



The Urgency of *Syibhul Iddah* in The Society Based on *Maqasid Syari'ah* Perspectif

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Abstract

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Iddah is one of the consequences that women must undergo after a divorce, whether divorce due to divorce or divorce due to death. The provisions of the Koran regarding *iddah* are absolute provisions that must be followed. The legal basis for *iddah* is found in the Al-Qur'an, surah Al-Baqarah verse 228, surah Al-Ahzab verse 49. The obligation of *iddah* is also regulated in the Compilation of Islamic Law (KHI) in article 170 paragraph 1. The wife is obliged to carry out the *iddah* period, while In article 170 paragraph 2 it is explained that men carry out the *iddah* period according to propriety. Of course, this causes problems in terms of relations between husband, wife and children, the family concerned, and women again experience discrimination where women have to carry out the *iddah* period according to the specified time while men do not carry out this term appropriately. There are no specifications regarding the length of time it will run, it seems like it's just a formality. The aim of this research is to find out the urgency with which the *syibul iddah* is implemented in society and also to find out the beneficial impact for women and men with the *syibhul iddah* from the perspective of *maqasid sharia*. This paper uses the library research method, using a descriptive analysis approach, namely by explaining the text in the KHI and other regulations in Indonesia regarding the existence of *iddah* and then analyzing it using *maqasid sharia*. From this explanation, the results of the author's analysis are that it is very urgent to have *syibhul iddah* to prevent hidden polygamy against women. *Syibhul Iddah* is needed in life to achieve the *darruriyat* interests, namely marriage.

INTRODUCTION

Marriage is the union of two people of different genders in a sacred bond, one of the goals of which is to continue the continuity of human life. Marriages are not always smooth, of course there are many trials, obstacles and obstacles that must be faced by the husband and wife, which if these cannot be overcome or overcome by the husband and wife will cause a rift in the household, where the marriage promises to live together forever. experiencing ups and downs together with the worst possibility, if you are unable to carry out the test in your household, you will experience separation or divorce. This of course has many consequences that must be faced by people who experience divorce in their household.

One of the consequences that must be carried out by women who experience divorce is *iddah*. The *Iddah* that women must carry out could be due to divorce due to death or divorce due to divorce. Regarding *iddah*, it has been explained in the Al-Qur'an and hadith. One of the verses about *iddah* in the Al-Qur'an is as in Surah Al Baqarah verse 228. This verse explains that a wife who is divorced is obliged to observe *iddah* for three holy times (*qurni*). The verse also explains that a man whose wife has rejected him can reconcile as long as the *iddah* period has not been completed. And the purpose of *iddah* according to this verse is to find out whether or not the wife's womb is clean after being divorced by her husband. Apart from the verses and hadith explained above, there are also rules governing *iddah* which are then listed in KHI (Compilation of Islamic Law) CHAPTER XIX on mourning period (*Masa Berkabung*) Article 170 (1) A wife whose husband leaves her dead is obliged to carry out a period of mourning during the *iddah* period as a sign of condolences and at the same time to guard against the

emergence of slander. (2) A husband whose wife survives his death shall observe a period of mourning according to propriety¹.

From the verses of the Al'Qur'an, hadiths and compilations of Islamic law regulated in Indonesia, none of them regulates men's iddah, looking at the definition of *iddah*, according to the author, which has the potential to cause injustice for women. Because, the legal consequences that occur during *iddah* only apply specifically to women. Meanwhile, for men, the specific provisions regarding iddah do not apply and it only seems to be a formality as stated in article 170 paragraph 2. Then the reform of Islamic family law emerged which was published in the Circular Letter of the Minister of Religion of the Republic of Indonesia Number: P005/DJ.III/Hk .00.7/10/2021 regarding marriage during the wife's iddah period². According to the author, syibhul iddah is something that is urgent in society, not only by looking at the cleanliness of the uterus, but considering the many benefits that can be gained from implementing *syibhul iddah*.

