



An Analysis of Islamic Law Regarding Default Judgments in Divorce Action Cases: Case Study of Judgment No. 13/Pdt.G/2022/PA.Smg

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Abstract

This study examines the structural intersection of statutory civil procedures and classical Islamic jurisprudence through a rigorous doctrinal analysis of Semarang Religious Court Decision Number 13/Pdt.G/2022/PA.Smg. Adopting a non empirical qualitative approach, the investigation isolates the operationalization of a default judgment within a brief marriage characterized by immediate spousal abandonment and the complete non appearance of the defendant. The findings reveal that the judiciary successfully balanced rigid civil procedural requirements with material Sharia doctrines, specifically employing the classical legal maxim of harm prevention to justify immediate dissolution. Furthermore, the imposition of a Talak Satu Ba'in Sughra decree establishes crucial gender equity by stripping the absent husband of unilateral reconciliation rights and restoring the individual autonomy of the plaintiff. This adjudication demonstrates a progressive jurisprudential evolution within Indonesian religious courts, where formal mechanics are harmonized with substantive justice frameworks to prevent structural domestic oppression. Ultimately, the study underscores the necessity of proactive judicial intervention to protect vulnerable spouses from legal limbo, ensuring that statutory family law actively reinforces constitutional protections and contemporary human rights standards.

Keywords : Default Judgment, Islamic Jurisprudence, Spousal Abandonment, Substantive Justice, Gender Equity.



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INTRODUCTION

The transformation of contemporary family law across global jurisdictions increasingly intersects with the complex dynamics of modern adjudication, particularly regarding the tension between procedural efficiency and the preservation of substantive justice. In the global south, this intersection manifests prominently within Islamic judicial systems where the reconciliation of classic Islamic jurisprudence and positive civil procedures remains an ongoing evolutionary challenge. Marital dissolution, which historically relied heavily on consensual or bilateral mechanisms, is now frequently mediated through formal courts that utilize specific procedural instruments such as default judgments or *verstek* decisions to navigate the non-appearance of litigants. This procedural adaptation is critical in an era characterized by shifting demographic realities and socioeconomic instability, both of which strain traditional marital obligations and often lead to unilateral spousal abandonment. Consequently, international legal discourse has placed greater emphasis on how family courts manage systemic absenteeism without compromising the core ethical tenets of religious law (Soemiyati 2016). In contemporary Islamic legal systems, the operationalization of default judgments serves as a vital indicator of judicial agility, determining whether courts can effectively balance formal civil rules with the divine principles of fairness and protection of vulnerable parties.

The intersection between state legislated family law and Islamic jurisprudence has been widely explored in existing literature, yet scholarship often remains polarized between purely formal procedural compliance and abstract theological arguments. Previous studies have heavily documented how the failure to provide marital maintenance triggers judicial divorce, establishing that economic neglect constitutes a primary justification for marital dissolution under both statutory and religious frameworks (Syarifuddin 2020). Scholars examining the enforcement of spousal rights post divorce have demonstrated that post marital maintenance violations are structurally pervasive, highlighting a

systemic failure in state mechanisms to secure the economic welfare of former wives and children (Yusoff et al. 2024). Furthermore, the integration of classical Islamic legal maxims within modern judicial reasoning has been analyzed as a tool for judicial activism, allowing judges to prioritize harm reduction over the rigid maintenance of unviable marital bonds (Wafiroh and Yusuf 2026). In the realm of evidentiary standards, previous research on *verstek* judgments within religious courts indicates that judges routinely require high thresholds of corroborative evidence from the appearing party to prevent arbitrary divorces, thereby demonstrating that the non appearance of a defendant does not automatically translate into an uncontested victory for the plaintiff (Risdalina et al. 2022).

Despite these valuable contributions, a significant conceptual and empirical gap persists within the current body of literature concerning the precise legal mechanics and systemic implications of *verstek* decisions in short lived marriages. Most existing research tends to evaluate default judgments either through a generic procedural lens in civil disputes or within the broad, non specific context of long term marriages where a pattern of domestic conduct has already been well established. There is an evident lack of granular, case specific analyses addressing how religious courts manage the immediate breakdown of a marriage—such as unions lasting only one month—where the husband disappears almost immediately after the wedding without fulfilling any initial marital obligations. Furthermore, contemporary scholarship rarely investigates the specific tension generated when a court applies statutory civil procedures, such as Article 125 of the *Herziene Inlandsch Reglement*, while simultaneously attempting to resolve complex questions of Islamic civil law regarding *talak ba'in sughra* and joint property division (Zahra et al. 2025). This oversight leaves an incomplete understanding of how judges synthesize state enacted procedural mandates with classical Islamic jurisprudence when dealing with complete spousal evasion from the very inception of the marital contract.

