

The Position of Islamic Law in Fulfilling Women's Rights during the Iddah Period

Kristina Pujasari Sitompul¹, Nur Anisa Simbolon², Muhammad Rifai³, Sri Hadiningrum⁴

Universitas Negeri Medan

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Abstract

According to the language, the word iddah comes from the word 'ada (number, ihshaak, and calculation), a woman who counts and sums the days and periods of menstruation of the holy period. The purpose of this study to determine how the position of Islamic law in the fulfillment of women's rights during iddah, what are the problems in the fulfillment of women's rights during iddah, and how solutions to overcome problems in the fulfillment of women's rights during iddah. The method of writing this article uses literature research, which is a method of collecting data by understanding and studying theories from various literature related to research. The results showed that violations of the iddah period are often committed by women who file for divorce, generally the cause of divorce is motivated by several factors, namely, low public education, economic conditions, quarrels, infidelity and domestic violence.

Abstrak

Menurut bahasa, kata iddah berasal dari kata 'ada (bilangan, ihshaak, dan perhitungan), seorang wanita yang menghitung dan menjumlah hari dan masa haid masa suci. Tujuan dari penelitian ini untuk mengetahui bagaimana kedudukan hukum Islam dalam pemenuhan hak perempuan dalam masa iddah, apa saja permasalahan dalam pemenuhan hak perempuan dalam masa iddah, dan bagaimana solusi untuk mengatasi permasalahan dalam pemenuhan hak perempuan dalam masa iddah. Metode penulisan artikel ini menggunakan penelitian kepustakaan, yaitu metode pengumpulan data dengan memahami dan mempelajari teori-teori dari berbagai literatur yang berkaitan dengan penelitian. Hasil penelitian menunjukkan bahwa pelanggaran masa iddah sering dilakukan oleh perempuan yang mengajukan gugatan cerai, umumnya penyebab gugatan cerai dilatarbelakangi oleh beberapa faktor yaitu, rendahnya pendidikan masyarakat, kondisi perekonomian, pertengkaran, perselingkuhan dan kekerasan dalam rumah tangga.

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Corresponding Author:

Nur Anisa Simbolon

Universitas Negeri Medan

Email : nuranisa08@mhs.unimed.ac.id

1. INTRODUCTION

Marriage is a physical and spiritual bond between a man and a woman as husband and wife, a woman who plans to start a happy and eternal family based on God Almighty.(Amir, n.d.2018). The purpose of marriage is based on Law Number 1 of 1974 relating to marriage (abbreviated as UUP No. 1 of 1974), namely, the formation of a happy and eternal family (household) based on God Almighty (Nurhayati, 2019).

Worship is carried out in the sense of lifelong worship until the end of one's life when marriage occurs. Darwis said that marriage cannot be separated from the element of obedience to Allah SWT, until its realization, including devotion to Allah SWT (Ubudiyah)(Azzulfa & Cahya A., 2021). A marriage between a man and a woman can break up if a reason is found. The causes are death, divorce and court judgment. The

occurrence of divorce causes Islam to regulate the waiting period for a woman (wife) called the iddah period. All Muslims agree that the law of iddah is binding, as is Allah SWT (Azzulfa & Cahya A., 2021).

Divorce is an act that causes the severing of the marriage bond, which also destroys the halal relationship between husband and wife. The jurists have different opinions regarding the law of talaq, and the most correct opinion is the opinion that talak is not allowed unless there is a certain reason (hajat). They are adherents of the Hanafi and Hanbali schools of thought. By committing divorce, it means that someone has disbelieved in Allah's blessings, because marriage is one of His gifts and blessings. And kufr is haram, so it is not halal to perform divorce, except in emergency situations (Komalasari et al., 2022).

According to language, the word iddah comes from the word 'ada (number, ihshaak, and calculation), a woman who counts and adds up the days and menstrual periods of the holy period. According to the term, the word iddah is the name for a period during which a woman suspends marriage after she is abandoned by her husband or after being divorced either by waiting for the birth of her baby, or the end of a certain number of quru', or the end of a certain number of months.(Amir, 2018).