The research that was previously carried out was the first research, namely a thesis prepared by Isnan Luqman Fauzi in 2012 from IAIN Walisongo Semarang entitled *Syibhul iddah bagi Laki-Laki : Studi Analisis Pendapat Wabbah Zuhaili*³. The conclusion of this thesis is that according to Wahbah Zuhaili, men have shibhul iddah, although only in two circumstances, namely: First: when a husband divorces his wife with a *talak raj'i* then the husband wants to marry his wife's sister. Second, when the husband is mentally *raj'i* to the wife of one of his four wives, then the husband wants to marry a fifth time. What is used as the legal basis by the ulama regarding *syibhul iddah* for men is because there is *mani yjar'i*. The second research is a thesis prepared by Muhammad Aldisn Muzakky in 2019 from UIN Walisongo Semarang entitled *Analisis metode mafhūm mubādalah Faqihuddin Abdul Kodir terhadap masalah 'iddah bagi suami*⁴. The conclusion is that Faqihuddin's view regarding the mafhūm mubjadi method for *iddah* for husbands can be applied in texts that contain provisions regarding *iddah*, resulting in iddah provisions for husbands. The impacts that arise from the meaning of *mubadallah* on *iddah* for husbands are a) delay in carrying out the marriage, b) prohibition on leaving the house, and c) mourning period (*iḥḍad*). All of these impacts are aimed at social ethics. Because It seems inappropriate if a divorced husband immediately enters into a marriage with another woman. The third research is a thesis written by Abdul Aziz, a student at UIN Maulana Malik Ibrahim Malang in 2010, with the title *Iddah bagi suami dalam fiqih Islam: Analisis gender*⁵. This thesis discusses the obligation of *iddah* for women in fiqh literature due to three aspects, namely biological, gender and theological aspects. Considering that the iddah for husbands is not covered clearly in the sources of Islamic law, the normative support (al-Quran and Hadith) used is the universal aspect of the scope of meaning contained in these two sources.

This research is library research or library research, namely the urgency of syibhul iddah in society from the perspective of maqasid sharia. This research is qualitative with the nature of descriptive analysis because this research describes the facts and phenomena in society where women are required to carry out iddah with their obligations during the iddah period, while husbands carry out their lives normally

¹ Zulifikri, Zulifikri, and Fauziah Lubis. "Analysis of the Mourning Period (Iḥḍad) in the Compilation of Islamic Law Based on Sheikh Arsyad al-Banjari's View." *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, dan Keagamaan* 10, no. 1 (2023): 39-54.

² Yunus, Siti Irham. "Gender Equality In Islamic Family Law: Should Men Take Iddah (Waiting Period After Divorce)?" *Russian Law Journal* 11, no. 3 (2023): 1132-1138.

³ Fauzi, Isnān Luqman. "Syibhul iddah bagi Laki-Laki : Studi Analisis Pendapat Wahbah Zuhaili." Skripsi. IAIN Walisongo. (2012)

⁴ Muzakky, Muhammad Aldisn. "Analisis metode mafhūm mubādalah Faqihuddin Abdul Kodir terhadap masalah 'iddah bagi suami." Skripsi. UIN Walisongo. (2019)

⁵ Aziz, Abdul. "Iddah bagi suami dalam fiqih Islam: Analisis gender." PhD diss., Universitas Islam Negeri Maulana Malik Ibrahim, 2010.

without being burdened by divorce that occurs in their household. . Then we analyze why syibhul iddah is needed to be implemented, by providing descriptions of the benefits of *syibhul iddah*, and analyzing it using *maqasid sharia*.

RESULT AND DISCUSSION

Understanding and Legal Basis of *Iddah*

There are many consequences that must be obtained when a husband and wife decide to separate or divorce, starting from child custody, child support, assets, status wedding etc. In Article 1 paragraph 1 of the Marriage Law, it is explained that the purpose of marriage is to form an eternal household based on belief in the Almighty God, therefore the law is committed to making divorce difficult⁶. Therefore, to carry out a divorce, the reasons for the divorce are required to be presented at the court hearing. Divorce is a halal act, but it is most hated by Allah SWT, even though divorce is something that Allah hates, if there is more harm than good in marriage, then it is legal to do it.

