, and we did not treat student theses in university repositories as authoritative sources.

Analysis used directed qualitative content analysis. We built a deductive coding grid from the five claims and three stages, then added inductive codes when sources raised factors the grid did not anticipate, such as evidentiary standards for nusyuz or the payment timing at the pronouncement of *talak*. Coded material was written up in memos and grouped under three dimensions: descriptive (what the text and practice say), critical (which factors weaken the claims), and transformative (what model would repair them). Interpretation used maqasid al-shari'ah to test whether a rule serves protection of life, family, and property, and Fraser's theory to separate distributive, recognition, and representation failures. Triangulation across statutes, circulars, and independent case studies, an audit trail of coding decisions, and a deliberate search for negative cases guarded against selective reading. Where sources disagreed, we preferred the primary text over commentary and recorded the disagreement. Because the corpus consists of published decisions and secondary accounts, findings about practice are transferable patterns, not statistical estimates.

4. Results

4.1. Descriptive: Text and Practice

The first finding is that the texts governing post-divorce maintenance are detailed for husband-initiated divorce and thin for wife-initiated divorce. Judicial guidance has narrowed the difference since 2018, but it has done so through circulars and a Supreme Court regulation rather than through statute, and published case studies show that outcomes still vary from court to court.

In short, the law is generous where the husband files and conditional where the wife files, and the condition is the absence of nusyuz.

Table 2 sets out the coverage. For talak, Article 149 of the KHI lists mut'ah, maintenance, housing and clothing during iddah, the unpaid balance of *mahr*, and child care costs until the child reaches 21. Article 152 repeats the iddah entitlement unless the wife is nusyuz, and Articles 158 to 160 distinguish mandatory from recommended mut'ah and tie the amount to propriety and the husband's capacity. For wife-initiated divorce, the KHI is silent on these claims. SEMA 3/2018 fills part of the gap by allowing mut'ah and iddah maintenance in *cerai gugat* so long as nusyuz is not proven, and it directs judges to weigh fairness and propriety by looking at the husband's means and the wife's needs (Mahkamah Agung Republik Indonesia, n.d.). SEMA 2/2019 adds that a wife in *cerai gugat* may claim *madhiyah* maintenance, iddah maintenance, mut'ah, and child support, again without

nusyuz. Two further features matter. Perma 3/2017 is general in its terms, but it directs judges to identify inequality of status and to avoid stereotypes, and courts use it as the interpretive base for awards in wife-initiated cases (Fitri, 2024; Kania et al., 2025). Ex officio power is also central, because it lets judges award maintenance the wife did not request, which matters when women may not know which claims are available (Setiabudi et al., 2025; Sumner & Lindsey, 2010).

Table 2. Coverage of maintenance claims by divorce type

Claim	Husband-initiated (cerai talak)	Wife-initiated (cerai gugat)	Main gap
Iddah maintenance	KHI Arts. 149(b), 152; owed unless the wife is nusyuz, or ba'in and not pregnant	SEMA 3/2018 and 2/2019; allowed if nusyuz is not proven	No standard for amount or for the payment period
Mut'ah	KHI Arts. 149(a), 158-160; mandatory under the conditions in Art. 158, recommended otherwise (Art. 159)	SEMA 3/2018 and 2/2019; allowed if nusyuz is not proven	Amount tied only to propriety and capacity
Nafkah madhiyah	Built on marital support duties (Law 1/1974 Art. 34; KHI Art. 80)	SEMA 2/2019	Proof of arrears and the claim period are unsettled
Remaining mahr	KHI Art. 149(c)	Not addressed directly	Depends on general debt principles
Child maintenance	Law 1/1974 Art. 41(b); KHI Arts. 149(d), 156(d)	Same, with SEMA 3/2018 and 2/2019	Collection after judgment

Claim	Husband-initiated (cerai talak)	Wife-initiated (cerai gugat)	Main gap
Enforcement	Payment at the pronouncement of talak in some courts; salary share for civil servants (GR 10/1983 and 45/1990)	Civil servants only; otherwise separate execution	No general mechanism that spares the wife further litigation

Reported practice before and after these circulars shows the same pattern. In the South Jakarta decisions from 2014 to 2016, nine of eleven husband-initiated cases carried iddah maintenance and nine carried mut'ah, and in one decision payment was ordered at the pronouncement of talak. Among eleven *khul'* cases, six granted nothing beyond the divorce itself, and only one, where the spouses had signed a notarial agreement, carried both iddah maintenance and mut'ah (Dahlan et al., 2023). Post-2018 studies report change. In five East Java decisions from 2025, judges considered the causes of divorce, the parties' finances, and the wife's contribution, and one Surabaya court ordered iddah maintenance of IDR 1,000,000 per month for three months and mut'ah of IDR 5,000,000 on its own motion, while another decision dealt mainly with grounds for divorce and left the financial consequences largely unexamined (Wardana & bin Junoh, 2026). Enforcement tools remain narrow. Civil servants face a statutory share of salary under Government Regulations 10/1983 and 45/1990 (Lingga et al., 2025), but no comparable mechanism exists for most other husbands.

