



IDDAH AND ITS RELEVANCE TO HIFZHUN NASL

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Abstract

Iddah is the waiting period for a woman after experiencing divorce or being widowed before she can remarry. The ruling on iddah is mandatory. The main purpose of the iddah in Islamic law is to ensure the clarity of lineage and protect descendants, known as hifzhun nasl. Hifzhun nasl is one of the principles of maqasid shariah. This article aims to explain the relevance of the iddah concept to the concept of hifzhun nasl. The method used in this study is a literature review by gathering data sources from various relevant literatures. The results of the research show that iddah serves to maintain the legitimacy of lineage, avoid lineage confusion, and help produce healthy and quality offspring. Therefore, the iddah law is relevant to the concept of hifzhun nasl.

Keywords: Iddah, Hifzhun nasl, islamic family law

Abstrak

Iddah adalah masa tunggu bagi seorang wanita setelah mengalami perceraian atau ditinggal wafat suami sebelum ia dapat menikah lagi. Hukum iddah adalah wajib. Tujuan utama iddah dalam hukum Islam adalah untuk memastikan kejelasan nasab dan melindungi keturunan, yang dikenal dengan istilah hifzhun nasl. Hifzhun nasl merupakan salah satu prinsip dalam maqashid syariah. Artikel ini bertujuan untuk menjelaskan relevansi konsep iddah dengan konsep hifzhun nasl. Metode yang digunakan dalam penelitian ini adalah kajian literatur dengan mengumpulkan sumber data dari berbagai literatur yang relevan. Hasil penelitian menunjukkan bahwa iddah berfungsi untuk menjaga legitimasi nasab, menghindari kekacauan nasab, dan membantu menghasilkan keturunan yang sehat dan berkualitas. Oleh karena itu, hukum iddah relevan dengan konsep hifzhun nasl.

Kata Kunci: Iddah, Hifzhun nasl, hukum keluarga Islam

A. INTRODUCTION

In Islam, there are regulations regarding iddah. Iddah is the waiting period for a woman who has been divorced or whose husband has passed away before she can remarry. The duration of iddah varies depending on specific conditions. For instance, if the woman is pregnant, her iddah period will differ from that of a non-pregnant woman. The concept of iddah is prescribed in the Quran and Hadith. The iddah law undoubtedly carries wisdom or benefits. One of the most important purposes of this law is to protect lineage (hifzhun nasl) and avoid uncertainties in family relationships and lineage.

Hifzhun nasl is part of maqasid shariah, in which the primary objective of Islamic law includes the protection of religion, life, intellect, wealth, and lineage. Iddah is one of the Islamic laws related to the concept of hifzhun nasl. This is because one of the goals of iddah is to ensure that there is no confusion in lineage, which could lead to various issues if it were to occur.

The issue addressed in this article is the relevance or relationship between the concept of iddah and the concept of hifzhun nasl. The aim of this research is to understand how the concept of iddah can be said to be relevant or interrelated with the concept of hifzhun nasl. This study is expected to provide readers with greater insight into the connection between iddah and the concept of hifzhun nasl.

B. RESEARCH METHOD

The data collection method used in this article is library research, which involves understanding and studying various theories from different literatures, gathering relevant data related to the discussion from books, journal articles, and other sources related to the research, without directly conducting fieldwork.

C. DISCUSSION

1. Iddah Period

Iddah, in linguistic terms, comes from the word al-ikhsa' (calculation)¹, derived from the word العدد, which means the counting of "quru" (menstrual periods or periods of purity). In legal terminology, iddah refers to the waiting period for a woman who has been divorced by her husband, during which she cannot marry anyone else for a certain period, whether her husband has died or divorced her.²

a. The Ruling on Iddah

A woman who has been divorced by her husband, whether it is due to death or separation, whether she is pregnant or not, whether she is still menstruating or not, is obligated to observe the iddah period, as stipulated in the verse of Allah, the Almighty³:

{وَالْمُطَّافَاتُ يَتَرَبَّصُنَ بِأَنفُسِهِنَ تَلَاثَةُ قُرُوءٍ وَلَا يَجِدُ لَهُنَّ أَنْ يُكْمِنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَ}

“Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs”(QS. Al-Baqarah (2): 228).

b. Types of Iddah

Iddah is divided into two types: iddah due to divorce (talak) and iddah due to death (wafat).

First: Iddah Due to Death (Iddah Wafat)

Iddah due to the husband's death has two scenarios:

- **If the woman is pregnant:**

If the woman is pregnant at the time of her husband's death, her iddah lasts until she gives birth. Allah says:

{وَأُولَاتُ الْأَحْمَالِ أَجْلُهُنَّ أَنْ يَضْعَفُنَ حَمْلُهُنَ}

“As for those who are pregnant: their term shall be until they have delivered.”.
(Q.S. At-talaq 28 : 4)

This verse is general in its meaning and includes all pregnant women.