The relationship between husband and wife can be terminated if the marriage breaks up, the marriage can break up due to death or divorce, for women the consequences of breaking up a marriage due to death or divorce will both have consequences, one of which is iddah.

The pronunciation of iddah in the Qur'an, as explained in *Al-Mu'jam al-Mufahras li Alfaz al-Qur'an*, is mentioned 11 times. The *iddah* pronunciation which is mentioned separately is found in the QS. Al-Baqarah: 184, 185; QS. Al-Taubah: 36, 37; QS. Al-Ahzab: 49; QS. Al-Thalaq: 1. Meanwhile, the pronunciation of iddah which is connected with pronouns, both plural for women (*hunna*) and plural for men (*hum*) is found in the QS. Al-Taubah: 1, 4; QS. Al-Kahf: 22; QS. Al-Mudatsir: 31⁷. There are several meanings regarding *iddah*, so what is discussed in this article is the iddah in question regarding the wife's waiting period which is the result of the dissolution of the marriage either due to divorce or death.

The pronunciation of iddah comes from the verb *adda-ya'uddu* which means to count something (*iḥṣa'u ayy-syai'*). If associated with women, it means days of refraining from wearing jewelry either based on the month, menstruation or holy days, or childbirth. Iddah is an obligation that a wife must fulfill after a divorce occurs or her husband dies by abstaining from new marriages⁸. According to Sayid Sabiq, in terms of language, iddah is counting the days and periods of cleanliness of a woman⁹. Meanwhile, according to Al-Jaziri, it is absolutely used to refer to women's menstrual days or holy days¹⁰.

According to *Hanafiyyah* scholars, iddah is a mandatory waiting time for women because their marriage is breaking up or because their marriage is doubtful. Then the *Malikiyyah* Ulama defined iddah as a period when women are prohibited from marrying because of the breakdown of the marriage or the death of the husband or because of divorce. *Shafi'iyah* scholars interpret iddah as a woman's waiting period which aims to find out the condition of her uterus from pregnancy or for *ta'abbud* and a period of mourning for women for the death of their husband (*tafajju*). Furthermore, *Hanafiyyah* scholars define *iddah* as a waiting period for women which is limited by sharia due to the dissolution of the marriage between husband and wife due to the death of the husband or divorce, *talak* or *khulu* or because of

⁶ Waluyo, Bing. "Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan." *Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan* 2, no. 1 (2020): 193-199.

⁷ Muhammad Fuad 'Abd al-Baqi, *Al-Mu'jam Al-Mufahras Li Alfazh Al-Qur'an* (Mesir: Dar al-Kutub al-Mishriyyah, 1943), 448.

⁸ Dewan Redaksi, *Ensiklopedia Islam*, Jilid 2 (Jakarta: Ichtiar Baru van Hoeve, 1993), 173.

⁹ Muhammad Isna Wahyudi, *Fiqh Iddah Klasik Dan Kontemporer* (Yogyakarta: Pusaka Pesantren, 2009), 74.

¹⁰ Abdurrahman Al-Jaziri, *Kitabu Al-Fiqh Ala Al-Madhabul Al-Arba*, juz 4 (Libanon: Darl Kutub al-Ilmiyah, 2003), 451.

*fasak*¹¹.

Looking at several definitions of *iddah* from fiqh scholars above, it can be concluded that *iddah* is a period for a woman who occurs when a marriage breaks up either due to divorce or death, not to remarry until the limit determined by the syara which aims to know the sanctity of the womb, to worship and to mourn the death of her husband. This time limit can be in the form of time or in the form of conditions such as: menstruation, purity, month or childbirth.

