



Gender Mainstreaming in the Application of Syibhul 'Iddah Post-Divorce

Pengarusutamaan Gender dalam Penerapan Syibhul 'Iddah Pasca

Perceraian

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| Info artikel | Abstrak |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Diterima* (30-10-2024) | Perceraian seringkali berdampak buruk pada kedua belakh pihak suami isteri, anak, keluarga besar, bahkan lingkungan sosial. Kondisi tersebut menghendaki pentingnya ruang reflesksi psikologis, sosiologis maupun kontemplatif bagi isteri maupun suami pasca perceraian untuk dapat |
| Revisi I* (16-11-2024) | mengevaluasi diri, berdamai dengan pasangannya atau berpisah secara baik-baik dengan pasangannya. Penelitian ini bertujuan untuk mengidentifikasi urgensi syibhul iddah (penyerupaan iddah) bagi kasus perceraian dalam perspektif jender. Pengumpulan data melalui Teknik dokumentasi, dan analisa data menggunakan Teknik reduksi, penyajian, dan verifikasi. Hasil penelitian menyimpulkan pemberlakuan syibhul |
| Revisi II* | iddah tersebut dapat memberikan ruang kesempatan bagi pasangan |
| (20-11-2024) | untuk introspeksi diri dan mempertimbangkan kemungkinan rujuk, dan juga dapat menjadi medium bagi pasangan untuk meninjau ulang |
| Disetujui* (26-11-2024) | keputusan perceraian dan rekonsiliasi. Temuan ini menegaskan syibhul iddah dapat menjadi medium intropektif dan rekonsiliatif bagi pasangan suami-isteri pasca perceraian. Kata Kunci : : Syibhul iddah, jender, evaluasi, rekonsiliasi, perceraian |
| | The divorce cases often have a negative impact on both spouses, children, extended family, and even the social environment. This condition requires the importance of psychological, sociological and contemplative reflection space for wives and husbands after divorce to be able to evaluate themselves, reconcile with their spouses or part ways with their spouses. This research aims to identify the urgency of |





syibhul iddah (iddah equivalence) for divorce cases from a gender perspective. Data collection through documentation techniques, and data analysis using reduction, presentation, and verification techniques. The results of the study concluded that the implementation of syibhul iddah can provide an opportunity for couples to introspect and consider the possibility of reconciliation, and can also be a medium for couples to review divorce decisions and reconciliation. This finding confirms that syibhul iddah can be an introspective and reconciliative medium for married couples after divorce.

Keywords: Syibhul iddah, jender, evaluation, reconciliation, divorce

A. INTRODUCTION

Divorce cases in the realm of practice can have a negative impact on the physical and psychological well-being of all family members and narrow social networks that result in a lack of social support, causing negative life experiences and psychological suffering such as experiencing anxiety, depression, feelings of anger, loss of self-confidence and feeling lonely, as well as causing economic difficulties for women.¹

The existence of Islamic law is a legal guideline for Muslims.² In the context of divorce, the consequences of Islamic law for the occurrence of divorce include a waiting period for a wife (woman) after divorce, namely the obligation of *'iddah*. Wahbah Zuhaili said that *'iddah* is a waiting period for the wife after divorce and during this waiting period it is not allowed to enter into marriage.³ Muhammad Zaid al-Ibyani, quoted by Muhammad Isna Wahyudi, also said that *'iddah* is a waiting period required for women after divorce with the aim of knowing the cleanliness of a woman's womb.⁴ However, if *'iddah* is only intended to determine the last condition of a woman's womb, it is no longer relevant. This is because advances in medical technology today can detect with great accuracy and validity the

¹Asniar Khumas, Johana E Prawitarosari, Sofia Retnowati, Rahmat Hidayat, *Model Penjelasan Intensi Cerai Perempuan Muslim di Sulawesi Selatan, Jurnal Psikologi* 42, no 3 (2015): 190.

² Siti Astri Hj Moksin, Muhammad Zahiri Awang Mat, Hjh Norwati Hj Abu Bakar, "FIQH TEACHING ACTION AMONG ISLAMIC EDUCATORS IN BRUNEI DARUSSALAM, "*TATHO: International Journal of Islamic Thought and Sciences* 1, Issue.3, (2024): 169.

