

Relevance of the Application of the Concept of Syibhul Iddah for Men from the Perspective of Maqasid al-Shari'ah and Qawaid Fiqhiyyah

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ABSTRACT

The purpose of this study is to reveal the relevance of the application of the concept of Syibhul Iddah for men from the perspective of Maqasid Al-Syari'ah and Qawaid Fiqhiyyah. This study is a qualitative study, the type of research is library research. The type of research is descriptive qualitative research. The data collection method used is literature study. With a multidisciplinary approach. This study uses a qualitative method that is arranged in a descriptive, comparative and analytical manner. The results of the study show that; the concept of syibhul iddah for men is present as a solution to minimize the harm that may arise due to divorce. This syibhul iddah provides a waiting period for men to calm down and reconsider their decision to divorce. Although men are not required to undergo the iddah period like women, in some situations, the application of syibhul iddah can provide greater benefits. For example, syibhul iddah can prevent hasty reconciliation and potentially cause the same problems in the future.

INTRODUCTION

One of the dimensions of the Qur'an that can be felt is its arrival with a humanitarian mission, it acknowledges the existence of differences between men and women, but not in the form of discrimination. In QS Al-Hujurat / 49: 13 for example:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۚ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ ۚ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

Translation:

O people, indeed We have created you from a man and a woman. Then, We made you into nations and tribes so that you might know each other. Indeed, the noblest among you in the sight of Allah is the one who is most pious. Indeed, Allah is All-Knowing, All-Compliant. (Lajnah Pentashihan Mushaf al-Qur'an, Research and Development and Training Agency, Ministry of Religion of the Republic of Indonesia & Language Development and Fostering Agency, Ministry of Education and Culture of the Republic of Indonesia, 2019)

The Qur'an affirms the equality of rights and obligations between men and women, both in spiritual and social aspects. This includes family life, society, and state. This view challenges the notion that there are differences that degrade one gender. In terms of worship, for example, rewards are given based on diligence, not gender. The difference in a person's value is only measured by the level of devotion and piety to Allah SWT.

One of the main purposes of the revelation of the Qur'an is to free humans from various forms of discrimination and oppression. This includes discrimination based on gender, race, ethnicity, and other primordial ties. This principle is emphasized in Surah Al-Hujurat verse 13. However, there is a gap between theory and practice. Conceptually, the Qur'an does teach gender equality. However, in reality, these principles are often ignored.

The verse discussed above, underlines that there is no fundamental difference between men and women in terms of spirituality and social roles. Both have the same potential to achieve excellence in worship and community life. This view challenges gender stereotypes that have long been embedded in society. The Qur'an invites Muslims to judge a person based on the qualities of the individual, not on gender or other physical attributes. Thus, this verse serves as an important foundation in promoting gender justice and equality in Islamic society. It calls for eliminating all forms of discrimination and encouraging equal participation of all genders in various aspects of life.

Men and women with all their differences and similarities, both were created as husband and wife to give birth to the next generation. In addition, through marriage both can perform worship together. However, in a marriage relationship does not always run smoothly and last throughout life. Marriage sometimes has to be terminated due to the death of one of the two or due to divorce due to problems that do not reach an agreement between the two.

In general, women who are left behind or divorced by their husbands are the most disadvantaged, because women cannot immediately get married after being left behind or divorced by their husbands. They must go through a period called 'iddah in Islam.

'Iddah or as found in the Big Indonesian Dictionary (KBBI), it is explained as a period of giving to tie the knot of love between a man and a woman or to fill the waiting time which lasts three menstruations for a woman who has been divorced or died of her husband (during which time she is not allowed to marry) (Ministry of National Education, 2008) In short, 'iddah / idah is the waiting period for a woman after being divorced or abandoned by her husband to be able to marry / remarry within a certain time, namely 3 holy / menstrual periods. The Qur'an also clearly regulates the period of 'iddah for a woman who is divorced by her husband as in the QS. al Baqarah / 2 : 228:

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ
الْآخِرِ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ
وَاللَّهُ عَزِيزٌ حَكِيمٌ .

Translation:

Divorced wives (must) restrain themselves (wait) three times qurū' (purity or menstruation). It is not permissible for them to hide what Allah created in their wombs, if they believe in Allah and the Last Day. Their husbands have more right to return to them in that (period), if they want improvement. They (women) have rights balanced with their obligations in an appropriate manner. However, husbands have an advantage over them. Allah is Mighty, Most Wise.(Lajnah Pentashihan Mushaf al-Qur'an, Research and Development and Training Agency, Ministry of Religion of the Republic of Indonesia & Language Development and Fostering Agency, Ministry of Education and Culture of the Republic of Indonesia, 2019)

The verse above is an example of a verse that discusses the issue of the 'iddah period for those (women) who are left behind by their husbands who die or are divorced. 'Iddah which has so far only applied to women after a breakup marriage, while men are not like that. Isn't it true that the marriage is carried out by a man and a woman (husband and wife), the existence of 'iddah is due to the existence of talaq in the marriage relationship (in essence, there is no iddah if there is no marriage bond), in other words, marriage is carried out by husband and wife, but if this marriage ends then only the wife undergoes iddah, as in the verse above. Departing from this thought, the researcher believes that there needs to be a special study related to 'iddah in the Qur'an considering that the Qur'an came with a humanitarian mission, namely to affirm equal rights and obligations for every creature without discrimination.