Carrying out the *iddah* period for women is an obligation that has been regulated in the Al Qur'an, Hadith and *ijma*, including Surah Al-Baqarah verse 228 means: "Women who are divorced should restrain themselves (wait) three times the quru, they must not hide what Allah created in their wombs, if they believe in Allah and the Hereafter. and her husbands have the right to refer to her during the waiting period, if they (husbands) want ishlah. And women have rights that are balanced with their obligations in a ma'ruf manner. However, husbands have one level of superiority over their wives, and Allah is Almighty and All-wise. This verse explains that a woman who is divorced must observe *iddah* for three holy *quru* times. The verse also explains that a man whose wife has rejected him can reconcile as long as the *iddah* period has not been completed. The purpose of *iddah* according to this verse is to find out whether a woman's womb is clean or not after being divorced by her husband. Then there is a hadith which means: "It is not permissible for women who believe in Allah and the last day to carry out *iddah* (mourning) because of someone's death for more than three days, except that because of the death of their husband they observe *iddah* for four months and ten days." (H.R. Bukhari)¹².

Various Types of Iddah

Based on the Al-Qur'an and Hadith and through the *ijtihad* of the ulama, the various types of *iddah* are divided according to their respective opinions. Wahbah Zuhaili divides the types of *iddah* into three parts based on the completion of *iddah*¹³: *Iddah* with quru measurements, *iddah* with moon measurements and *iddah* with childbirth."

In general, marriage is broken up due to death and divorce, with these two differences, a wife observes a different *iddah* period in accordance with the applicable provisions. Firstly, the *iddah* for divorce is divided into: women who are adults (menstruating) so their *iddah* is three times *quru* or three holy times, women who have not menstruated and have menopausal then their *iddah* is three months, women who are pregnant then their *iddah* is after giving birth, women who Her husband has never had sex with her before, so there is no *iddah* period to allow her to remarry immediately.

The second *iddah* for divorce ended *iddah* because her husband died and she was not pregnant, so her *iddah* was for four months ten days, whether she is an adult woman or a child, menopausal age or not, whether she has had sex with him or not. However, if the woman is suspected of being pregnant, she must wait until she gives birth to the child. This is based on Q.S al-Baqarah verse 234 which means: "And those who die among you and leave wives behind, let them (wives) wait four months and ten days. Then when they have reached (the end of) their *iddah*, then there is no sin for you regarding what they do to themselves in an appropriate way. And Allah is All-Knowing of what you do."

The third *iddahs* of women who commit adultery, the jurists differ on the issue of *iddah* for women who commit adultery or wath'i syubhat due to fasid marriage. According to the *Zahiri* school

¹¹ Saputera, Abdurrahman Adi, and Nindi Lamunte. "Indikator Terjadinya Pernikahan Dalam Masa Iddah Di Kecamatan Bolangitang Barat." *El-Ushrah: Jurnal Hukum Keluarga* 3, no. 1 (2020): 17-35.

¹² Achmad Sunarto Dkk, *Al Bukhari, Shahih Bukhari, , Diterjemahkan "Terjemah Shahih Bukhari,"* juz VII (Semarang: CV. Asy Syifa, 1993), 225

¹³ Faizin, Mohammad. "Rekonstruksi Pendapat Imam Shafi'i Tentang Masa 'Iddah Mutallaqah Yang Terputus Haidnya Sebelum Umur Monopous Perspektif Maslahat Najm Al-Din Al-Tufi." Phd Diss., Iain Jember, 2017.

of thought there is no obligation of iddah for women who are divorced as a result of fasid marriage even though there has been a relationship (*dukhul*), because there is no evidence for this in the texts of the Qur'an or hadith. According to the Hanafi school and the Shafi'i school there is no iddah is obligatory because the sperm of the man who commits adultery does not need to be respected and does not cause any relationship to the unborn child. With this provision, a man may marry a woman who has committed adultery and may immediately have sexual intercourse with her (*dukhul*) after the contract, even if the woman is pregnant. Meanwhile, Malikiyyah ulama require iddah for women who commit adultery and their position is the same as women who are sexually intimate with each other. Then the Hanabilah clerics sentenced women who committed adultery to have to undergo the iddah period like women who were divorced. The absence of iddah for women who are pregnant out of wedlock or in adultery, being allowed to marry immediately can actually create more benefits, namely providing protection to women who become pregnant due to adultery from psychological pressure, covering family disgrace, as well as legal protection for the child they are carrying.