This lacuna in the literature creates an urgent scientific and practical necessity to examine the precise judicial reasoning behind default judgments in exceptional matrimonial disputes. From a scientific standpoint, failing to unpack the synthesis of formal statutory rules and classical Islamic jurisprudence in cases of immediate spousal abandonment prevents the development of a coherent theory of procedural justice within Islamic family law. Practically, the rise in modern marital disputes characterized by swift abandonment and geographic evasion by defendants demands a robust analytical framework that ensures legal certainty and protects the left behind spouse from prolonged legal and financial vulnerability. If the religious courts fail to balance rigorous evidentiary standards with procedural efficiency, it could lead to systemic delays that exacerbate the suffering of the plaintiff, or conversely, create a precedent of hasty dissolutions that undermine the sanctity of marriage. Understanding how courts maintain the delicate balance between the strict burden of proof and the necessity of preventing harm to an abandoned wife is essential for refining judicial training and reforming family law enforcement across Muslim majority nations (Syahrin et al. 2025).

Positioning this study within the broader academic landscape requires an intensive engagement with the specific judicial output of the Indonesian *peradilan agama* as a microcosm of global Islamic judicial evolution. This research positions itself at the critical intersection of statutory civil procedure, classical Islamic jurisprudence, and empirical judicial behavior, moving beyond the traditional descriptive legal analysis that dominates much of the regional scholarship. By focusing on the structural and substantial arguments within Semarang Religious Court Decision Number 13/Pdt.G/2022/PA.Smg, this study serves as an empirical anchor to test the adaptability of modern Islamic courts facing non cooperative litigants (Semarang Religious Court 2022). It shifts the academic conversation from a generalized critique of marital maintenance laws to a highly focused exploration of how judicial discretion utilizes Islamic legal maxims to bridge the gaps left by silent or absent defendants. Ultimately, this approach aligns with contemporary scholarly efforts to analyze how constitutional guarantees of legal certainty and protection are practically realized within specialized sharia courts, thereby enriching the global discourse on institutional legal adjustments in religious judiciaries (Yuniardi et al. 2024).

The primary objective of this study is to analyze the intricate judicial considerations and legal implications of the *verstek* judgment executed in Decision Number 13/Pdt.G/2022/PA.Smg by the Semarang Religious Court. Theoretically, this research seeks to construct an integrated conceptual model that explains how state-mandated procedural codes and divine legal tenets converge to formulate a balanced definition of justice in cases of immediate marital abandonment. Methodologically, this

study employs a rigorous qualitative case-study approach combined with a conceptual analysis, utilizing both positive statutory law and classical fiqh doctrines to evaluate the validity, coherence, and efficacy of the judges' decision-making process. By dissecting the synthesis of evidentiary rules, spousal protection principles, and the application of harm-reduction maxims, this research contributes a novel analytical framework to international legal scholarship, offering deep insights into how contemporary Islamic judicial systems can successfully deliver substantive justice under conditions of procedural non-cooperation.

RESEARCH METHODS

This study adopts a non empirical qualitative approach rooted in normative and doctrinal legal research design to investigate the structural intersection of statutory civil procedures and classical Islamic jurisprudence. The primary data sources comprise authoritative legal materials including the Semarang Religious Court Decision Number 13/Pdt.G/2022/PA.Smg, Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, and Presidential Instruction Number 1 of 1991 regarding the Compilation of Islamic Law. Secondary data sources encompass authoritative legal commentaries, academic journals, and classic Islamic jurisprudence treatises that elucidate spousal rights and procedural mechanics within the broader framework of family law. The selection criteria for this specific case study are strictly purposive, identifying an adjudication that uniquely isolates the operationalization of a default judgment within a brief marriage characterized by immediate spousal abandonment and complete non appearance of the defendant. The analytical framework integrates a comparative doctrinal lens that juxtaposes state civil procedural codes with Islamic legal doctrines, particularly focusing on the systemic tension between formal procedural compliance and the substantive realization of spousal welfare.