Previous studies have applied women's 'iddah based on the benefit and utility (*illat*) to maintain the cleanliness of the woman's womb so that the lineage of descendants is maintained. Questioning restore the cleanliness of the female uterus (*the womb is set*) as '*illat* in the application of 'iddah to women in the current context, it needs to be reviewed. If the cleanliness of the uterus is truly considered as '*illah*, then the progress of science and technology especially in the medical field, which makes it possible to detect pregnancy within a relatively short period of time and with fairly accurate results, is a stumbling block to the implementation of '*illat* said at the present time. Therefore '*illat* cleanliness/emptiness of the uterus in the obligation of giving birth *time* it seems can no longer be maintained (Wahyudi, 2014). However, if the purpose of the cleanliness of the womb is so that the clarity of the child's lineage can be

known, in other words to determine the biological father of the child, this cannot be a reason to maintain it as a *'illatlaw 'time*. Because of the development and progress of current technology, we have found an accurate way to find out the biological father of a child, which was born through a test *Deoxyribonucleic Acid* (DNA), even tracing the origin of ancestry. Through this DNA test, it can be used as primary evidence in matters of biological lineage (lineage) (Wahyudi, 2014).

However, currently the obligation *'time* still have to be maintained with some consideration is that *'time* useful for maintaining the honor and credibility of a person/women, because there is an order for husbands to place wives who are *'time* in husband's residence, so that if she turns out to be pregnant during the waiting period, she will be protected from slander. In addition, there is *'time* is also seen as aiming to ensure the health of mothers and children who can understand that the husband is obliged to provide for her and her child, even to the point of breastfeeding the child. Even *'time* is seen to have an extraordinary function in efforts to provide space for husband and wife to think clearly in maintaining their household.

Maqasidi interpretation is one form of effort to actualize the meaning of the text with the current context through the maqashid approach in interpretation, the aim is to explore the messages of the Qur'an through maqashid (purpose, wisdom, intent, deepest dimension of meaning and significance) that is behind the text by continuing to use the text, so as not to get caught up in the attitude of de-sacralizing the text, namely worshiping the text. On the other hand, by considering the dynamics of the context and maqasid carefully and critically in order to realize the benefits and reject harm.

This approach becomes very relevant when applied to the verses that explain the equality between men and women. Using the maqashidi interpretation, we can understand that these verses do not only talk about equality in the historical context of the time of revelation, but also contain universal principles that apply to all times. In this way, the maqashidi interpretation helps to connect the text and the context dynamically, so that the Qur'anic message of equality can be applied to various modern situations. These verses contain general principles and apply universally, throughout time and in all places.

The Qur'an's view on equality between men and women is to realize justice in the pattern of relationships between men and women. Justice in this case can be understood as a moral ideal (Rahman, 1979, 1982). Therefore, it can be concluded that *'iddah* should be applied to both men and women, because the parties who carry out the marriage relationship are both parties (husband and wife). This is where it is necessary to understand according to the conditions of the teachings of the Qur'an about *'iddah*. Understanding the verse by looking at the context of its revelation is very much needed to understand the logical reasons for its revelation and to distinguish its universal teachings from its specific teachings, so that it can avoid forms of reading that marginalize women (Barlas, 2005).

Understanding the purpose of the revelation of the verses is expected to find the moral ideal, original and adequate to the current situation, so that the

maqashid sharia in understanding the context of the iddah verses is very necessary (Dzuhayatin, 2002). Before contextualizing 'iddah, it is necessary to explain the current conditions. There are at least two things that characterize the current situation and conditions (context), which require a renewal of understanding. Namely, the development of Science and Technology and equal rights between men and women.

LITERATURE REVIEW

Male Syibhul Iddah Perspective of Maqasid al-Syari'ah

It has become a general rule that iddah is a process that must be undergone by a woman as a result of divorce and also because her husband has died. The implementation of iddah for women has been very clearly explained by the verses of the Qur'an, Hadith, & ijma'. However, in fact the implementation of iddah is not only for women, in some cases iddah also applies to men. Although this is not in the true meaning of iddah, for example the iddah of women.

Wahbah Zuhaili in his book *al-Fiqh al-Islami wa Adillatuhu* expresses the following: *"Does a man have iddah?, for men there is no iddah in the meaning of the term, so after separating (from his wife) he can immediately marry another woman, as long as there are no sharia prohibitions, such as marrying a woman who is not halal to interfere with while still having a relationship with the first wife, and relatives who are still mahram, such as sisters, aunts of father, mother's aunt, brother's daughter, sister's daughter, even through a fake marriage or a sub-hat marriage contract. Marrying a fifth woman in the middle of the fourth wife's iddah period, until the end of the talaq fourth wife's iddah period is completed (Al-Zuhaili, 2002).*

The concept of syibhul iddah or a waiting period similar to iddah for men in certain situations turns out to have variations in its application, both explicitly and implicitly. Some scholars, as mentioned by Abdurahman Al-Jaziri, argue that in general, men are not required to undergo iddah. The waiting period known as iddah is exclusively intended for women, especially after divorce or the death of a husband.

However, there is another view, especially from the Hanafis, which suggests that there is a syibhul iddah for men in certain situations as a form of caution. This may apply in the context of ensuring that there is no doubt about the status of the relationship or the lineage of the child that may arise due to a new marriage immediately after the divorce. Although there is no formal obligation, scholars who support this view see it as a preventive measure to maintain harmony and clarity in family relationships.

In this view, the syibhul iddah for men is more of a recommendation than an obligation, unlike the iddah for women which is clearly regulated in the sharia. This difference shows the existence of flexibility and diverse interpretations in Islamic jurisprudence, depending on the social and cultural context and the wisdom of the scholars in dealing with it.

Meanwhile, in contrast to Al-Jaziri's opinion above, Abu Bakr al-Dimyati firmly argued that men only have a waiting period in two situations (as is the opinion of Wahbah Az-Zuhaili).

Wahbah Zuhaili believes that a man does not have the concept of iddah, so he can marry another woman directly as long as there are no obstacles based

on sharia such as marrying a woman who cannot be together, such as an aunt, sibling and so on. From Wahbah Zuhaili's explanation, it can be concluded that he belongs to the group of scholars who indirectly mention the existence of iddah for men (syibhul iddah).