The evidence from the Qur'an includes the words of Allah SWT: "Women who are divorced should refrain (wait) three times for the quru' (Q.S.al-Baqarah/2:228)(Azzulfa & Cahya A., 2021). The Hanafiyah, Syafi'iyah and al-Tsauri groups note that adulterers are not allowed to celebrate the holiday for the specific reason that the purpose of 'iddah is to maintain offspring, whereas according to them adultery does not give birth to a family.(Abd et al., 2019).Allah requires iddah for Muslim women to protect the honor and prudence of family separation and mixing lines, for them to worship, because it is a form of fulfilling the command of Allah SWT. To Muslim women on earth (Ismail et al., 2017).This iddah is an issue that must be understood by every Muslim, both men and women, because apart from that, there are several obligations that must be carried out by women during the iddah period, it also orders men to do the same to fulfill their duties. For example, in terms of income, the husband is obliged to support his wife who is carrying out the iddah(Hamim, 2018).

After divorce, there are still legal consequences that must be borne, especially for husbands who divorce their wives by offering iddah and mut`ah alimony. Apart from being regulated in Article 105 C of the Compilation of Islamic Law (KHI) in relation to children's rights to child support. In fact, the rights of women (ex-wives) and children after divorce become disputes are not properly obtained, such as the rights to live in iddah, live in mut`ah, kiswah and the like. Therefore, new strategies are needed to guarantee the rights of women and children, especially after a divorce occurs which has a big impact on the divorce (Laela et al., 2023).

There are many issues that do not receive enough attention from several parties who complete a divorce, including that the husband or wife is still responsible for looking after and educating your children only for the benefit of your children and your wife is responsible for all maintenance costs and what is needed for a child if the partner or the husband is truly unable to fulfill this obligation, then the court can decide that the mother bears these costs. And the Court can ask the ex-wife to pay back the costs of the ex-wife's maintenance or duties (Wahyuninto Liza, 2010)

Adherence to the principles of justice is one of the characteristics of a rule of law. Justice is the fairness of basic human principles which are in line with the principle of equality before the law. Everyone has the right to receive compensation for the violations they have suffered, while the state has an obligation to ensure the fulfillment of their rights. This accumulation and rights confirm that justice has become a human right that must be respected and its fulfillment guaranteed (Sholeh et al., 2019)

Another aim of iddah is to provide an opportunity for men and women to rebuild (reconcile) the household, if they think it is better. When someone separates from their husband or wife, they experience various lifestyle changes. Always the man was previously served, but when he divorced his wife, this custom was not acquired or restored and for women whose husbands divorced (Yajid Baidowil et al., n.d.)

Based on the background description above, the author is interested in conducting further research regarding the position of Islamic law in fulfilling women's rights during the iddah period.

2. RESEARCH METHOD

The method for writing this article uses library research, namely a method of collecting data by understanding and studying theories from various literature related to research. There are four stages of library research in research. Namely preparing the necessary equipment, preparing practical references, managing time, reading research materials and taking notes. In collecting data, the method of searching and collecting sources from various sources such as books, journals and research that has been carried out is used. Library materials obtained from various references have been analyzed critically and need to be analyzed thoroughly to support suggestions and ideas (Nina Adlini et al., 2022).

After collecting several journals related to the new position of Islamic Law in fulfilling women's rights during the Iddah period, then analyzing the data using descriptive qualitative analysis through literature study, the results of the analysis are in the form of descriptive data in the form of written sentences and the results of behavior observed from the results of research conducted by previous researchers. . There are several stages in data collection, namely a process of collecting data at the location of the journal review process so that you get the information you need. Data reduction is a method of data analysis, explore, categorize, guide, separate unnecessary data, organize the data like this to get a final, verified conclusion. Classification of journals and related articles, implemented in research, presenting data and examining patterns is useful for research and delivery drawing conclusions from data and taking action as one permits. Secondary data collection is used in the form of magazines or related articles to be able to draw some conclusions about general information from magazines and articles. Drawing conclusions/reviews is the act of concluding that new knowledge that has not been created has existed before. The analysis was carried out as follows. Drawing general conclusions that lead to finding concrete conclusions, new insights into the position of Islamic law in fulfilling women's rights during the Iddah period (Fatha Pringgar & Sujatmiko, 2020).