4.2. Critical: Factor Analysis

The second finding is that four factors weaken maintenance claims even where the text supports them: the nusyuz gate, initiator logic, the absence of quantification standards, and the dependence of enforcement on the wife's own litigation.

Put differently, the weak point is rarely the existence of a right. It is the conditions placed on it, the lack of a method for valuing it, and the lack of a way to collect it.

The nusyuz gate is the first factor. Under Article 84 of the KHI, a wife who is nusyuz loses maintenance during the marriage, and Article 149(b) carries that logic into iddah. The same article requires that nusyuz be proven by valid evidence, but case studies describe findings of nusyuz that rest on thin or contested facts, and a finding of nusyuz can remove several claims at once (Aziz & Abadi, 2025; Umah & Maftukhin, 2025). The doctrine behind the gate is the classical exchange of support for obedience, which Mir-Hosseini (2003) and Mir-Hosseini et al. (2015) show to be a historical construction rather than a revealed rule.

Where a wife leaves because the husband failed to provide, was violent, or abandoned the household, a nusyuz label misreads the facts, and Perma 3/2017 asks judges to notice exactly that kind of power imbalance (Fitri, 2024; Asni & Iqbal, 2025). The second factor, initiator logic, treats the act of filing as a waiver. It is a recognition problem in Fraser's (2009) sense, since the woman is read as the party at fault rather than as a party exercising a legal right. The third factor is the lack of quantification standards. Article 160 of the KHI and SEMA 3/2018 speak of propriety and capacity, but no guideline says how to weigh length of marriage, children, domestic contribution, or the standard of living, and judges report using their own judgment (Arrayansyah et al., 2025; Ramdani & Syafitri, 2021). Unstructured discretion produces the variation that studies keep finding, and it makes appeals hard to predict. The fourth factor is enforcement. In Indonesia the former wife must start separate proceedings when a husband does not pay, whereas Malaysia has a Family Support Division within the Sharia courts and statutory power to order security (Dahlan et al., 2023; Islamic Family Law (Federal Territories) Act 1984). Studies of child support execution in Indonesia report the same weakness (van Huis, 2010), and women with limited legal knowledge or resources are least able to bear it (Abdullah et al., 2010; Sumner & Lindsey, 2010).

The factors also compound one another. A finding of nusyuz removes entitlement, which makes quantification moot, and an award that is never collected makes both stages irrelevant. A woman who files for divorce after years of unpaid support may therefore meet the gate, the filing presumption, and the enforcement gap in sequence. The South Jakarta pattern is consistent with this: the khul' judgments that dealt with child custody did little more, and the only case with broader awards rested on a private agreement rather than on the court's own reasoning (Dahlan et al., 2023).

4.3. Transformative: Implications and Model

The third finding is that these four weaknesses can be addressed by a three-tier model, which we call the Entitlement, Quantification, and Enforcement (EQE) model, that places one remedy at each stage where the claims lose force.

In plain terms, the model presumes that a divorced woman is owed support, gives judges a method for deciding how much, and makes payment something the court helps secure rather than something she must chase.

Table 3 sets out the model. At the entitlement tier, the court would start from a rebuttable presumption that a divorced wife is entitled to iddah maintenance and mut'ah whoever filed, with the burden on the husband to prove nusyuz by specific facts. Where nusyuz is found, the consequence would be proportionate, such as a reduction tied to the nusyuz period, rather than automatic loss of every claim. This reading fits Q 65:6, which links housing and provision to the divorced woman, and it answers the recognition problem without disturbing classical categories. At the quantification tier, the Supreme

Court would issue a guideline listing factors for each claim: the husband's income and assets, the length of the marriage, the wife's domestic and economic contribution, the number and needs of children, the wife's age and employment prospects, and the standard of living during the marriage. The guideline could set indicative ranges linked to regional living costs, and it would require judges to give reasons for departing from them. At the enforcement tier, courts would treat payment as part of the judgment rather than as a separate claim. In husband-initiated cases, the practice of requiring payment before the pronouncement of talak already exists and should be made uniform. In wife-initiated cases, where conditioning the divorce itself on payment would harm the wife, the court could order payment into court, salary withholding for employed husbands, security for larger sums, and a simple registered procedure for execution, modeled partly on Malaysia's family support machinery. Three safeguards keep the model fair to both spouses. Husbands could seek variation if their income falls, in line with the changed-circumstances rule in Malaysian law (Islamic Family Law (Federal Territories) Act 1984). Awards would be paid in instalments where lump sums are unrealistic. And the guideline would apply the same factors to talak and gugat, so the identity of the initiator stops driving the amount.