Syibhul Iddah

The Qur'an and Hadith as the legal basis for Muslim *qath'i* do not mention the provisions of iddah for husbands who separate due to divorce or the death of his wife. Likewise, there is nothing in the civil law legislation that explains the iddah for husbands, whether separated due to divorce or the death of their wife. Therefore, if seen from the perspective of legal certainty, *iddah* only applies to wives, while husbands do not have an iddah period¹⁴. *Syibhul iddah* is something that resembles iddah. The word *ash-Syibhu* is something similar, the same. The meaning of *syibhul iddah* (iddah for men) in this study is the waiting period for men who have divorced their wives with *talak raj'i* or when a man has four wives and then divorces one with *talak raj'i* then if he wants to marry Again, he has to wait for his wife's iddah period to end¹⁵. So if a husband has divorced his wife, it is not permissible to marry directly while the ex-wife is still in the state of iddah. Husbands have to wait like ex-wives carrying out their iddah period, but the waiting period for husbands is explained implicitly, which is called *syibhul iddah* or a period that resembles a woman's *iddah*.

There are two articles in the Compilation of Islamic Law which discuss *iddah* for men, as follows:

- a. Article 42 "A man is prohibited from entering into marriage with a woman if the man has 4 (four) wives, all four of whom are still married or still in the *iddah talak raj'i* or one of them is still tied by marriage while the other others during the *talak raj'idah* period¹⁶.
- b. Article 70 letter a "The husband carries out the marriage, while he does not have the right to carry out the marriage contract because he already has four wives, even if one of the four wives is in the *iddah talak raj'i*¹⁷.

The Compilation of Islamic Law (KHI) contains the meaning of the concept of *syibhul iddah* which is not stated directly and clearly. In positive legal regulations based on a circular from the Ministry of Religion, there are rules or procedures for husbands who want to marry during their wife's *iddah* period. The following is the explanation of the Circular Letter of the Director General of Islamic Religious Institutional Development Number: DIV/Ed/17/1979 dated 10 September 1979 which was later amended by Circular Letter Number: P-005/DJ.III/Hk.00.7/10/2021 Concerning Marriage During

¹⁴M. Nur Kholis Al-Amin, "Iddah Bagi Suami Karena Cerai Mati Dalam Kajian Filsafat Hukum Islam," *Mukaddimah: Jurnal Studi Islam*, 2016, 114–15.

¹⁵Abi Bakri Syata, "Panah Al-Talibin" III (n.d.): 37

¹⁶ Mahkamah Agung RI, *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Serta Pengertian Dalam Pembahasannya*, Perpustakaan Nasional RI : Data Katalog Dalam Terbitan, vol. 1, 2011.

¹⁷ *ibid*

Period Wife's Iddah which explains the procedure for a husband who will marry another woman during his ex-wife's *iddah period*¹⁸. The circular explains several provisions

- a. Marriage registration for men and women who are widowers or Living divorce can only be done if the person concerned has officially divorced as proven by a divorce certificate from the Religious Court which has been declared inkrah.
- b. The provision of the wife's *iddah* period due to divorce is an opportunity for both husband and wife to think again about rebuilding the household that was separated due to divorce.
- c. A man who is an ex-husband can marry another woman if his ex-wife's *iddah* period has been completed.
- d. If a man's ex-husband marries another woman during the *iddah* period while he still has the opportunity to refer to his ex-wife, then this could potentially lead to hidden polygamy.
- e. If a former husband has married another woman during his ex-wife's *iddah* period, he can only refer back to his ex-wife by applying for a polygamy permit to the Religious Court.