³ Sayyid Sabiq, *Fikih Sunnah*, Juz 2 (Maktabah masjid Nabawi asyarif). 326.

⁴ Muhammad Isna Wahyudi, *Fiqh Iddah*, Cet. Ke-1 (Pustaka Pesantren, Yogyakarta: 2009), 77.





presence and absence of seed in a woman's womb.⁵ Therefore, the application of *'iddah* after divorce should not only apply to women, but men must also undergo a waiting period. In this case, Wahbah Zuhaili calls it the term *syibhul 'id* dah (similar to iddah).⁶

There are several reasons why it is necessary to study *syibhul* ' *iddah*, including the importance of space for psychological, sociological or contemplative reflection for men after divorce so that married couples can evaluate themselves, reconcile with their spouses or part ways with their spouses. In this context, Islamic law scholars with reference to the benefit of the implementation of Islamic law are also challenged to be fair in responding to a legal issue.⁷

The focus of this research is to identify the urgency of *syibhul iddah* for divorce cases from a gender perspective. Previous relevant research, including research by Asiyah, Rahmi Hidayati, Zufriani, and Syamsiah Nur on the application of *syibhul 'iddah* contains benefits in the concept of gender equality and protection.⁸ Then, Moh Subhan explained that the concept of *syibhul 'iddah* is a reinterpretation of Islamic law by prioritizing the principle of justice for all parties..⁹ Furthermore, the research of Sartina, and Lilik Andaryuni concluded that the implementation of syibhul 'iddah time for men depends on the 'iddah of women.¹⁰ Unlike the variety of these studies, the novelty aspect of the subject matter that is the focus of this research is to identify the urgency of *syibhul iddah* for divorce cases in a gender perspective.

⁵ Abd Moqsith Ghazali, *Iddah Dan Ihdad Dalam Islam: Pertimbangan Legal Formal Dan Etik Moral*, Iddah Dan *Ihdad* Dalam Islam, Pertimbangan Legal Formal Dan Etik Moral (1).pdf diakses pada tanggal 17 Maret 2021, hlm. 154.

 ⁶ Isnan Luqman Fauzi, Syibhul Iddah Bagi Laki-Laki Studi Analisis Pendapat Wahbah Zuhaili, 64.
⁷Karlin Permata Suri, Yusdani, Hamidullah Marazi, "ANIMATION IN HADITH PROHIBITION MAQASID SYARIAH PERSPECTIVE," *TATHO: International Journal of Islamic Thought and Sciences* 1, Issue.2, (2024): 118.
⁸ Asiyah, Rahmi Hidayati, Zufriani, Syamsiah Nur, "SYIBHUL 'IDDAH BAGI SUAMI DALAM PERSPEKTIF MAQASHID AL-SYARIAH," NUR EL-ISLAM: Jurnal Pendidikan dan Sosial Keagamaan 10, no. 1 (2023):26.

⁹ Moh Subhan, "Syibhul 'Iddah Bagi Suami Dalam Nalar Ulama," *Asasi : Journal of Islamic Family Law*, vol.4, no.1 (2023):73.

¹⁰ Sartina, Lilik Andaryuni, "Konsep Syibhul Iddah Bagi Laki-Laki Ditinjau dari Hukum Islam," Jurnal Tana Mana 3, no.2 (2022):1





B. METODE PENELITIAN

This qualitative research is a*library research*. The main object of this research is the concept of *syibhul 'iddah* for men from a gender perspective. This type of research is normative-philosophical Islamic legal research. The nature of this research approach is descriptive-analytic, and also prescriptive. Primary documents include fiqh books from among the four sunni madhhabs, such as Bidayatul Mujtahid by Ibn Rushd and *al-Fiqhul Islam Waadillatuhu* by Wahbah Zuhaili, a Syrian scholar. Meanwhile, secondary data used include literature books, articles, journals, dissertations, theses, and seminar results that explain the concept of *'iddah* for men. Data analysis technique. In this case the author analyzes the data through three stages in the form of data reduction, data presentation, and conclusion drawing.