Table 3. The EQE model for reconstructing maintenance rights

Tier	Reform	Legal vehicle	Maqasid and justice link
Entitlement	Rebuttable presumption of iddah maintenance and mut'ah whoever files; nusyuz proven by specific facts; proportionate consequence	Perma, grounded in Art. 41(c) of Law 1/1974 and Perma 3/2017	Protects dignity and life; answers misrecognition
Quantification	Guideline of factors and indicative ranges tied to regional living costs; duty to give reasons for departures	Supreme Court guideline or SEMA	Protects family and property; answers maldistribution

Tier	Reform	Legal vehicle	Maqasid and justice link
Enforcement	Payment ordered as part of the judgment; payment into court, salary withholding, security, and a simple registered execution	Perma, with later amendment of the Religious Courts law	Makes the right usable; answers lack of representation

The implications are practical. Because the model rests on powers courts already hold, namely Article 41(c) of Law 1/1974, the ex officio authority, and the Supreme Court's power to issue regulations, it can be adopted through a Perma without a new statute. It also tracks the objectives of maqasid al-shari'ah: protecting life and dignity through housing and sustenance, protecting family through child support, and protecting property through predictable and collectable awards.

5. Discussion

The study set out to find where women's post-divorce maintenance rights lose force and how they might be rebuilt. The main findings are that the texts are detailed for husband-initiated divorce and conditional for wife-initiated divorce, that four factors weaken the claims in practice, and that a three-tier EQE model can restore them. The findings do not claim that Islamic doctrine is the barrier. Classical sources disagree widely, and the range of positions leaves room for the more protective readings that Indonesian courts have begun to adopt. Put together, the evidence suggests that Indonesian law has already accepted the principle of maintenance after divorce. What it has not yet done is build the procedural machinery that makes the principle dependable.

The Indonesian context explains why the machinery is uneven. The KHI was drafted in 1991 when talak was still the model divorce, and wife-initiated divorce was treated as an exception. The caseload has since inverted, with wives filing about three quarters of cases (Badan Pusat Statistik, 2023, 2024, 2025), but the main maintenance provisions have not been rewritten. The Supreme Court has filled the gap through circulars and Perma 3/2017, which is a sensible use of its authority, though circulars lack the stability and visibility of statute. The result is a system in which good outcomes depend on a judge who knows the guidance, a wife who appears and asks, and a husband who pays voluntarily. Regional variation adds to the problem, since living costs differ sharply between Jakarta and eastern Indonesia, yet the circulars offer no way to adjust for it.

Theoretically, the findings fit Fraser's (2009) three dimensions. The nusyuz gate and initiator logic are recognition failures: they misrecognize a woman who files for divorce as a party at fault. The missing quantification guideline is a distribution failure, since it leaves the size of a woman's share to chance. The enforcement gap is a representation failure, because a right that must be re-litigated is out of reach for the women with the least access to courts. Maqasid al-shari'ah offers a parallel reading. If the objectives of the law include protecting life, family, and property (Auda, 2008; Ibn Ashur, 2006), then a maintenance rule that routinely leaves women and children without support defeats its own purpose, even where each individual ruling can be defended on the text. The pairing also clarifies a point that doctrinal debate tends to blur. Fraser's recognition dimension asks whether women are treated as full parties to the marriage contract, which is the question Mir-Hosseini (2003) raises about the bargain of maintenance for obedience.

A further point concerns understanding rather than technique. The classical bargain of maintenance for obedience was a way of organizing households in a particular economic order, and jurists themselves disagreed about how far it reached after divorce. The Qur'anic language on divorce speaks of provision according to what is customary and fitting (*bi'l-ma'ruf*), and of mut'ah as something owed to the God-conscious and the doers of good (Q 2:236, 2:241). Reading these verses as sources of a flexible duty of fair provision, measured by capacity and need, is consistent with both the text and the tradition of reasoned disagreement (Abou El Fadl, 2001; Mir-Hosseini et al., 2013). In that reading, maintenance is not charity from a husband and not a penalty for a wife who leaves. It is the continuing consequence of a shared life. There is also a practical wisdom in the classical sources that modern reform can keep. One purpose of the iddah period, beside establishing paternity, was to protect a woman during a transition, so that the end of a marriage would not leave her unhoused or uncared for. Courts that tie iddah maintenance to that transitional purpose, rather than to who ended the marriage, stay closer to the tradition than courts that read it as a reward for obedience.