That in classical jurisprudence literature, *iddah* only applies to women, so that for men there is no *iddah* period, which means that if they are divorced, either *talak raj'i* or *ba'in* is the day after the divorce certificate is issued from the Religious Court, even though it was decided by *talak raj'i* and still has the right to reconcile with his wife. He may immediately marry another woman he likes. In the end, the man did not violate any Sharia obstacles or existing provisions. However, this can result in hidden polygamy or legal smuggling

According to Wahbah Zuhaili, the existence of *Syibbul Iddah* is due to the existence of *Mani Syar'i*. Firstly, if a person divorces his wife in *talak raj'i* and then he wants to remarry a woman who is the same mahram as his wife, such as the wife's sister, then the man cannot marry that woman until the divorced wife's *iddah* period is over. Second, if a man has four wives and then one of his wives is divorced, he cannot immediately marry another woman before the divorced ex-wife's *iddah* period ends¹⁹.

The Wisdom of Iddah

The wisdom of *iddah* in Islam comes with its shari'ah as a solution to problems during the jahiliyyah era. This is because in the era before Islam came, many social activities were less humane and discriminatory or lacked injustice, especially for women. When Islam came as a complete religion, since then the discriminatory phenomenon has changed a lot²⁰. Regarding the purpose of implementing *iddah*, of course one of them is to achieve the benefit between husband and wife²¹.

The benefits of *iddah* wisdom are, one of the purposes of *iddah* is to find out whether the woman's womb is clean from the seeds left by her ex-husband. This opinion has been agreed upon by the ulama. The next aim of *iddah* is to give both husband and wife the opportunity to rebuild their household (reconcile), if they think that is better. The existence of *iddah* has several objectives, including the following, namely²²:

- a. The husband has the opportunity when thinking to choose between reconciliation with his wife or continuing the divorce that has been carried out.

¹⁸ Utami, Putri, Juliani Juliani, Budi Rahmat, and Sidiq Aulia. "Implementasi Surat Edaran Dirjen Bimas Islam NO: P-005/DJ. III/HK. 00.7/10/2021 Tentang Pernikahan Dalam Masa Iddah Istri (Studi Kasus KUA Ujan Mas)." PhD diss., Institut Agama Islam Negeri Curup, 2023.

¹⁹ Zuhaili, *Fiqh Al-Islam*, 626.

²⁰ Azis, Abdul. "Iddah bagi suami dalam fiqh Islam: Analisis gender." PhD diss., Universitas Islam Negeri Maulana Malik Ibrahim, 2010.

²¹ Nuroniyah, Wardah. "Diskursus' Iddah Berpersepektif Gender: Membaca Ulang' Iddah dengan Metode Dalalah al-Nass." *Al-Manahij: Jurnal Kajian Hukum Islam* 12, no. 2 (2018): 193-216.

²² Abdul Azis Muhammad Azzam Dkk, *Fiqh Munakahat* (Jakarta: Amzah, 2009), 39.

- b. The wife has the opportunity to find out the real situation, namely whether she is pregnant or not pregnant.
- c. As a transition period.

For example, in order to create harmonious relations between men and women, as well as justice, iddah must be observed for both men and women. This is especially true when viewed from the aim of iddah for reconciliation and tafajju, men and women must be involved with each other. By considering the legal principles, it is logically, scientifically and justifiably acceptable if the implementation of the waiting period is social in nature, then it is not only applied to women but also men must also carry out the *iddah* period²³.

The aim of enforcing *iddah* which is binding on both men and women is not only to realize gender equality and justice in relations between men and women, but also to increase the function of iddah, among others, in sexual prevention. infectious diseases and achieving reconciliation. Furthermore, the establishment of *iddah* for men and women means that the dehumanization of women has been eliminated. This can be explained in the case of *iddah* due to divorce or iddah due to death.

The *iddah* period applies not only in relation to divorce while living but also death. In essence, this iddah on death has the aim of showing feelings of condolence and mourning for the death, as well as protecting the feelings of the deceased's extended family and more than that if there are children to protect the child's psychology. In *talak raj'i*, the *iddah* period is actually an opportunity for both the wife and husband to improve themselves so that they can be reunited. On the other hand, the essence of marriage as mitsaqan ghalizhan, namely a firm and solemn agreement, is not appropriate if then with divorce, the majesty of the marriage bond is suddenly broken, therefore there must be a break in the form of an iddah period as a form of appreciation for the glory of the marriage bond.