C. RESULTS AND DISCUSSION

Gender Justice Paradigm

Understanding gender cannot be separated from the basic assumptions that exist in a paradigm, basic assumptions which are generally philosophical and ideological views. The concept of gender is defined as the result or effect of differences on the basis of sex or others, according to the paradigm used. Gender is used to systematically analyze information about men and women to identify and reveal the positions, functions, roles, and responsibilities of men and women, the gaps that occur against both and the factors that influence them.¹¹. Etymologically, the word gender comes from the English language which means sex.¹²

Terminologically, it refers to a cultural concept that seeks to define the differences in roles, behaviors, mentalities, and emotional characteristics between men and women that develop in society. For example, women are often perceived as gentle, beautiful, emotional, and possessing motherly traits, while men are perceived as individuals who

¹¹ Mufidah, *Psikologi Keluarga Islam Berwawasan Gender* (Malang, UIN Malang Press, 2008),17

¹² Jhon M. Echols dan Hasan Sadali, *Kamus Inggris-Indonesia*, Cet XII, (Jakarta: Gramedia 1983), 265.



are strong, rational, masculine, and various other attributes¹³. Gender is a socio-cultural, economic, political and policy position that determines the roles of men and women in society, independent of sex or religious teachings. Sex, as a natural provision that does not change and is nature, is different from gender which is a social construction that can change according to community agreement.

The concept or theory of gender is often narrowly understood as a discussion of women in the context of their nature. However, gender does not only limit itself to women or men, nor does it only highlight the biological differences between the two. Gender encompasses differences in roles, behaviors, and traits that are constructed by societies or groups of people with diverse cultural backgrounds and social structures in different places, tribes, countries, and religions. Therefore, what is considered to be the role, behavior, and characteristics of men and women in one place is not necessarily the same in another place.

Islam views men and women as equal in status and dignity. Islam places both in a balanced position, in accordance with their respective natures and functions, in accordance with their respective privileges, and both complement each other¹⁴.

The concept of Shibhul ' iddah

'Iddah is a certain period of time that a woman must observe after she has separated from her husband, either through divorce or death. During the 'iddah period, a woman is prohibited from marrying another man. Categorically, women who are in'iddah (al*mu'taddah*) can be divided into two types..

First, a woman who is in 'iddah because her husband died (al-mutawaffa 'anhā *zawjuhā*). Her *'iddah*period is:

¹³ Mansour Fakih, Menggeser Konsepsi Gender dan Transformasi Sosial (Yogyakarta: Pustaka Pelajar, 1996), 9.

¹⁴ Yayan Sopyan, *Tarikh Tasyri Sejarah Pembentukan Hukum Islam*, Cet. I, (Rajawali Pers, Depok, 2018), 170.



- 1. Four months and ten days, provided she is not pregnant, whether or not she has previously had sexual intercourse.
- 2. Until she gives birth, if the pregnancy is still ongoing and is connected to her *'iddah*period.

Secondly, *a* woman who is in'*iddah* not because her husband died (*ghayr al-mutawaffa 'anhā zawjuhā*). Her '*iddah*period is as follows:

- 1. Until she gives birth, if the pregnancy is attributed to a woman who is in 'iddah
- 2. Three $Qur\bar{u}'$, if she has had her period before
- 3. Three months, if she has not menstruated or has passed the period known as menopause.

Why should we pay sufficient attention to this? The function of '*iddah*, which is to purify oneself of the effects or consequences of a woman's relationship with the husband who divorced her. This raises some questions: Does this cleansing refer to *barā'ah al-rahmi* (cleansing of the womb)? If yes, is it the only main reason or are there other reasons involved? If it is only about *bara'ah al-rahmi*, of course today's modern technology can take care of this issue. However, if not only that, what other factors need to be considered and taken into account?