The analysis procedure follows a progressive qualitative framework beginning with a literal and contextual reading of the judicial decision to extract the primary legal reasoning of the judges. The data processing phase involves a systematic categorization of the legal facts, the evidentiary requirements, and the specific Islamic legal maxims employed by the bench to justify the dissolution. This is followed by a critical evaluative stage where the application of civil procedural mechanisms is examined against the standards of lawful notification and reasonable time frameworks established in civil law doctrine. To assure academic rigor and credibility, the study employs source triangulation and continuous conceptual verification, cross referencing the statutory interpretations with multiple classical legal schools of thought and contemporary family law developments. This multi layered analytical scrutiny ensures that the findings remain objective and logically coherent, thereby maintaining a high standard of internal validity without relying on empirical field replication.

RESULTS AND DISCUSSION

Procedural Mechanics and Statutory Validity of Default Judgments in Islamic Matrimonial Adjudication

The operationalization of default judgments within the Indonesian religious court system reflects a critical equilibrium between procedural efficiency and the preservation of substantive matrimonial justice. Under the framework of statutory civil procedure, specifically Article 125 of the *Herziene Inlandsch Reglement*, judges possess the institutional authority to issue a *verstek* decision when the defendant continuously fails to attend scheduled hearings despite receiving lawful notifications (Harahap, 2017). This procedural mechanism prevents indefinite litigation delays caused by uncooperative parties, thereby upholding the constitutional principle of swift and cost effective justice. In the context of Islamic family law, the application of default rules must be carefully harmonized with divine tenets to ensure that spousal rights are not arbitrarily compromised due to administrative technicalities (Risdalina et al., 2022).

The tension between formal procedural compliance and the protection of spousal welfare becomes acutely manifest in cases of immediate spousal abandonment following the consummation of marriage. Statistical trends in religious judiciaries indicate that abrupt desertion often leaves the appearing spousal party in a state of prolonged legal vulnerability and financial instability (Yusoff et al., 2024). Statutory mechanisms such as Law Number 1 of 1974 concerning Marriage establish rigid parameters for spousal obligations, meaning that a total cessation of maintenance almost immediately undermines the foundational architecture of the marital union (Republic of Indonesia, 1974). When a

defendant evades the judicial process entirely, the court faces the dual challenge of validating the procedural absence while substantively investigating the reality of the alleged domestic breakdown (Atoillah and Mansur, 2025).

Legal formalisms demand that the summoning process satisfies both the criteria of legality and reasonableness before a court can legitimately proceed with a default configuration. Government Regulation Number 9 of 1975 provides explicit guidelines regarding the delivery of notifications, requiring the bailiff to communicate directly with the defendant or utilize local administrative channels to verify the residence (Republic of Indonesia, 1975). Doctrinal perspectives emphasize that proper notification functions as a safeguard for due process, granting the absent party an equitable opportunity to present counter arguments against the petition (Atoillah and Mansur, 2025). In Decision Number 13/Pdt.G/2022/PA.Smg, the judicial panel meticulously verified that the defendant was summoned in accordance with these statutory mandates before exercising *verstek* prerogatives (Semarang Religious Court, 2022).

The evidentiary burden in a default divorce proceeding undergoes a profound transformation compared to standard adversarial civil litigation where an absence might imply passive admission. In sharia court practices, the non appearance of a husband does not automatically translate into an unconditional victory for the plaintiff because the court remains bound by the overarching principle of preventing arbitrary marriage dissolution (Risdalina et al., 2022). The appearing wife must provide robust corroborative evidence to overcome the presumption of innocence and establish the permanent breakdown of the marital bond (Zahra et al., 2025). This specialized standard underscores the unique position of *peradilan agama* where religious ethics dictate a higher threshold of judicial scrutiny than conventional civil frameworks require (Abdurrahman, 2018).

The presentation of documentary evidence and testimonial support forms the core mechanism through which the appearing party substantiates claims of spousal neglect and permanent desertion. Authenticated marriage certificates serve as conclusive proof of legal standing, while spousal testimony from immediate family members provides critical qualitative insights into the internal collapse of the household (Mardani, 2019). The empirical synthesis of these legal instruments allows the judiciary to construct a clear causal link between the behavioral default of the husband and the breakdown of the marital purpose. To map the precise statutory instruments and procedural requirements governing default judgments in religious judiciaries, the following matrix delineates the core components verified by the bench in matrimonial disputes.