More than that, there is a period of *iddah* which is carried out by men (*syibhul iddah*) and women for the benefit and to prevent undesirable things from happening such as hidden polygamy and/or "illegal" polygamy, which is very related to the survival of life. namely marriage, so syibhul iddah needs to be regulated in clear regulations.

Maqasid Sharia

Maqashid sharia مقاصد consists of two words, namely: maqashid and sharia. The word maqashid مقاصد comes from Arabic and comes from the jama of the word maqhsoda مقصد which has *fiil madhi qashoda قصد* meaning aim, goal, target and final intention²⁴. Apart from the meaning above, Ibn al-Manzur added *al-kasr fi ayy wajhin kana*. (solve a problem in any way), for example someone's statement *qashadt al-ud qashdan brustuhu* (I have solved a problem, meaning I have solved the problem completely)²⁵. 17 Based on the meanings above, it can be concluded that the word al-qashd, used to find the straight path and the obligation to stick to that path. Apart from that, the word al-qashd is also used to state that an action or word must be carried out using the scales of justice, not too much and not always too little, but is expected to take the middle path. The use of meaning is not excessive and not too loose in interpreting the *nash*.

Thus, *maqashid* is something that is done with full consideration and is aimed at achieving something that can lead a person to the straight path (truth), and the truth obtained must be firmly believed and practiced. Furthermore, by doing something, it is hoped that it can solve the problems it

²³ Abdul Wahab Khalaf, *Ilmu Ushul Al-Fiqh*, cet. VIII (Jakarta: Majlis al-A'la alIndonesia Li al-Dakwah al-Islamiyah, 1972), 100.

²⁴ Ahmad Warson Munawir, *Kamus Munawir Arab Indonesia*, n.d., 1125.

²⁵ Busyro, *Maqashid Al-Syariah* (Jakarta: Kencana, 2019), 6–7.

faces in any condition²⁶. In language it means *maurid al-maalladzī tasyra'u fihī al-dawab* (a place where water flows, where animals drink from there). The use of the word *al-syariah* with the meaning of place of growth and source of water means that water is actually a source of life for humans, animals and plants. Likewise, the Islamic religion is the source of life for every Muslim, his benefit, progress and safety, both in this world and in the afterlife. Without sharia, humans will not get goodness, just as they don't get water to drink.

Judging from the description above, maqashid sharia is a human effort to find the perfect solution and the right path based on sources from the Koran and Hadith. With this meaning, it is to create economic and economic benefits, and also to reject or avoid harm. Based on the definitions above, it can be concluded that maqashid sharia are the secrets and final goals that are realized by sharia in every law that is established. Thus, maqashid sharia is the goal and direction of sharia law, with the principle of taking the middle path and not overdoing it in applying it because maslahah must be in accordance with the sources of Islamic law, not just thoughts.

The aim of *syar'i* in enacting legal provisions for the people of *Mukalaf* is in an effort to bring goodness to their lives, through provisions that are *daruriy*, *hajiyy*, and *tahsiniiy*.

1. *Al-maqashid ad-daruriyat*, linguistically means an urgent need. It can be said that these aspects of life are very important and basic for the proper running of religious affairs and human life. Ignoring this aspect will result in chaos and injustice in this world, and life will be very unpleasant. *Daruriyat* is carried out in two senses, namely, on the one hand, these needs must be realized and fought for, while on the other hand, everything that can hinder the fulfillment of these needs must be removed.
2. *Al-maqashid al-hajiyyat*, linguistically means need. It can be said that these are the legal aspects that are needed to lighten the very heavy burden, so that the law can be implemented properly. For example, shortening worship in times of distress or illness, where legal simplification appears at times of emergency in everyday life.
3. *Al-maqashid at-tahsiniiyat*, linguistically means perfect things. Pointing to legal aspects such as recommendations for freeing slaves, performing ablution before prayer, and giving alms to the poor.

One important part of the division of law is the willingness to recognize that the benefits that humans have in this world and in the afterlife are understood as something relative, not absolute. The purpose of the law is to protect and develop actions that have greater benefits, and to prohibit actions that are fraught with danger and require unnecessary sacrifice.