Then, the length of syibhul iddah for men is approximately the same as the length of iddah for women. The reason for syibhul iddah for men is because of the mani syar which causes him to perform syibhul iddah which depends on the woman's iddah. For a woman whose husband divorces her during her period, her iddah is three quru, so the syibhul iddah for a man when he divorces his wife while she is menstruating is also three quru for his wife, or around three months. If the divorced woman is pregnant then her iddah is until she gives birth, so shibhul iddah for a man if he separates from his wife while she is pregnant must wait for the birth of the divorced woman's child. The obligation to carry out iddah for women is an absolute requirement stated in the Qur'an, but the wisdom contained in it is not described in detail in the Qur'an. In fact, the wisdom of iddah does not only apply to women but also to men, so in fact men must also carry out syibhul iddah like women. Among the wisdom of iddah include, for example:

1. It can be determined the purity of a woman's womb so that her offspring do not mix with others. This wisdom is biological and applies specifically to women, except that woman are not subject to the law of iddah.
2. Giving newly divorced couples the opportunity to come together and rebuild their household, if that is what is best.
3. Defense of marriage problems, namely gathering wise people to study the problem and give long consideration. If you do not do this, it is the same as being like a child and very unwise and ends in the destruction of the household.a.
4. The goodness of marriage cannot be realized until the husband and wife have lived together for a long time. When something happens that requires a breakup, then to understand how to maintain continuity you must give it time to think about it and see what the losses are.
5. To worship (ta'abuddi), namely following Allah's commands as explained in the Qur'an.

Through some of the wisdoms that have been explained above, the second, third and fourth wisdoms are more gender specific. This means that wisdom is not only for women, men also have wisdom if they carry out iddah. So this iddah can be done regardless of gender. Men and women can do it, because not only is the honor of the family attacked by women, but men are also responsible for that honor. Then related to the explanation of the fifth wisdom about the implementation of iddah with a theological nuance, namely the implementation of iddah based on God's command. Through the explanation of the wisdoms above, it can be grouped into 2 parts, namely absolute wisdom and more dominantly possessed by women, namely the first and the fifth. The wisdom that must be carried out by men and women is the second, third and fourth wisdom. Therefore, several scholars have expressed the view that ideally iddah actually does not only apply to women, but in some cases men are also subject to the law

of iddah. This is what Wahbah Zuhaili said, according to him there is no iddah period for a man, the wait is only a mandatory wait that must be passed because there is Syar'i Mani (Arfa, 2004).

The iddah rule in Islam is generally only applied to women who are divorced or whose husbands have died. This waiting period aims to ensure the status of the pregnancy and give them the opportunity to grieve and prepare to start a new life. However, in some situations, applying iddah to men can also be ideal. For several reasons;

1. Gender justice, Islam upholds equality between men and women. Enforcing iddah for men will balance their rights and obligations in marriage, especially in the event of divorce.
2. Prevent hasty marriage. The iddah period for men can help them calm down, reflect on the failed marriage, and consider carefully before remarrying. This can help prevent a hasty marriage that could potentially cause problems later on.
3. Protecting children's rights, Iddah for men can provide an opportunity for them to complete their responsibilities towards children from previous marriages, such as custody, maintenance, and so on.
4. Minimize manipulation, In some cases, a man may divorce his wife only to marry another woman immediately. Iddah for men can help prevent such manipulation and ensure a marriage based on sincere intentions.
5. Mental and spiritual formation. The iddah period for men can be a moment for self-introspection, self-improvement, and strengthening of faith. This can help them to become better people in the future.

The application of iddah for men is still a matter of debate among scholars. However, considering the various reasons above, the application of iddah for men can be an ideal solution to achieve gender justice, prevent hasty marriages, protect children's rights, minimize manipulation, and encourage mental and spiritual development. It should be noted that the application of iddah for men requires in-depth study and agreement from scholars. However, this idea opens up opportunities to strengthen Islamic values in marriage and family life.

In classical Islam, the concept of maqashid shari'ah is implemented and understood hierarchically based on emergency considerations. The study of classical Islamic law shows that Maqasid is divided into three parts, namely ad-daruriyat, al-hajiyat and at-tahsiniyat. Daruriya is divided into hifz ad-din (protection of religion), hifz an-nafs (protection of life), hifz al-mal (protection of property), hifz al-aql (protection of the spirit), hifz an-nashl (protection of children and grandchildren) and hifz al-'ird (protection of honor). Hajiyya (secondary goal) is interpreted as something that is needed by humans to facilitate the achievement of welfare that is included in the category of daruriyyat, while tahsiniyyah (tertiary goal) is interpreted as something whose presence is not necessary and not essential, but rather beautifies (Gumanti, 2018).

Furthermore, the study of maqashid shari'ah was developed by Jasser Auda through his work entitled maqasid al-shari'ah as philosophy of Islamic law: a System Approach which attempts to destroy classical understandings because they are considered to close the path of ijtihad. The approach used by Jasser is a

contemporary approach born from modern nature, this phenomenal work attempts to answer the challenges faced by Muslims in contemporary affairs. Jasser explains that classical maqashid shari'ah is more individual in nature and works in the area of protection and preservation which must be immediately changed to a more comprehensive and universal direction such as being for the people or society and humanity (human rights and freedoms) (Mutholingah & Zamzami, 2018).

Hifzh al-din (protection of religion) ideally the interpretation is expanded to maintain, protect and respect freedom of religion and belief; *hifzh al-aql* (protection of reason) is directed at the perfect use of thought patterns, scientific research, the journey of seeking knowledge, overcoming negative mentalities and appreciating efforts, and scientific discoveries; *hifzh al-'irdhi* (protection of honor) is developed by exploring the protection of human dignity and honor, and maintaining and protecting human rights; *hifzh al-mal* (protection of the heart) is to improve social and economic development, as well as human welfare, by reducing the gap between rich and poor and increasing the gap between social and economic development (Yaqin, 2018).