Table 1. Statutory and Evidentiary Frameworks in Default Matrimonial Adjudications

Statutory Provision	Procedural Function	Evidentiary Requirements	Judicial Objective
Article 125 HIR	Authorizes <i>verstek</i> decisions upon defendant absence	Formal verification of lawful and <i>patut</i> notifications	Upholding procedural efficiency
Article 116 KHI	Defines marital breakdown and abandonment criteria	Testimonial support from minimum two family witnesses	Validation of substantive grounds
Law 1/1974	Establishes foundational spousal obligations	Documentary proof of legal marriage registration	Protection of matrimonial sanctity

Source: Synthesized Harahap (2017), Abdurrahman (2018), and Semarang Religious Court (2022)

The data presented in the matrix indicates that the procedural validity of a default decision depends heavily on the integration of specific statutory codes and corroborative evidentiary thresholds. As illustrated in the comparative breakdown, Article 125 of the *Herziene Inlandsch Reglement* serves as the formal gateway for default adjudication, but it remains dependent on the substantive criteria found in the *Compilation of Islamic Law* (Abdurrahman, 2018). The judicial reasoning in Decision Number 13/Pdt.G/2022/PA.Smg demonstrates that the bench actively balanced these distinct legal

streams to avoid an arbitrary application of procedural rules (Semarang Religious Court, 2022). This combined approach ensures that the resulting verdict fulfills the requirements of state law while respecting the sacred nature of Islamic marital contracts (Syarifuddin, 2020).

Beyond the immediate formal compliance, the judicial deployment of default mechanisms addresses the broader issue of systemic spousal non cooperation in contemporary family disputes. Unilateral abandonment often acts as a tactical tool employed by evasive litigants to frustrate the judicial process and prolong the emotional distress of the left behind spouse (Putri et al., 2025). By utilizing the *verstek* framework, the religious court effectively neutralizes this uncooperative behavior, ensuring that the administration of justice cannot be hijacked by the willful absence of one party (Herlina, 2026). This assertive judicial stance aligns with international standards of family dispute resolution where the rights of the appearing party must be protected against protracted litigation strategies (Adnan, 2024).

The enforcement of financial rights and spousal maintenance post divorce remains a contested domain within modern Islamic jurisprudence, particularly when the initial decree is achieved via default processes. Litigants who obtain a divorce through a default judgment often face subsequent challenges in enforcing ancillary claims such as child support or the division of joint marital property (Syahrin et al., 2025). The total absence of the defendant during the trial phase limits the ability of the court to assess the precise economic capacity of the husband, which frequently leads to complexities in post divorce asset allocation (Yusoff et al., 2024). For that reason, the judiciary must exercise extreme care during the evidentiary stage to collect comprehensive background information from available witnesses to safeguard the financial future of the dependent family members (Danil et al., 2025).

Contemporary developments in Islamic family law emphasize the necessity of evolving traditional frameworks to address modern procedural disruptions like digital evasion and cross border desertion. Theoretical reassessments of family law suggest that classic doctrines must be continually reinterpreted through evaluative frameworks that prioritize human welfare and the mitigation of domestic harm (Wafiroh and Yusuf, 2026). When modern courts confront cases where a marriage collapses within weeks due to immediate desertion, the rigid adherence to lengthy traditional reconciliation steps may inadvertently exacerbate the suffering of the plaintiff (Herlina, 2026). The successful execution of a default judgment in such compressed timelines demonstrates how formal state regulations can be dynamically adapted to fulfill the protective spirit of traditional sharia principles (Soemiyati, 2016).

In summary, the formal investigation into default judgments within religious judiciaries exposes a sophisticated system of legal checks and balances designed to maintain institutional integrity. The synthesis of state legislated procedural mandates and classical religious values creates a unique adjudicative environment where efficiency does not displace the pursuit of substantive fairness (Yuniardi et al., 2024). By analyzing the structural alignment of these legal fields, scholars can better understand the adaptive capabilities of Islamic courts dealing with complex modern relationship dynamics (Nasrulloh et al., 2025). The procedural validity of the default mechanism ultimately serves as a vital cornerstone for preserving legal certainty and securing individual rights within the contemporary Islamic family law system (Atoillah and Mansur, 2025).