¹ Majmu'atun minal ulama. *Mausû'ah al-Fiqhiyyah al-Kuwaitiyah*, (Kuwait: Auqaful Kuwait, 1980), jilid 29, hlm. 3041.

² *Al-fiqhul Islami wa adillatuhu*, (darul fikr), Jilid 9, hlm. 165.

³ *Mausû'atul Fiqhiyyah al-Muyassarah*, Jilid 2, hlm. 383

In a hadith:

عن أبي سلمة قال: ((جاء رجُلٌ إلى ابن عباس، وأبو هُريرةَ جالِسٌ عنده، فقال: أَفِتَنِي فِي امرأةٍ ولَدَتْ بَعْدَ زَوْجِهَا بِأَرْبَعِينَ لَيْلَةً؟ فَقَالَ ابْنُ عَبَّاسَ أَخِرُ الْأَجْلَيْنِ، قَلْتُ أَنَا: وَأَوْلَاتُ الْأَحْمَالِ أَجْلُهُنَّ أَنْ يَضْعَفُنَ حَمْلَهُنَ الْطَّلاقَ: ٤. قَالَ أَبُو هُرَيْرَةَ: أَنَا مَعَ ابْنِ أَخِي -يَعْنِي: أَبَا سَلَمَةَ- فَأَرْسَلَ ابْنَ عَبَّاسَ غُلَامَهُ كُرِبَّاً إِلَى أُمِّ سَلَمَةَ يَسْأَلُهَا، فَقَالَتْ: قُتِلَ زَوْجُ سُبْتِيَّةَ الْأَسْلَمِيَّةِ وَهِيَ حُبْلِيَّ، فَوَضَعَتْ بَعْدَ مَوْتِهِ بِأَرْبَعِينَ لَيْلَةً، فَخُطِبَتْ، فَأَنْكَحَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَكَانَ أَبُو السَّنَابِيلُ فِيمَنْ خَطَبَهَا))

From Abu Salamah, it is narrated that a man came to Ibn 'Abbas while Abu Huraira was sitting with him and said, "Give me your verdict regarding a lady who delivered a baby forty days after the death of her husband." Ibn 'Abbas said, "This indicates the end of one of the two prescribed periods." I said "For those who are pregnant, their prescribed period is until they deliver their burdens." Abu Huraira said, I agree with my cousin (Abu Salama)." Then Ibn 'Abbas sent his slave, Kuraib to Um Salama to ask her (regarding this matter). She replied. "The husband of Subai'a al Aslamiya was killed while she was pregnant, and she delivered a baby forty days after his death. Then her hand was asked in marriage and Allah's Messenger (ﷺ) married her (to somebody). Abu As-Sanabil was one of those who asked for her hand in marriage".⁴

It is narrated in the hadith that the Prophet married a pregnant woman whose husband had died, after the woman gave birth to her child.

- **If the woman is not pregnant:**

If the woman is not pregnant, the iddah period lasts for four months and ten days, regardless of whether the marriage had been consummated or not. Allah says:

وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصُنَ بِأَنفُسِهِنَ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا

"And those of you who die and leave wives behind them, they (the wives) shall wait (as regards their marriage) for four months and ten days". (Q.S. Al-Baqoroh: 234)

⁴ Al-Bukhari, Muhammad ibn Ismail. *Shahih Al-Bukhari*. No. 4909

There is no distinction in this verse, so it applies to all women, whether the marriage was consummated or not.

In addition to the hadith of the Messenger of Allah (peace be upon him):

لَا يَحِلُّ لِلْمَرْأَةِ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أَنْ تُحِدَّ عَلَى مَيِّتٍ فَوْقَ ثَلَاثَ لَيَالٍ ، إِلَّا عَلَى زَوْجٍ أَبْيَعَةَ أَشْهُرٍ وَعَشْرًا

"It is not lawful for a lady who believes in Allah and the Last Day to mourn for a dead person for more than three days unless he is her husband for whom she should mourn for four months and ten days." (HR. Bukhari no. 5334 dan Muslim no. 1491).

As for a pregnant woman whose husband has passed away, she is not included in the two aforementioned rulings because she is specifically addressed by the previous ruling.

Second: Iddah Due to Divorce (Iddah Talak)

The iddah period is also required for women who are divorced, separated through li'an, or due to faskh (annulment). There are four types:

- **If the woman is pregnant:**

The iddah period lasts until she gives birth. Allah berfirman:

{وَأُولَاتُ الْأَحْمَالِ أَجَهْنَ أَنْ يَضَعْنَ حَمْلَهُنَّ}

"And for those who are pregnant, their term is until they give birth." (Q.S. At-talaq 28 : 4)

This verse applies to all pregnant women.