To apply the system theory as an approach in Islamic law, there are six system features that Jasser Auda optimizes as an analytical tool, namely cognitive nature, wholeness, openness, interrelated hierarchy, multidimensionality and purposefulness. Regarding cognitive nature, it can be understood that Auda explains that there is a difference between sharia and fiqh, where initially the position of fiqh as divine knowledge shifted to the realm of human knowledge of revelation. In Islamic law, it must be distinguished which part is sharia and also fiqh. Because basically fiqh is a product of human reason/*ijtihad* whose truth is relative. However, not a few of these things actually cause misunderstandings, so, Auda hereby explains that Islamic law with *ijma'* in the current era can be applied as a mechanism to formulate collective laws, especially supported by modern information and communication technology.

One example is the opinion of one of the fiqh experts who believes that it is better for a man who divorces his wife to also be subjected to a similar *iddah* period as his wife or to be subjected to *syibhul iddah*. In this case, we must distinguish which things have been regulated in the Shari'a and which are included in the fiqh, because fiqh arises from the understanding of the *mujtahids* regarding the *nashh* itself. This also needs to be emphasized with the forms of the Prophet's actions that are in line with his maqashid and seen from the Prophet's multiple roles in answering these problems. Jasser Auda argues that the principles and ways of thinking in *ushul-fiqh* need to be revived comprehensively because they can play a role in today's reform. Through this way of thinking, a person achieves a "comprehensive understanding" so that it can be used as a fixed principle in Islamic law. Auda seeks to bring and expand the Maqashid Syariah from the individual dimension to the universal dimension so that it can be accepted by the wider community. This he calls *maqashid alama*, such as justice, freedom and others (Faisol, 2012). In this case, there are at least (minimally) two important things that must be noted, rethought in this

section, namely the uncertainty of individual texts and the limitations of causality in traditional and modernist theories.

So, after we distinguish between sharia and fiqh, then we must also observe the uncertainty of individual evidence, because there is a possibility that the text implies a meaning that is contradictory to other texts and so many possible interpretations of any single text, which can influence us in interpreting its meaning and dalalah. The meaning of openness is that a legal system must be open so that it can exist and continue to exist. In this case, what often happens is because of cultural differences or in Islam it is commonly known as urf. In addition, according to Auda, this openness is also to increase and open up to the realm of philosophy as a mechanism for renewal in the Islamic legal system itself. Not a few problems of Muslims are different due to differences in regional culture (Shariah, 2021). Therefore, Jasser Auda created a new rule on legal changes that reads (laws can change due to changes in cognitive culture or the worldview of the faqih). According to Jasser Auda, for legal bodies that regulate Islamic law, it is better to refer to the Qur'an and As-Sunnah, but must have a broad view of the issues studied in ijtiḥād. Therefore, the worldview of the Faqih needs to be included in the Islamic legal system. This worldview is then combined with the Qur'an and As-Sunnah to produce Islamic law.

However, the world view (faqih world view) must be correct, not based on mere assumptions, but based on a scientific basis. Interrelated hierarchy or interrelated hierarchy. The classification used by Jasser Auda is a concept-based classification implemented in the arguments of fiqh, various schools of thought and methods. The classification is not limited to a hierarchical structure, but to the analysis of the interdependence between the results of subconcepts. Multidimensionality in this section in an effort to bring the Islamic legal system soaring to Multidimensionality, it is necessary to rebuild, revitalize and reformulate the understanding of the two basic concepts of *usul fiqh*, namely *qath'i* (certainty) and *ta'arudh* (contradiction). For Jasser Auda, the concept of *qath'i* and *zhanni* is not a final decision, so it is open to being fiddled with and needs to be reviewed. For Jasser, the ideal in interpreting a text is not fixated on understanding in linguistic terms, but must review a certain context that causes a text, for example the economic, political, environmental context and so on.

With this type of legal excavation, the text does not lose its spirit and context. Similar to the concept of *male iddah*, starting from the *qath'i* evidence or text, it needs to be reviewed, namely by presenting thoughts that want gender justice and minimizing the harm contained therein. This is in line with the rules of fiqh, namely:

يُتَحَمَّلُ الضَّرَرُ الْخَصُّ لِدَفْعِ الضَّرَرِ الْعَامِ

Specific harm must be borne to avoid general harm (Dusk, 2019).

While purposefulness is that every system must have an output or commonly called a goal that is produced from the system network itself. In theory, this goal is divided into goal and purpose. According to Jasser, the application of *maqashid* is an important and fundamental foundation for the Islamic legal system. The study of *maqashid* must be traced back to its main texts (the Qur'an and Hadith), not to the opinions or thoughts of the faqih (Faisol, 2012). Therefore, the achievement of the goal (*maqashid*) becomes the benchmark

for the validity of any *ijtihad*, without connecting it to a particular school or sect. The purpose of establishing Islamic law is to restore it for the benefit of the people around it.

In the Islamic legal system, the Common Good is the main objective that is in line with the principle of purposefulness, or aiming, which is known in various legal systems. The objectives in Islamic law are divided into two main categories: goal and purpose. Goal refers to the expected end result of the implementation of the law, such as justice, welfare, and peace in society. Purpose, on the other hand, includes the intent and intention behind the law itself, namely to protect human rights, maintain social order, and promote the common good.

According to Jasser Auda, *maqashid* or the objectives of sharia are an important and fundamental foundation for the Islamic legal system. *Maqashid* serves as a guide in the interpretation and application of Islamic law, ensuring that the law is always relevant and responsive to the needs of the times and society. By prioritizing *maqashid*, Islamic law seeks to achieve a balance between spiritual values and the practical needs of society, creating a legal framework that is just and oriented towards the common welfare.