Substantive Justice and Harmonization of Classical Fiqh Doctrines in Resolving Spousal Abandonment

The transition from formal procedural validation to substantive adjudication requires an in-depth examination of the material Islamic legal principles applied by the bench. In Decision Number 13/Pdt.G/2022/PA.Smg, the judges shifted their analytical focus from mere statutory attendance requirements to the core marital obligations that define a functional Islamic household. This approach aligns with the fundamental spirit of Islamic jurisprudence, which prioritizes the preservation of actual spousal welfare over strict adherence to rigid administrative protocols. By focusing on the severe breakdown of marital harmony, the court demonstrated that judicial intervention must protect the vulnerable party from prolonged harm rather than delaying justice for an absent defendant.

The rapid breakdown of the marriage, which deteriorated after only one month, points directly to a severe state of *shigaq* or irreconcilable marital discord. Classical Islamic law requires that marriage be sustained on the principles of mutual tranquility, affection, and mercy as outlined in authoritative family law treatises (Syarifuddin, 2020). When immediate abandonment occurs, the foundational purpose of the marital contract is destroyed, transforming the sacred bond into an empty legal shell. The

defendant's sudden departure and complete failure to provide emotional or physical support created an unsustainable situation where the legal continuation of the marriage would only prolong a fiction.

The material basis for dissolution is further strengthened by the evidential proof of complete economic abandonment. Under normative Indonesian family law, a husband is legally and teologically obligated to provide adequate financial maintenance to his wife (Soemiyati, 2016). The complete lack of maintenance in this case constitutes a severe breach of the marriage contract, transforming a financial obligation into a critical justification for judicial divorce. The court correctly interpreted this systematic neglect not just as an ordinary financial disagreement, but as an existential threat to the dignity and livelihood of the abandoned spouse.

To contextualize how these substantive frameworks operate within contemporary judicial reasoning, the primary legal maxims and doctrinal integrations used in this adjudication are structured below.

Table 2. Integration of Classical Islamic Maxims and Evaluative Frameworks in Judicial Dissolution

Islamic Legal Maxim / Concept	Doctrinal Meaning	Operational Application in Case	Substantive Justice Outcome
<i>Dar'u al-mafasid muqaddam 'ala jalbi al-mashalih</i>	Preventing harm takes absolute priority over the acquisition of secondary benefits.	Terminating a broken, non-functional marriage to stop the ongoing psychological and social harm of abandonment.	Protects the abandoned wife from a dead-end legal status and allows her to rebuild her life.
<i>Al-Dararu Yuzal</i>	Harm must be systematically eliminated by the state authority.	Removing the legal and emotional injury caused by a spouse who absconded without providing notice or maintenance.	Ensures that judicial mechanisms function as active tools for relief rather than extensions of harm.
<i>Shigaq</i>	Severe, irreconcilable discord that breaks down marital harmony.	Assessing the permanent rupture of the relationship caused by immediate, total abandonment after one month.	Dissolves the empty marital contract to prevent continuous, toxic structural entanglement.
<i>Nafaqah Wajibah</i>	Mandatory spousal maintenance as a core theological and legal duty.	Treating the total absence of economic support as a fundamental material breach of the marriage vows.	Validates the wife's claims of neglect and solidifies the material basis for an immediate divorce decree.

Source: Synthesized Semarang Religious Court (2022), Fadel (2025), and Wafiroh & Yusuf (2026).

The application of the maxim *dar'u al-mafasid muqaddam 'ala jalbi al-mashalih* serves as the primary philosophical foundation for the court's final ruling. In this case, the potential benefit of waiting indefinitely for the defendant to appear is heavily outweighed by the immediate harm of leaving the plaintiff in a state of legal limbo. Contemporary Islamic legal analysis suggests that family courts must adopt an active role in resolving such disputes to ensure that statutory frameworks reflect genuine Islamic ethics (Wafiroh & Yusuf, 2026). Sustaining an inactive marriage where one party has vanished offers no social or spiritual benefit, making a prompt judicial dissolution the only logical way to prevent further harm.

This judicial approach reflects a broader evolution in Islamic family law, where courts increasingly favor practical harm reduction over rigid doctrinal positions. This shift is visible in modern Maliki-influenced legal reforms, which allow rapid judicial divorce when an ongoing injury or *darar* is

clearly proven (Fadel, 2025). By recognizing that prolonged abandonment causes deep emotional and social damage, the Semarang Religious Court aligned itself with this progressive jurisprudential trend. The ruling proves that modern Islamic judiciaries can maintain deep doctrinal continuity while remaining highly responsive to urgent human crises.