There are three main functions of *'iddah*: cleansing the womb (*barā'ah al-rahim*), devotion to God (ta'abbud), and expression of condolences for the husband's death (*tafajju'*).¹⁵ Aljaziri explains that *'iddah* is a waiting period for women that is not only based on the days of menstruation or purity, but sometimes also based on months or marked by birth. During this *'iddah* period, a woman is forbidden to marry until her *'iddah*period ends..¹⁶ In addition to this definition, there are many other definitions given by scholars, but

¹⁵ Abd Moqsith Ghazali, "Iddah dan Ihdād Dalam Islam: Pertimbangan Legal Formal Dan Etik Formal", jurnal

<u>file:///C:/Users/asus/Downloads/IDDAH%20DAN%20IHDĀD%20DALAM%20ISLAM,%20PERTIMBANGAN</u> <u>%20LEGAL%20FORMAL%20DAN%20ETIK%20MORAL.pdfda</u>, hlm, 143

¹⁶ Aljaziri, *"Fikih Empat Mazhab"*, Juz 4, (Dar al-Kutub al- Ilmiyah, Libanon, 2003), 513.



basically they are almost the same in what they mean, namely a waiting period for a woman after the end of a marriage, either due to divorce or death, before she is allowed to remarry.

'*Iddah* also helps prevent fitnah and social problems. In the perception of society, the act of a woman marrying immediately after divorce or the death of her husband can lead to negative perceptions. In this case 'iddah helps prevent negative views and speculation that could damage a woman's reputation and honor. Furthermore, the 'iddah provides a clear time gap between the previous marriage and a potential subsequent marriage, thereby preventing any allegations or perceptions that the woman is in a hurry to remarry for bad reasons. Divorce does not immediately end the marriage bond, but must first go through the 'iddah period. This is because marriage is not only a mere contract, but also a covenant that is considered sacred.

As for *shibhul 'iddah*, it is a concept that resembles *'iddah*. The word *"ash-shibhu"* means "similar" or "the same". The term is derived from the word "*ash-shib*", with its plural form "ashbah". Etymologically, in the context of modern Figh, Shibhul 'iddah refers to a waiting period similar to the 'iddah imposed on women after divorce, but applied to men after divorcing their wives..¹⁷ So, the conclusion of *shibhul 'iddah* is that a man is required to observe a waiting period (*iddah*) after divorcing his wife, similar to that which applies to women.

The salaf and khalaf scholars have explained the terms of *shibhul 'iddah* in various books. They explain that there are two situations in which a man has *shibhul 'iddah*. Firstly, if a man divorces his wife with talaq *raj'ī* and then wants to marry a woman who has the same mahram relationship as his ex-wife, such as his ex-wife's sister, then he is not allowed to marry her until the 'iddah period of his ex-wife ends.

Secondly, if a man has four wives and divorces one of them to marry a fifth, he must wait until the *'iddah of* the divorced wife is over before marrying the fifth.

¹⁷ Deky Pramana dkk, "Perbandingan Konsep Syibhul Iddah Dalam KHI Dan Surat Edaran Dirjen Bimas Islam (Perspektif Magasid Syariah)," MAQASID: Jurnal Studi Hukum Islam 13, No. 1 (2024): 33.





The understanding of *shibhul 'iddah* in these two situations varies, both explicitly and implicitly. According to Abdurrahman al-Jaziri, in both conditions it is not 'iddah for men, but is still a waiting period that applies to women. The delivery of *syibhul 'iddah* for men in these two conditions is different, some are explicit and implied. According to Abdurrahman Al-Jaziri, these conditions are not '*iddah* for men, the waiting period is still the '*iddah* period for women.18

According to Wahbah Zuhaili in his book "al-Fighul Islam wa Adillatuhu", he says that in these two situations it is not '*iddah* in the sense of Islamic law, but is an ordinary waiting period because it has to do with the applicable sharia law. Although it is said that men are not obliged to undergo an 'iddah period, there are some reasons why they must undergo a waiting period similar to the 'iddah, called syibhul 'iddah by Wahbah Zuhaili. Among the waiting periods before a man can remarry. Firstly, if a man divorces his wife with a *raj'ī* divorce and wants to marry a woman who is still mahram to his divorced wife, such as his wife's younger sister, then he cannot marry her before the *'iddah* period of his divorced wife is over. Secondly, if a man has four wives and divorces one of them, then wants to marry another woman or take her as his fifth wife, he must wait until the 'iddah of the divorced wife is over. Only after the '*iddah* period is over is it permissible for him to remarry.