The *maqashid* approach in the study of Islamic law emphasizes the importance of being based on the primary sources, namely the Qur'an and Hadith, as the main basis for determining the goals and wisdom behind sharia laws. In this context, *maqashid sharia* refers to the main intentions and goals desired by sharia, such as protecting religion, soul, mind, descendants, and property. This approach does not only focus on the external form of the law, but also on the essence and benefits to be achieved, thus providing guidance in addressing various contemporary issues that are not explicitly regulated in the sacred texts.

The importance of the study of *maqashid* based on the Qur'an and Hadith lies in its authenticity and conformity with the basic principles of Islam. In other words, every *ijtihad* or attempt to interpret and adjust the law must be in line with the *maqashid* of sharia, which is the main benchmark in determining the validity and relevance of the law. This means that the views or interpretations of the scholars must always refer to the main objectives of sharia, without being rigidly bound to a particular school of thought or school of thought.

The Concept of Iddah Based on a Gender Approach

The principle of gender equality in Islam is that men and women are equal in many ways, namely as servants of Allah, as caliphs of Allah, actively involved and have the potential to achieve achievements. Equality in gender justice is a dynamic condition, where men and women have rights, obligations, roles and opportunities based on mutual respect and appreciation. The formation of gender differences is due to many things, including being formed, socialized, reinforced by religious teachings and the state. This difference is actually not a problem as long as everything is balanced.

However, in reality, gender differences have given rise to various injustices for several parties (Jannah & Faiqoh, 2021). Gender as an analytical tool used by adherents of conflict social sciences that focus on structural injustice caused by gender. Gender is a concept that looks at the roles between men and

women from a social and cultural aspect. Gender differences are not actually a problem as long as they do not give rise to gender injustice. Gender injustice is a system in which both men and women are victims of the system (Jannah & Faiqoh, 2021).

Iddah is still considered as discrimination against women, which then gave rise to the opinion that iddah is a form of gender injustice. Since the occurrence of divorce, provisions have emerged regarding the iddah period, the provisions of which are linked to the cleanliness of the uterus, therefore it is very logical if iddah is said to only apply to women. This concept of iddah discriminates against women because it is considered to limit women's freedom of movement after divorce. Women are required to limit their daily interactions and activities, while men are free to do anything after divorce and can even remarry without having to wait for the iddah period to end. In fact, in modern life, women are not only active in the domestic sphere but also in the public sphere (Hidayati, 2018).

The initial principle regarding the iddah period has been agreed upon by the majority of scholars and its explanation is in the Qur'an and Sunnah. However, regarding the combination of different iddah periods that occur simultaneously, this is an unusual event, such as the combination of a pregnant woman's iddah and the death of her husband. In this combination of iddah, the majority of scholars have a different opinion that if a pregnant woman and her husband die, then her iddah period is until she gives birth to her child, even though the iddah period is not up to four months and ten days (the iddah period of the husband's death), therefore this issue has two legal sides, including:

According to Imam Syafi'i, the iddah period for a pregnant woman ends after she gives birth to her child. This applies even if there are complications such as miscarriage. In this context, the miscarriage in question is the miscarriage of a fetus that is sufficiently developed to have body parts that can be recognized as a potential child. Thus, the iddah period ends when the birth or miscarriage process is complete, provided that the miscarried fetus meets the criteria of a child, at least in a form that can be physically identified.

However, if the miscarriage that occurs is only a blood clot without any clear form of the fetus, then this condition is considered not to meet the requirements to end the iddah period. In the view of Imam Syafi'i, the woman's iddah period continues until the birth of a fetus that can be recognized as a child, either alive or dead. This emphasizes the importance of physical identification of the fetus as a sign of the end of the iddah period, to ensure that the woman is no longer pregnant.

This provision aims to provide legal certainty and safeguard the rights of women during the iddah period, as well as ensuring the clarity of lineage for any children who may be conceived. It also reflects the shariah's attention to relevant physical details in determining legal status, which in this case serves to protect women's rights and ensure that the process of transitioning their legal status takes place properly and fairly. Thus, Imam Shafi'i's view on the iddah period for pregnant women provides clear guidance in cases involving miscarriage and childbirth.

1. Childbirth in the last pregnancy. According to Imam Syafi'i, if a woman is pregnant with several children, giving birth to her last pregnancy counts towards the end of the iddah period. This means that the iddah period ends after the birth of all the children (Jamhuri & Juliara, 2017).

Imam Syafi'i stated that there is no longer any burden of maintenance for a pregnant woman (wife) whose husband has died, but she receives inheritance from her husband. If we look back, the end of the iddah period for pregnant women in general will apply the same.

A pregnant woman who is divorced (living divorce or death divorce) will have an iddah period until she gives birth to her child. During the iddah period waiting for the birth of the child, the husband may refer to him. KHI has explained that if a marriage ends due to the death of the husband and the wife is found to be pregnant, then the iddah period stipulated is until the unborn child is born into the world (Presidential Instruction Number 1 of 1991, Article 153 Paragraph (2) Letter D, nd). Another example is in the case of divorce due to death in a state of qabla al-dukhul, the resolution of this case is contained in the KHI which states that if a marriage ends due to death, even though qabla al-dukhul, the waiting period is set at one hundred and thirty days (Presidential Instruction Number 1 of 1991, Article 153 Paragraph (2) Letter A, nd)

Islam is an open religion and will continue to be in accordance with the times. Nowadays, technology has developed and supports the advancement of science, especially in the field of medicine. This sophistication can detect pregnancy accurately and in a short time. This can have implications for the provisions of iddah if the purpose of iddah is only to see the cleanliness of the uterus. However, in fact, the cleanliness of the uterus is only one of the purposes of iddah. Therefore, the cleanliness of the uterus of the fetus cannot be used as a basis for determining iddah because it can change over time. Basically, the legal basis of iddah is to give time for husband and wife to think about their marriage. The iddah period is considered sufficient for husband and wife to think about the future of their marriage, whether to reconcile or not. With this legal basis, the law of determining iddah will not change even though the times have changed and developed.