- If the woman has menstrual periods:

She must wait for three menstrual cycles (quru'). Allah says:

{وَالْمُطَلَّقَاتُ يَرْتَصِنَ بِأَنفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكُنْنَ مَا خَلَقَ اللَّهُ فِي أَرْجَامِهِنَّ إِنْ كُنَّ يُؤْمِنَ بِاللَّهِ وَالْيَوْمِ

الْآخِرِ

"Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day." (QS. Al Baqarah: 228).

The term "quru'" here is debated among scholars as it can mean both purity and menstruation (musytarak). Some scholars, such as those from the Shafi'i school, believe it means purity, while others believe it means menstruation.

- For women who no longer menstruate:
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- **For women who no longer menstruate:**

Women who are past menopause or have never menstruated have an iddah period of three months. Allah says:

وَاللَّائِي يَئِسْنَ مِنِ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ أَرْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةً أَشْهُرٍ وَاللَّائِي لَمْ يَحْضُنْ وَأَوْلَاتُ
الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

“And those who no longer expect menstruation among your women - if you doubt, then their period is three months, and [also for] those who have not menstruated. And for those who are pregnant, their term is until they give birth.” (QS. Ath Tholaq: 4).

- **For women who have not consummated the marriage:**

If the marriage was not consummated, there is no iddah period⁵, Allah says

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نَكْحَثُ الْمُؤْمَنَاتُ ثُمَّ طَلَّقْتُمُوهُنَّ فَمَا لَكُمْ عَلَيْنَ مِنْ
عِدَّةٍ تَعْتَدُونَهَا فَمَتَّعُوهُنَّ وَسَرِّحُوهُنَّ سَرَاحًا جَمِيلًا

“O You who have believed, when you marry believing women and then divorce them before you have touched them, then there is not for you any waiting period to count concerning them. So provide for them and give them a gracious release.” (QS. Al Ahzab: 49).

c. Wisdom Behind the Legislation of Iddah

- 1) To confirm whether or not the woman is pregnant.
- 2) To ensure that the womb is clear of any offspring from the previous husband, avoiding confusion in lineage.⁶
- 3) To honor the institution of marriage and demonstrate its sanctity.
- 4) To provide a waiting period for the husband who has given a revocable divorce (talak raj'i), allowing him time to reflect or possibly reconcile with his wife.
- 5) To protect the rights of the fetus in the case where the woman is pregnant, ensuring support and care.

⁵ *al-Mulakhash al-Fiqhi*, Jilid 2, hlm. 420.

⁶ Majmu'atun minal muallif, *al-mausu'ah al-fiqhiyyah*, jilid 3, hlm. 137.

6) "As a form of respect for a deceased husband. For a wife whose beloved husband has passed away, it will certainly leave a bitter impact on her soul. The iddah period provides an appropriate time for her to grieve before starting a new life with another husband.⁷

2. Hifzhun Nasl

Hifzhun nasl, which means protection of offspring or lineage, is one of the most important aspects of maqasid shariah. Maqasid shariah are the objectives of Allah and His Messenger in formulating Islamic laws. The general purpose of establishing Islamic law is to bring about welfare for humanity in this world and the hereafter. In its concept, maqasid shariah emphasizes the protection of five things: religion, life, intellect, lineage, and property.⁸

The meaning of hifzhun nasl, when explored further, has a very broad scope. It includes fostering a new generation (injab), protecting the lineage of humanity (hifzhun nasab), and educating and caring for children (ri'ayah). Thus, the meaning of hifzhun nasl is not limited to safeguarding the lineage or descent.⁹

In this discussion, lineage becomes the most important aspect because iddah is closely related to lineage. In the Islamic encyclopedia, lineage (nasab) is defined as descent or kinship, which is a family bond obtained through a valid marriage contract.¹⁰ In terminological terms, lineage refers to family relations based on blood ties, whether upwards, downwards, or sideways, all of which result from a valid marriage.¹¹

Nasab (lineage) is a matter of great concern in Islam. Because it is the basis of kinship in the family, Islam pays great attention to protecting the lineage from all things that cause mixing of the lineage and things that can damage the glory of the lineage. Islam considers the purity of lineage very important because Islamic law is closely related to the

⁷ Sholih alfauzan, *al-Mulakhash al-Fiqhi*, jilid 2, hlm. 419.

⁸ M.Luthfi Khakim, dkk, *Menjaga Kehormatan Sebagai Perlindungan Nasab Perspektif Maqashid Syari'ah*, (Nizham, Vol.8, No.01 Januari-Juni 2020), hlm. 32.

⁹ Humaeroh. *Keluarga berencana sebagai ikhtiar hifzh al-nasl (upaya menjaga keturunan menuju kemaslahatan umat)*, (Ahkam, Vol. 12 No. 1 2016), hlm. 136.

¹⁰ *Ensiklopedi Islam*, hlm. 13.