Based on the two verses that Wahbah Zuhaili relies on, it can be understood that the reasons expressed by Wahbah are social and psychological. This aims to prevent jealousy in women who have been divorced. Therefore, a former husband is required to wait until the divorced wife 's 'iddah period is over before he can marry another woman.¹⁹

¹⁸ Sartina, Lilik Andaryuni, "Konsep Syibhul Iddah Bagi Laki-laki Ditinjau dari Hukum Islam," Jurnal Tana Mana 3, no. 2(2022): 289-292.

¹⁹ Rita Sumarni, Novi Ayu Safitri, "Analisis Materi Konsep Syibhul Iddah Pada Laki-laki Menurut Wahbah Zuhaili," Innovative Education Journal 4, no.1 (2022):338-342





Shibhul 'Iddah: A Medium for Self-introspection and Reconciliation between Husband and Wife

If seen from a gender perspective, then in the case of divorce, the *syibhul'iddah* period can be said to provide an opportunity for couples to introspect and possibly consider reconciliation (getting back together). In some cases, the *syibhul 'iddah* period becomes a time to reconsider the divorce decision and the potential for reconciliation, this aspect is included in the psychological aspect. The psychological aspect is very good to be done by husbands and wives during the '*iddah* period, so that married couples can evaluate themselves, to reconcile or separate amicably with their spouses.

In deciding to divorce a husband or wife, it is recommended that we think carefully about whether to reconcile with the husband and wife or part ways with the husband and wife. In this context '*iddah* does not only apply to women but also to men, which is called the waiting period, because the process of reconciliation can be carried out by both parties as well as the process of self-introspection or self-evaluation must be carried out by men and women and this will have a good impact on both parties.

The psychological readiness of a divorced woman will be more open to returning to a husband who does not approach other women, than if the husband has approached and had a relationship with another woman. Conversely, if a divorced woman in 'iddah is prohibited from preening to attract the attention of other men, then morally, the divorcing man should also avoid doing things that could attract the attention of other women, such as making active approaches. The aim is to facilitate the psychological readiness of both parties, husband and wife, to be more open and possible to return to the original bond of marriage²⁰.

In patriarchal cultures, women often have a lower position than men, and the '*iddah* period is only considered as a way to determine a woman's pregnancy. This allows men to ascertain the paternity of a woman's child if she is pregnant. These conditions often do not support the reconciliation process between divorcing parties. Therefore, it is necessary to

²⁰Faqihuddin Abdul Qadir, *Qira'ah Mubadalah*, hlm. 427.



reconstruct the concept of the '*iddah* period so that it applies fairly and is binding on both men and women. Therefore, '*iddah* aims also to glorify the status of the marital bond between husband and wife as a form of solid agreement (*mitsaqon galizan*), meaning that divorce cannot directly break the marriage, but must go through the '*iddah* period for women and *syibhul* '*iddah*.²¹

Among the wisdom of *shibhul 'iddah* is reconciliation, which is an effort to repair a damaged relationship between the two parties involved in the dispute. One of the most important stages in reconciliation is forgiveness.²² However, forgiving someone who has hurt is not an easy action, especially when the person concerned has no good intention of apologizing and regretting his actions.²³.

The reconciliation period for ex-husbands and wives after divorce, has legal force, and is determined by the Religious Court. The majority of divorces that occur in society are caused by the wife's lawsuit, which shows that the right to divorce that was once only in the hands of the husband has now shifted, where both the wife and the husband can decide and end the marriage. *Shibhul 'iddah* provides an opportunity for husbands to evaluate themselves and think about the future of their household. During this time, they can consider the possibility of getting back together and do some self-introspection. The aim is to give them time to think, improve themselves, accept their partner's strengths and weaknesses, or part ways amicably²⁴.

Reconciliation is unlikely to succeed if the couple does not undergo this process as a process of self-evaluation, self-introspection, and emotional control. Therefore, if it is associated with the concept of khalwat in Sufism, it is important for husband and wife to

²¹ Muhammad Isna Wahyudi, Kajian Kritis Ketentuan Waktu Tunggu (Iddah) Dalam RUU HMPA Bidang Perkawinan, hlm 27.