Gender is a concept that looks at the roles between men and women from a social and cultural perspective. Gender differences are not actually a problem as long as they do not create gender injustice. Gender injustice is a system in which both men and women are victims of the system. The context of iddah has changed along with the social development of society, where initially iddah was only intended for women (wives), but can be applied to men (husbands).

The provisions in Islamic law so far only regulate iddah for wives explicitly and it is understood that only women do it. This understanding is very unfair to women (wives), whereas in marriage and living a household is done by two parties, namely between husband and wife. The implementation of this iddah is not based on natural considerations or one gender only, but both without leaving the value and purpose of iddah itself.

Iddah is seen as a transition period for ex-husbands and ex-wives due to divorce, either by death or by divorce by talaq and has legal force and is

determined by the Religious Court. The majority of divorces that occur in society are due to lawsuits from wives, this is an indication that the divorce that used to be only in the hands of the husband has shifted, where both the wife and husband can decide and end the marriage. Likewise, the iddah period which used to be purely for women, can now also be applied to men.

The allocation of the iddah period for the husband is in accordance with the legal interests due to divorce due to death, because it is a way to maintain special interests and general interests so that there is a balance between the two. If the iddah is applied to the husband with the consequence of a different iddah period from the iddah for the wife and tends to take into account the customs of the community for the mourning period, it is a form of implementation that tends to prioritize general issues. This aspect is only found in the iddah for the husband due to divorce due to death (Al Amin, 2016).

During the iddah period, there are obligations of the husband which are the wife's rights and there are obligations of the wife which are the husband's rights. During iddah it cannot be separated from mutah (money/goods) and islah (reconciliation), everything goes hand in hand with each other. Therefore, the iddah period is not only a time for the wife to carry out her obligations, but also a time for the husband to carry out his obligations, which is the wife's right. If everything is done together, then equality and justice will be achieved between husband and wife. The wife can carry out her obligations well and have her rights fulfilled, as well as the husband can carry out his obligations and have his rights fulfilled.

In the Qur'an, there are a number of verses that emphasize that men and women have equal status, with the same rights and obligations before the law. This concept of equality is emphasized in the context of marriage, where both parties are expected to respect and appreciate each other's rights and obligations. During the iddah period, which is the waiting period for women after divorce or the death of their husband, these principles of justice and equality are still upheld.

Equality in the Qur'an reflects justice in the division of roles and responsibilities between husband and wife, which applies not only during marriage but also during transitional periods such as iddah. The iddah period is not only a waiting period for women, but also a period in which their rights are protected, including the right to livelihood and social protection. This emphasizes the importance of balancing rights and obligations at every stage of life, including after the end of marriage.

In addition, during the iddah period, men and women are reminded of the importance of mutual respect. For a husband who divorces his wife, there is an obligation to ensure that his wife's rights are fulfilled, such as providing maintenance during the iddah period, if necessary. This shows that responsibilities and rights do not end with divorce, but continue until they are fully fulfilled. This equality reflects the inclusive and just view of Islam, where the dignity and rights of every individual are respected, regardless of gender.

Thus, the Qur'an teaches that in every aspect of life, including marriage and divorce, the principles of equality and justice must always be prioritized.

This not only ensures that rights and obligations are fulfilled, but also supports harmony and respect among individuals.

Darwis stated that balance and equality actually begin in the pre-marital period, which Islam calls *sekufu*. The determination of *sekufu*, which means balanced and equal, as one of the requirements for carrying out a marriage indicates that in fact the important capital in realizing the ideal motive of marriage with the reality of marriage experienced by husband and wife (men and women) is dependent on the existence of equality (Wahid, 2015).

Islam, in the perfection of its teachings, has established the concept of *sekufu* as an important foundation in building a harmonious and lasting marriage. *Sekufu*, which means balanced and equal, does not only refer to suitability of social, economic and educational status, but also includes equality in various aspects of life, including mental, emotional and spiritual.

This *sekufu* concept reflects the essence of equality and balance emphasized in Islam. An ideal marriage is not just about uniting two individuals, but also about aligning two souls who are equal, respect each other, and support each other. Long before entering the gates of marriage, Islam has reminded us of the importance of choosing partners who are compatible. This does not mean looking for a partner who is perfect in every way, but rather finding an individual who can be a true partner in life's journey.

Equality in Islamic marriage does not mean equalizing the roles and responsibilities of husband and wife. Each has its own rights and obligations that complement each other. This equality is manifested in mutual understanding, mutual respect, and mutual support in achieving common goals.

Couples who are compatible will find it easier to face various challenges and obstacles in domestic life. They have the same understanding of life values, so they can solve problems by deliberation and consensus.

The concept of *sekufu* is not only beneficial for husband and wife couples, but also for the children who will be born. Children who are raised in a harmonious and balanced family will grow up with a sense of security, self-confidence, and have strong moral values.

Entering into a marriage with a partner who is mutually compatible is the first step to realizing a marriage that is *sakinah mawadah warahmah*, namely a marriage full of calm, affection and mutual respect. By understanding and applying the concept of *sekufu*, husband and wife couples can build a household that is harmonious, lasting and full of happiness.

One of the important pillars in building a *sakinah mawadah warahmah* marriage is to understand the rights and obligations of husband and wife. In Islam, a husband is required to provide a living for his wife, both in normal conditions and during the *iddah* period. This living is a wife's right that must be fulfilled by the husband as a form of his responsibility in maintaining the survival of the family.