The contract of marriage in Islamic law demands a continuous exercise of good faith and mutual responsibility from both parties. When a spouse abandons their marital home immediately after the wedding, they commit a fundamental breach of this covenant, which mimics the concept of contractual default in broader Sharia transactions (Ashoni, Fitriyah, & Mukhlas, 2026). This total failure of spousal responsibility removes any right the defendant had to demand the preservation of the marriage. The court's willingness to grant a default judgment underscores the principle that legal protections are reserved for those who act in good faith, not for those who desert their obligations.

The husband's total neglect of his core duties also brings up the critical issue of spousal misconduct or *nusyuz*. While classical texts often focus on a wife's non-compliance, contemporary legal analysis shows that a husband's failure to provide maintenance and companionship constitutes a severe form of reciprocal neglect (Muhyiddin, 2023). The Semarang Religious Court correctly identified that the husband's flight placed the full burden of the broken marriage onto the wife. By granting the divorce, the bench removed the unfair stigma of neglect from the plaintiff and legally recognized the defendant as the sole party responsible for the marital breakdown.

The interaction between classical Islamic jurisprudence and contemporary state laws requires an active harmonization of sources. Judges must balance the rules found in traditional *fiqh* manuals with the modern codifications set out in the Compilation of Islamic Law (Mustofa, 2025). This case demonstrates how statutory family law can expand traditional concepts of justice to protect individuals in urban, fast-moving societies. The court's reasoning shows that statutory rules are not meant to restrict Islamic justice, but to provide a clear structure for its execution.

This careful balancing of diverse legal traditions ensures that the final decree achieves absolute internal validity. Modern family courts must navigate the tension between historical texts and current social realities to prevent the law from becoming obsolete (Nasrulloh et al., 2025). The Semarang Religious Court achieved this by using classical legal maxims to fulfill the true intent of modern Indonesian statutory law. The resulting decision offers a clear model of substantive justice, proving that the protection of human welfare remains the highest goal of Islamic law.

Gender Equity, Constitutional Protections, and Legal Implications of Talak Ba'in Sughra Decrees

The imposition of a Talak Satu Ba'in Sughra decree via a default judgment initiates definitive legal consequences that alter the marital status irreversibly. Under Indonesian Islamic family law, this specific category of divorce permanently terminates the marriage contract and strips the husband of his unilateral right to resume the union during the waiting period (Abdurrahman, 2018). Any attempt to reconcile requires the execution of a completely new marriage contract, complete with a distinct dower and formal administrative registration. This dynamic prevents a non-appearing husband from exploiting the legal framework to resume a marriage he previously abandoned without the explicit consent and renewed agreement of the wife.

The judicial issuance of an irrevocable divorce of minor degree serves as a critical mechanism for the protection of women's rights within the state legal apparatus. When a husband deserts the domestic sphere and refuses to participate in court procedures, the state must intervene to ensure the wife is not left in an ambiguous social position (Firdous, 2026). Leaving an abandoned woman in an ongoing marital bond without any functional spousal support constitutes an extreme form of structural vulnerability. The default decree serves as a definitive legal exit, guaranteeing that the plaintiff can regain her individual autonomy and pursue new social or legal relationships without hindrance.

The collapse of family dispute resolution due to the defendant's absence highlights the need for active judicial intervention to enforce post-divorce financial remedies. When standard reconciliation procedures fail because one party refuses to appear, the court must bypass traditional negotiation to prevent further marginalization of the dependent spouse (Adnan, 2024). This proactive stance ensures that the legal process remains efficient, reducing case delays and offering immediate relief to those affected by domestic abandonment (Herlina, 2026). The final ruling functions as a protective measure,

establishing a clear path for the recovery of personal rights that would otherwise be ignored due to the defendant's non-cooperation.

To systematically map the exact operational changes and safety instruments brought about by this specific legal decree, the core structural consequences are structured below.

Table 3. Legal Consequences and Gender Protection Mechanisms of Ba'in Sughra Default Decrees

Legal Decree Consequence	Financial and Asset Implications	Gender Protection Instruments
Immediate termination of unilateral reconciliation rights (<i>Rujuk</i>)	Mandates the total settlement of outstanding post-divorce maintenance debts.	Enforces statutory barriers against arbitrary marital manipulation by the missing spouse.
Requirement of a complete new marriage contract for any future union	Protects individual earnings and clarifies the boundaries of separate personal assets.	Guarantees absolute constitutional equality and personal autonomy for the female plaintiff.
Transformation of spousal status into definitive single legal identity	Enables the formal distribution of joint marital property through separate legal filings.	Restores global human rights protections for women facing domestic abandonment.
Judicial confirmation of non-compliance and material marital breach	Validates prospective financial claims regarding child support and paternal custody.	Implements fair legal reciprocity to correct deeply rooted domestic power imbalances.