²² Aloysius Soesilo, *Pemaafan (Forgiveness), Rasa Keadilan, Rekonsiliasi, dan Konflik Sosial*, Paper, (Univeritas Katolik Soegijapranta, 2013), 10

²³ Rahma Rizki, Dessy Pramudiani, "Pemaafan Menuju Rekonsiliasi", *Jurnal Psikologi Jambi*, Vol. 5, No. 1 (2020): 38.

²⁴ Lihat: Fatihatul Anhar Azzulfa, Afnan Riani Cahya A, "Masa *Iddah* Suami Isteri Pasca Perceraian," *Jurnal Al-Mizan* 17, No.1 (2021) 83-85.





carry out khalwat. According to Djaman Nur, khalwat is defined as being in a quiet and lonely place, in order to worship with khusyu' and perfection²⁵.

If it is related to the conditions of the *syibhul* ' *iddah* and '*iddah* periods that are lived by married couples. *Khalwat* means the process of contemplation of a married couple in a certain place to worship and evaluate the mistakes that have been made during the household. with the aim of improving the relationship between husband and wife.

Basically, the main reason for the implementation of *shibhul'iddah* and *'iddah* is to allow time for the husband and wife to think about their marriage. This period is considered sufficient to think about the future of the marriage. This legal reasoning remains relevant despite the changing and evolving times. The implementation and emphasis of *shibhul'iddah* is expected to reduce the divorce rate, because during the *'iddah* period it is recommended for both to communicate with each other and respect their spouses, thus preventing hatred between them.²⁶.

Until now, 'iddah is still considered a form of discrimination against women, leading to the view that 'iddah is gender injustice. The provision of 'iddah that comes after divorce, which is linked to the cleanliness of the womb, makes 'iddah only applicable to women. This concept of 'iddah is considered to discriminate against women because it limits their space after divorce. Women have to limit their socializing and daily activities, while men are free to do anything and can even remarry without having to wait for the 'iddah period. As a result, women bear a double burden: the burden of divorce and the burden of the 'iddah period. If 'iddah is not imposed on men and they can automatically marry after divorce, women will experience psychological violence. In Islam, psychological violence is not justified. As stated in an ushūl rule:

ما أدى إلى الحرام فهو حرام²⁷

²⁵ Djamaan Nur, *Tasawuf dan Tarekat Naqsyabandiyah Khalidiyah Pimpinan Prof. Dr. H. Saidi Syekh Kadirun Yahya*(Medan : Usu Press, 2004), 249.

²⁶ Fatihatul Anhar Azzulfa, Afnan Riani Cahya A, "Masa Iddah Suami Isteri Pasca Perceraian," *Jurnal Al-Mizan* 17, no. 1 (2021):84.

²⁷ Khalid Muhammad Abdul Qadir, *Fikih Aqolliyat Muslimah*, Juz 1 (tanpa penerbit, 1998), 95.



Meaning: What leads to something that is haram (corrupt, bad, etc.) is also haram.

Syibhul Iddah can be understood as a solution to prevent psychological violence experienced by women after divorce. This is an anticipation taken to avoid and prevent psychological mental violence against ex-wives. Thus, it can be understood that in order to realize harmony between men and women as well as benefits for husbands and wives, 'iddah must be undertaken by both parties. One of the purposes of 'iddah is for the reconciliation of married couples, in which both must be involved. If 'iddah is also applied to men, the purpose of 'iddah will be realized and human dignity preserved. This allows for a balance between the ideals of Islam and the realities of society, allowing time to reflect and reconsider their domestic relationship.

D. Conclusion

The main discussion of this research concludes that in divorce cases, the existence of *svibhul 'iddah* can be said to be a manifestation of gender equality for husband and wife after divorce. The existence of syibhul iddah can provide an opportunity for couples to introspect and consider the possibility of reconciliation (getting back together). Not only that, *shibhul* 'iddah can also be a medium for couples to review divorce decisions and consider the potential for reconciliation. Such a conclusion confirms that the existence of syibhul 'iddah can be an introspective and reconciliatory medium for married couples to evaluate themselves and decide whether to reconcile or separate amicably. The limitations of this research have not examined the pros and cons of Islamic legal studies related to the existence of the concept of syibhul iddah.





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