However, in certain situations, the husband's obligation to provide support to his wife during the *iddah* period may be void. This happens when the wife commits *nusyuz*, which is an act of disobedience or disobedience towards

her husband. In conditions of nusyuz, the husband is permitted not to provide support to his wife until she returns to the right path.

In addition, the husband also has the right to reconcile while the wife is still in the iddah period. Reconciliation is an effort to re-establish a marriage relationship that has been broken off due to divorce. Islam encourages husbands to reconcile if there is still hope to improve the household.

By understanding the rights and obligations of husband and wife, including those related to sustenance and iddah, it is hoped that a harmonious marriage relationship can be created that is in accordance with Islamic law. A *sakinah mawadah warahmah* marriage is not only beneficial for the husband and wife, but also for the children and extended family.

The wife is also obliged to take care of herself during the iddah period and has the right to iddah maintenance from her husband after being divorced *raj'i*. Iddah is in principle regulated to consider the consequences of the divorce, seeing the pros and cons on all sides, both the husband, wife and children. Iddah is expected to be a bridge or one way to reflect on the next actions after divorce.

During the iddah period, the obligation to introspect is not only on the woman (wife), but both parties, namely the husband, also have an obligation to introspect. Both are expected to think about the actions they have taken so far and can think about it themselves or discuss it together in order to find the best solution for a better household. The wisdom of iddah in this *talak raj'i* is to urge both parties to reach the word *islah* (reconciliation), return together and continue their household.

The implementation of the iddah period that is only aimed at women can cause inequality and social injustice, because the burden and consequences after divorce are felt more by women. This can result in inequality in gender relations, where women must undergo a waiting period, while men are not burdened with similar obligations. To create balance, it is proposed that the iddah period also be applied to husbands. Thus, the iddah period can be a moment of reflection for both parties, providing an opportunity to communicate and respect each other. This approach is expected to reduce the divorce rate by encouraging couples to reconsider their decisions and resolve existing problems with a cool head.

If the iddah period is only imposed on women, they often have to face a double burden. First, the emotional and social burden of the divorce itself, and second, the additional burden of the iddah period that limits their freedom to remarry or continue their personal lives. In many cases, women may also experience psychological distress, especially if their ex-husband is free to remarry without having to wait. This inequality not only creates injustice for women but can also increase the risk of psychological violence, where women feel disadvantaged by an unequal system.

Therefore, the implementation of the iddah period for both parties, husband and wife, is proposed as a solution to strengthen more just and balanced gender relations. This step is not only aimed at protecting women's rights but also to ensure that divorce is carried out with careful consideration and a sense of responsibility from both parties. With the iddah being applied equally, it is hoped that a more just social environment will be created where both parties

have an equal opportunity to prepare themselves for the future after divorce without any gender-based discrimination. This also reflects the principles of justice and balance in Islamic law which aim to protect the dignity and rights of all individuals.

METHODOLOGY

This research is qualitative research, the type of research is library research. The type of research is descriptive qualitative research. The data collection method used is literature study. With a multidisciplinary approach. This research uses a qualitative method that is arranged in a descriptive, comparative and analytical manner.

RESEARCH RESULTS & DISCUSSION

The Relevance of Applying the Concept of Syibhul Iddah for Men from the Perspective of Maqasid al-Syari'ah and Qawaid Fiqhiyyah

In assessing the concept related to syibhul iddah for men, we cannot assess whether it is relevant or not to be applied with just one analytical knife system, but must collaborate various system features and several expert opinions who are competent in their fields. However, in this article the author still uses only one system theory in seeing whether the Wahbah Zuhaili concept can be said to be relevant or not to couples who divorce in the Religious Court.

Jasser Auda, a contemporary Islamic legal expert, argues that maqashid, or the objectives of sharia, are an important and fundamental foundation for the Islamic legal system. Auda emphasizes that the study of maqashid must be based on the main texts, namely the Qur'an and Hadith, not on the opinions or thoughts of the faqih (Faisol, 2012). Thus, achieving the goal (maqashid) becomes the benchmark for the validity of any ijtihaad, without linking it to a particular school of thought or sect (Helim, 2019).

The reason Auda emphasizes the above is because maqashid represents the universal wisdom and justice contained in Islam. This maqashid transcends time and place, and becomes a guideline for understanding and implementing Islamic law in various contexts.

Auda criticized the traditional approach to Islamic law studies that often focus on fiqh texts and the opinions of scholars. This approach, according to Auda, can cause Islamic law to become rigid and irrelevant to the context of the modern era.

Auda's approach that focuses on maqashid offers a more dynamic and flexible alternative. By understanding maqashid, mujtahids can interpret Islamic law more contextually and in accordance with the needs of today's society.

The application of maqashid in the Islamic legal system has several benefits, including: First, Increasing justice and benefit; Maqashid ensures that Islamic law is applied fairly and brings benefits to everyone. Second, Increase flexibility and adaptability; Maqashid allows Islamic law to adapt to changing times and social contexts. Third, Increase understanding and acceptance; Maqashid helps people to understand the goals and wisdom behind Islamic law, thereby increasing their acceptance of it.

The maqashid approach initiated by Jasser Auda has made an important contribution to the development of Islamic law in the modern era. By focusing on the universal and eternal goals of sharia, maqashid can help Islamic law to continue to be relevant and beneficial to humanity throughout the world.

The purpose of establishing Islamic law is to restore it for the benefit of the people around it. The same is true with the issue of iddah. In the text of the Qur'an and the hadith it has been explained how long the waiting period is for a woman who is divorced from her husband, which has its own provisions according to the circumstances and conditions of her being divorce (Tarantan, 2021) (Pelu & Tarantang, 2021).