Compared with earlier work, the results confirm that judicial sensitivity shapes outcomes (Nurlaelawati, 2018; Fitri, 2024; Tarigan et al., 2023) and that wife-initiated divorce is the weakest point (Dahlan et al., 2023; Aziz & Abadi, 2025). They extend recent decision studies, which tend to end with a call for more consistent application (Wardana & bin Junoh, 2026), by showing that consistency depends on three separate repairs rather than one. They also differ from analyses that treat the circulars as sufficient. The circulars open the door to entitlement, but they say little about quantification or enforcement, and the Malaysian comparison shows that a court can have an institution devoted to collection (Dahlan et al., 2023). The Malaysian comparison deserves care. Malaysia pairs a requirement that wives ask for their rights with a family support division that helps collect them, whereas Indonesia pairs ex officio power with little collection machinery. The EQE model proposes to keep Indonesia's strength at the front end and borrow Malaysia's

strength at the back end. Our findings are also consistent with comparative studies that treat maintenance as part of a wider reform of Muslim family law rather than an isolated rule (Mir-Hosseini et al., 2015; Shahid, 2018; Welchman, 2007).

The implications run in three directions. For the Supreme Court, the model suggests a regulation that codifies the presumption of entitlement, a quantification guideline, and enforcement procedures. For legislators, it identifies provisions of the KHI and the Religious Courts law that should be revisited when family law is next reformed, especially Articles 149 and 152 and the treatment of nusyuz. For judges and practitioners, it offers a checklist for reasoning: ask who qualifies, how the amount was reached, and how payment will be secured. Two cautions apply. A guideline must leave room for judicial judgment, since rigid formulas can misfit unusual cases, and enforcement tools must be designed so that they do not delay a wife's own divorce. Both cautions are design questions, not objections to the model. Finally, the model has a monitoring implication: courts should record whether awards are paid, so that the next study can measure compliance directly instead of inferring it from judgments.

6. Conclusion

This article has argued that the principal weakness in women's post-divorce maintenance rights in Indonesia is procedural rather than doctrinal. Reading five maintenance claims across entitlement, quantification, and enforcement, we found that the texts are detailed for husband-initiated divorce and conditional for wife-initiated divorce, that the nusyuz gate, initiator logic, missing quantification standards, and enforcement gaps weaken the claims in practice, and that these problems are separable and therefore repairable. Each can be addressed without rewriting Islamic doctrine, which is why the proposal is modest in its means and substantial in its effect. The scholarly contribution is a stage-by-stage account of where doctrine loses force, together with the EQE model that places a remedy at each stage. The findings also temper two common assumptions. Wife-initiated divorce is not a reason to reduce support, and the circulars, useful as they are, do not complete the work.

Theoretically, the study joins maqasid al-shari'ah with Fraser's three-dimensional justice to show that the same failure can be read as a purposive failure in Islamic terms and as a failure of recognition, redistribution, and representation in a justice framework. This pairing gives courts and reformers two vocabularies for the same argument, one rooted in the objectives of the law and one in equality before it. Methodologically, the five-claim, three-stage coding grid offers a way to compare statutes, circulars, and decision studies on a common footing. Its limits are plain. The corpus consists of legal texts and published accounts of practice, so the findings describe patterns and do not estimate how often each pattern occurs. Taken as a whole, the article also offers a vocabulary for reform arguments that avoids a false choice between fidelity to Islamic law and commitment to equality.

Practically, the Supreme Court can adopt the EQE model through a regulation that states the presumption of entitlement, issues a quantification guideline, and sets enforcement procedures that do not depend on the wife's separate litigation. Legislators can fold the same elements into future reform of the KHI and the Religious Courts law. Future research should test the model empirically, for instance by tracing a sample of judgments from filing to payment, interviewing women, judges, and court registrars about collection, and measuring how guideline-based awards compare with discretionary ones. Comparative work with Malaysia and other Muslim-majority jurisdictions would show which enforcement institutions travel well. The model has not been field tested, and its indicative ranges would need calibration with court and household data. Researchers working with court registries could also ask whether children of women who receive structured awards fare differently in housing and schooling, and how far enforcement should go, for instance whether unpaid awards should carry administrative consequences. We hope those who litigate and adjudicate these cases every day will test, criticize, and improve the model. Until the machinery is built, a woman's right to maintenance after divorce will remain strong in the text and uncertain in the purse.

7. References

[Author's note, delete before submission: every entry should be checked against Scopus, Crossref, or the publisher page, and recent Scopus-indexed journal articles (2022 to 2025) should be added to raise their share of the list.]

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