Source: Synthesized Herlina (2026), Putri et al. (2025), and Yusoff et al. (2024).

The enforcement of post-divorce financial rights remains a major challenge within the socio-legal framework of default family decrees. Although statutory laws grant an abandoned wife the right to claim financial maintenance and ancestral compensation, the physical absence of the defendant makes immediate collection highly difficult (Yusoff et al., 2024). This operational gap shows that formal legal victory does not always translate into immediate financial security for the vulnerable family unit. Consequently, the legal system must continually update its enforcement mechanisms to prevent disappearing husbands from escaping their financial duties.

The intersection of default divorces and asset division requires a progressive application of family law to protect joint marital property. When a spouse disappears after abandoning the family, the court must carefully safeguard the remaining communal assets from being hidden or liquidated (Zahra, Mahdiyani, & Ngoh, 2025). This protective approach is vital for maintaining the economic survival of the wife, who is often left with the full burden of domestic management. Furthermore, the integration of new tracking technologies can help monitor parental assets across jurisdictions, ensuring that child support orders remain enforceable even when a parent crosses borders (Syahrin et al., 2025).

The systemic friction observed in default matrimonial cases reveals deep-seated power imbalances and structural inequalities within families. When a husband intentionally avoids court proceedings, he often uses his dominant socio-economic position to control the speed and outcome of the legal dispute (Putri, Azhari, Abdullah, & Husni, 2025). The court's use of a default decree directly counters this behavior by stopping the missing party from using non-appearance as a tool of domestic control. This judicial response corrects the power imbalance, ensuring that the legal process cannot be weaponized to prolong the distress of the abandoned partner.

The protection of the vulnerable spouse is further enhanced by expanding the court's authority to grant compensation for emotional and domestic harm. Modern legal interpretations support the idea that the religious court can assess financial compensation for the deep psychological distress caused by sudden spousal abandonment (Baaj, 2026). This broader view of family justice shifts the focus from mere contract dissolution to comprehensive injury remediation. By recognizing abandonment as a severe breach of domestic trust, the court reinforces the principle that marital irresponsibility carries significant legal and financial consequences.

The application of gender equity in modern family courts is increasingly guided by the principle of reciprocity in domestic rights. This balanced approach ensures that court decisions actively support equal responsibility and mutual respect between spouses, moving away from outdated patriarchal models (Ma'shum, Muna, Rafli, & Khowarizmi, 2025). When a husband fails to meet his marital duties, he loses his traditional privileges, and the court acts to protect the wife's independence. This shift helps align religious court rulings with modern standards of social justice and gender fairness.

International comparative law supports this protective approach, demonstrating a global trend toward securing the rights of Muslim women within formal legal systems. In various international contexts, supreme judicial bodies have stepped in to ensure that traditional marriage dissolutions do not leave women without legal status or financial protection (Abduraof & Moosa, 2023). This global legal development highlights the importance of constitutional guarantees in protecting citizens from unfair domestic situations. By using default decrees to resolve abandonment cases, the Indonesian judiciary joins this international movement, ensuring that religious family law actively upholds human dignity and constitutional rights.

CONCLUSION

The judicial adjudication embodied in Semarang Religious Court Decision Number 13/Pdt.G/2022/PA.Smg demonstrates a sophisticated synthesis of formal civil procedure and material Islamic jurisprudence in resolving severe marital breakdown. By validating the procedural legitimacy of the default mechanism alongside the substantive application of the legal maxim *dar'u al-mafasid muqaddam 'ala jalbi al-mashalih*, the bench effectively mitigated the systemic vulnerabilities faced by the abandoned spouse. The imposition of the Talak Satu Ba'in Sughra decree serves as a vital instrument of gender equity and constitutional protection, preventing the weaponization of non appearance and immediately dissolving an empty marital contract characterized by severe economic and emotional neglect. This holistic approach underscores that the operationalization of default judgments within contemporary Islamic family law transcends mere administrative efficiency, functioning instead as a proactive mechanism for safeguarding human dignity, enforcing marital reciprocity, and delivering substantive justice within a modern sociolegal framework.

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