However, along with the development of the era, the argument is considered gender-unequal, technology has also developed rapidly, so that if the reason for the existence of iddah is only to find out the uterus, this can be dismissed with the existence of sophisticated medical equipment, namely Ultrasonography (USG). Starting from this, many Islamic legal thinkers conduct ijtihad interpretations of the clear text arguments in order to find the right solution so as not to cause the intended inequality. The existence of arguments about the application of iddah for men also examines the phenomena that occur in society, where divorce often has an impact not only on the divorced husband and wife, but also the families of both parties. Because divorce is far from peaceful, pain and anger often remain, which leads to hostility between the two families. In addition, not a few men who have just divorced their wives want to have a new marriage with another woman without waiting for their wife's iddah to finish.

In Islamic jurisprudence, this is in accordance with one of its rules which states:

الضَّرَرُ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ

Damage should be prevented wherever possible (Dusk, 2019)

In Islam, there is an important principle that is always emphasized, namely that harm must be prevented wherever possible. This principle is also relevant in the context of divorce, where women are required to undergo an iddah period, while men are not. The concept of male syibhul iddah exists as a solution to minimize harm that may arise as a result of divorce. This syibhul iddah provides a waiting period for men to calm down and reconsider their decision to divorce.

Although men are not required to undergo the iddah period like women, in some situations, the implementation of syibhul iddah can provide greater benefits. For example, syibhul iddah can prevent hasty reconciliation and potentially cause the same problems in the future. In addition, syibhul iddah can also provide an opportunity for men to fulfill their obligations to their ex-wives, such as resolving matters of child support or custody (as discussed in the previous discussion regarding obligations before, during, and after iddah).

The implementation of syibhul iddah is still a matter of debate among scholars. However, considering the principle of harm and its potential benefits, it is necessary to consider the implementation of syibhul iddah to minimize the negative impact of divorce for all parties involved.

It is important to remember that shibhul iddah is not a punishment for men, but rather a preventive measure to prevent greater harm. With the correct and wise application of syibhul iddah, it is hoped that it can help create a more harmonious and lasting marriage. This is also in accordance with other fiqh rules, namely:

دَرَأُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ

Preventing harm must take precedence over bringing benefit (Dusk, 2019).

In the context of Islamic law, there is an important rule that states "Preventing harm must be prioritized over bringing benefits". This principle is the basis for various aspects of the application of sharia, including in the issue known as syibhul iddah or the concept that resembles iddah.

Wahbah Zuhaili, a prominent scholar, put forward an interesting thought regarding the concept of iddah. He emphasized the importance of realizing the wisdom or wisdom behind the iddah rules in Islam. However, Zuhaili observed that this noble goal would be difficult to achieve if only women were required to undergo a period of iddah, while men were given freedom without similar restrictions.

This imbalance, in the author's view, has the potential to cause damage to the social order and gender justice. Therefore, in accordance with the rules mentioned at the beginning, rejecting this potential damage must be prioritized rather than only focusing on the benefits that may be obtained from the unilateral application of iddah.

This idea opens up a new discourse in understanding the concept of iddah. Instead of seeing it as an obligation imposed only on women, we are invited to consider the application of similar principles to men. This is not intended to burden one party, but rather to create balance in the post-divorce process.

With this approach, it is hoped that the wisdom of the iddah rules can be realized more comprehensively. This includes aspects such as emotional protection, clarity of status, and shared responsibility in the post-separation transition period. This more balanced application can also help reduce the stigma and burden that women often face during the iddah period.

CONCLUSION AND RECOMMENDATIONS

The concept of syibhul iddah for men is present as a solution to minimize the harm that may arise due to divorce. Syibhul iddah provides a waiting period for men to calm down and reconsider their decision to divorce. Although men are not required to undergo the iddah period like women, in some situations, the implementation of syibhul iddah can provide greater benefits. For example, syibhul iddah can prevent hasty reconciliation and potentially cause the same problems in the future. In addition, syibhul iddah can also provide an opportunity for men to complete their obligations to their ex-wives, such as resolving matters of child support or custody (as discussed in the previous discussion regarding obligations before, during, and after iddah). The implementation of syibhul iddah is still a matter of debate among scholars. However, by considering the principle

of harm and its potential benefits, it is necessary to consider the implementation of *syibhul iddah* to minimize the negative impact of divorce for all parties involved.

The imbalance of women who are required to undergo the *iddah* period, while men are given freedom without similar restrictions, in the author's opinion, has the potential to cause damage to the social order and gender justice. Therefore, in accordance with the rules mentioned at the beginning, rejecting this potential damage must be prioritized rather than only focusing on the benefits that may be obtained from the unilateral application of *iddah*.

ADVANCED RESEARCH

The concept of *syibhul iddah* for men, though not formally mandated within classical Islamic jurisprudence, emerges as a progressive reinterpretation aimed at fostering equitable responsibilities between genders in the aftermath of divorce. Rooted in the *maqasid al-shariah* principle of minimizing harm (*dar' al-mafasid*) and promoting justice, *syibhul iddah* can serve as a constructive pause for men to reassess the emotional, financial, and legal implications of divorce. This proposed waiting period could play a pivotal role in preventing impulsive reconciliations that may perpetuate unresolved conflicts, while also ensuring that men fulfill their post-divorce obligations, such as child support, custody arrangements, and the emotional well-being of dependents. The disparity in *iddah* obligations where women bear the burden of waiting while men are free to remarry or disengage swiftly risks perpetuating structural gender imbalances and undermines the spirit of mutual accountability that underlies Islamic family law. Thus, integrating *syibhul iddah* within contemporary legal and ethical discourse not only aligns with the overarching aims of Islamic law but also supports a more balanced and socially just framework for managing the consequences of marital dissolution.

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