3. RESEARCH RESULTS AND DISCUSSION

Amir Syarifuddin said, "A couple who separates as a talak raj'i, they get full freedom as before separating, both for shopping for food, clothes and a place to live." A husband or wife who is separated by bain talak, either bain sughra or bain kubra, has the right to get a place to live, if she is pregnant, apart from getting a place to live, she gets support during her pregnancy. This is the assessment of most researchers. A couple whose husband dies, it is agreed, is entitled to a place to live during the iddah, because she must spend the iddah period in her husband's house and cannot marry during the iddah. Regarding housing and clothing, most researchers compare them to segregation. A husband or wife who has separated from her husband according to Islamic law is not permitted to marry another man as long as it is not fully regulated by law. Spouses who have separated from their partners still receive privileges from their exes during the iddah period, on the grounds that during this period they are not permitted to marry another man (Ita Nurul Asna, 2015).

Islamic law provisions (KHI) regarding the rights of ex-wives that must be fulfilled by their ex-husband during the iddah period. Azhari Akmal Tarigan said "Husbands are obliged to provide divorced wives with a place to stay while they are still in the iddah period and they are not allowed to leave/move to another place unless they behave badly." In this case, Ali Yusuf As-Subki said "Fiqh scholars have agreed that women who are divorced by talak raj'i have the right to support and residence." As for the freedoms that ex-wives should obtain during the Iddah period, some are regulated by the fuqoha and some are questionable. The arrangement regarding the ex-wife's privileges approved by the fuqoha is the former's freedom separated by the Raj'i. In this situation, scholars agree that he has the option of getting support from his ex in the form of food, clothing, and protection. Likewise, the fuqoha agree that a couple whose husband divorces while pregnant is entitled to receive maintenance from their ex until they have children.

Violations of the iddah period are often committed by women who file for divorce, generally the cause of the divorce suit is motivated by several factors, namely, low public education, economic conditions, quarrels, infidelity and domestic violence (Ita Nurul Asna, 2015).

Khulu' is a separation carried out by a couple by giving payment to the husband. Khulu' It is natural that both of them are emphasized as unable to carry out God's commands. Spouses are stressed because they cause disobedience due to their partner's actions, for example the husband is unable to carry out work Allah's command, husband does not want to fulfill his worship, becomes a player, drunkard, often abuses the wife because of small things, or conversely the husband is worried that the wife will not be able to carry out God's commands, or the wife will be disobedient. . In this case the husband/wife may perform khulu' against the husband, because if the family continues to do this then it could endanger one of the associations, and if the wife confirms this then it is legal husband to admit it. If a marriage is separated, then the iddah is valid according to the provisions of fiqh and KHI. Iddah means a period that requires women who have separated from their partners, whether separated or still living, to remain with them so that they can be sure that their stomachs are full or empty. For example, if a woman's stomach contains cells that will turn into children, then during the Iddah period the signs will be visible. For this reason, he is expected to survive the specified period of time.

Women who escape prosecution for abusing the iddah period are generally because they do not really understand the basic sharia governing iddah so they accepted recommendations from other men and married in a serial manner during their iddah period. The factors causing the violation of the iddah period are their ignorance of the iddah time limit, which is caused by their low level of education, normally they have just graduated from primary and secondary school, the absence of information about Islamic regulations and positive regulations and the strictness of the figures who assume less role in directing the local area. . The answer to overcoming the problem of fulfilling women's freedom during the iddah period in networks that require an understanding of Islamic law is to strictly select figures closest to them so that they can convey more top to bottom Islamic lessons to city networks, especially for women concerned with Islam marriage law and iddah law (Juraisiwo, 2023)

4. CONCLUSION

The position of Islamic law in fulfilling women's rights during the Iddah period Azhari Akmal Tarigan said "Husbands are obliged to provide a place to stay for divorced wives as long as they are still in the iddah period and do not they can leave/move to another place unless they behave badly." In this case, Ali Yusuf As-Subki said "Fiqh scholars have agreed that women who are divorced by talak raj'i have the right to support and residence." As for the freedoms that ex-wives should obtain during the Iddah period, some are regulated by the

fuqoha and some are questionable. The factors causing the iddah period to be violated are their ignorance of the iddah time limit, which is caused by their low level of education, normally they have just graduated from primary and secondary school, the absence of information about Islamic rules and positive regulations and the strictness of figures who assume they have little role in direct the local area. The answer to overcoming the problem of fulfilling women's freedom during the iddah period in networks that require an understanding of Islamic law is to strictly select figures closest to them so that they can convey more top to bottom Islamic lessons to city networks, especially for women concerned with Islam marriage law and iddah law.

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