¹¹ Nurul Irfan, *Nasab dan Status Anak dalam Hukum Islam*, (Jakarta: Amzah, 2012), hlm. 32.

family structure. For example, in the laws of marriage, inheritance, guardianship, maintenance rights, mahrams and so on.¹²

Descendants who have a pure lineage from a legal marriage will find it easier to carry out various Islamic laws that have a connection with family relationships. Meanwhile, offspring whose lineage is mixed and unclear will have difficulty carrying out various Islamic laws that require certainty of lineage. For example, in the case of a girl born as a result of adultery, her biological father is not connected to the child by sharia. So the father cannot be the guardian of the child.

3. Relevance of Iddah to Hifzhun Nasl

First: Iddah can maintain the validity of nasab.

From the explanation of iddah above, it can be seen that one of the main objectives of the establishment of iddah law is to ensure the clarity of nasab. During the iddah period, women are prohibited from marrying until the iddah period is over. This is none other than to ascertain whether the woman is pregnant or not.

If during the iddah period it turns out that the woman is pregnant, then it is certain that the child is legally connected to the previous husband. Maintaining the validity of this nasab is very important because it relates to the rights of children in the future. Thus the function of the iddah law is in accordance with and related to the principle of Islamic law, namely hifzhun nasl.

Second: Avoiding Nasab Confusion

Without an iddah period, a woman who has just divorced or died from her husband is likely to immediately remarry another man. This will certainly increase the possibility of nasab confusion, because there is confusion in determining who is the biological father of the child. This nasab ambiguity can lead to various legal and social problems for the child, for example in inheritance rights, guardianship, and child status.

With the prescribed iddah, it can ensure the clarity of the offspring's lineage and will protect the rights of the offspring in the future. From this it can be concluded that the iddah

¹² M.Luthfi Khakim, dkk, *Menjaga Kehormatan Sebagai Perlindungan Nasab Perspektif Maqashid Syari'ah*, (Nizham, Vol.8, No.01 Januari-Juni 2020), hlm. 38.

law was made one of them with the aim of protecting the lineage, this is in accordance with one of the principles of maqashid sharia, namely Hifzhun nasl.

Third: Producing healthy and quality offspring

One of the wisdoms of the iddah period is to prepare women physically and psychologically before starting a new relationship and pregnancy. In the perspective of science, according to Dr. Javed Jamil, revealed that diseases transmitted through sexual intercourse have different incubation periods (entry of the disease), some are ten days, twenty days, up to ninety days. So that the iddah period can prevent the transmission of sexual diseases to future partners and offspring.¹³

Psychologically, a woman who has just been divorced or left behind by her husband will certainly experience sadness. So it takes time to recover. In this case the iddah period provides an opportunity for women to recover psychologically before starting a new relationship and getting pregnant again. A woman's mental or psychological health greatly affects the health of the unborn child. Peter Heber revealed that the feelings of pregnant women have a close relationship with the child they are carrying. Pregnant women who experience mental stress can have a negative impact on the fetus. Possibilities that can occur are fetal disability, miscarriage, and premature birth. This happens because the stress and sadness experienced by the pregnant woman will be transmitted to the fetus and directly affect the structure of the fetal tissue.¹⁴

From this it can be seen that iddah has a role in restoring a woman's physical and psychological well-being. Then from a good physical and psychological state, it can produce healthy and quality offspring. This is in line with the concept of hifzhun nasl which protects offspring from everything that can harm or endanger offspring.

D. CONCLUSION

The iddah period has a very important function in maintaining the validity of nasab and protecting offspring (hifzhun nasl). One of the main purposes of iddah is to ensure that a

¹³ Khusnul Khotimah, *Konsep Iddah dalam Al Qur'an (Studi Tafsir Ayat Ahkam Karya Ali Ash-Shabuni)*, (Lampung: Fakultas Ushuluddin dan Studi Agama Universitas Islam Negeri Raden Intan, 2019), hlm. 25-27.

¹⁴ Eneng Nurhayati, *Psikologi Kehamilan Dalam Perspektif Al-Qur'an* (Jakarta: Kordinat Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam, 2021), hlm. 56.

woman is pregnant or not before she remarries a new partner so that if she becomes pregnant during the iddah period, the child can be confirmed from the relationship with the previous husband. With this, the child's nasab becomes clear and preserved. In addition, iddah also serves to avoid confusion of nasab, which can be detrimental to offspring because it causes various legal and social problems, such as obstruction of inheritance and guardianship rights. Furthermore, the iddah period also provides time for women to recover their physical and psychological condition before starting a new relationship. This is important in the formation of quality offspring who are physically and mentally healthy. Thus, iddah is not only relevant to the context of Islamic law but also contributes to the realization of a quality generation in accordance with one of the maqashid sharia concepts, namely hifzhun nasl.

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