Syibhul Iddah in The View of Maqasid Syariah

Syibhul iddah for men is a new concept of thought that was born from the injustice that occurs for women. The concept of thinking about the dynamics of social life often gives rise to new problems. If these problems are related to Islamic teachings, there are at least two possible answers. First, there are explicit rules governing it which can be found in the Al-Quran or Sunnah as the basic source of Islamic law. Second, the basis for the problem is found only implicitly. So, on the second condition requires legal thoughts from those who have authority²⁷.

Apart from being considered adequate to launch new ideas in reforming Islamic family law, maqashid sharia also originates from Islamic traditions and can be integrated with the rules and methodology of classical *ushul fiqh*. So it is hoped that efforts to reform Islamic family law using maqashid sharia will eventually be accepted by all groups. The existence of maqashid sharia is to ensure

²⁶ Putra, Harizal. "Studi Kritis Terhadap Pemikiran Ibrahim Hosen Tentang Kebolehan Euthanasia Bagi Penderita Aids Di Tinjau Dari Maqashid Syari'ah." *Sosio Akademika* 12, No. 2 (2023): 1-15.

²⁷ Hasbi Umar, *Nalar Fikih Kontemporer*, Cet.I, (Jakarta: Gaung Persada Press Jakarta, n.d.), 5.

that the benefit of Muslims, both in this world and in the afterlife, is realized.

No one can deny that the Al-Quran and Hadith often explicitly state the reasons or objectives for enacting a legal provision. But in other parts, the reasons or objectives of the law are often left implicit or even not stated at all. Because it has become the consensus of the ulama that every legal provision must have a goal for the benefit, the illat and goal must be discovered through careful observation and research so that it can be understood and used as a reference for legal determination.

Therefore, if a mujtahid intends to understand a legal practice, then he can refer to the understanding of the text to apply it in practice. And if he intends to resolve a *zahir* conflict in two or more texts then he can use *maqashid sharia* to resolve it. Based on the legal objective approach, an *al ahwal al syakhsiyyah* reviewer cannot determine the law of an act unless after going through a legal impact analysis (*al nazar fi al ma alat*) to see the effects caused by the act, so that the level of human benefit as a *maqasid* of *sharia* becomes clear. (legal purposes).

So the position of *maqashid sharia* in determining Islamic law is in form *Mashlahah* which is used as the basis for measuring *maqashid sharia* consists of two forms, namely realizing benefits, goodness and pleasure for humans and preventing humans from damage and evil. To determine the good and bad (benefit or mafsadah) of an action and to realize the main objective of establishing and fostering law, the benchmark is what is a basic need for human life. In order to realize benefits in this world and the hereafter, based on research by *ushul fiqh* experts, there are five main elements that must be maintained and realized, namely religion (*hifz al-din*), soul (*hifz al-nafs*), reason (*hifz al-aql*), descendants (*hifz al-nasl*), and assets (*hifz al-mal*)²⁸.

1. Religion (*hifz al-din*) Religion means belief in God. Specifically, religion is a collection of creeds, worship, laws and regulations prescribed by Allah SWT to regulate human relationships with their God, and their relationships with each other. The goal is to protect religion. One example is the recommendation for jihad when jihad is necessary to protect the religion.
2. Soul (*hifz al-nafs*) The Islamic religion in order to realize the law on marriage to obtain children and the continuation of offspring and the continuation of the human species in the most perfect form of continuity.
3. Reason (*hifz al-aql*) To maintain reason, the Islamic religion prohibits drinking alcohol and anything intoxicating and imposes punishment on people who drink it or use anything intoxicating.
4. Offspring (*hifz al-nasl*) To maintain the descendants of Islam, the Islamic religion prescribes had punishments for men who commit adultery, women who commit adultery and had had penalties for people who accuse others of committing adultery, without witnesses.
5. Wealth (*hifz al-mal*) To produce and obtain wealth, religion Islam prescribes the obligation to seek sustenance, allows various muamalah, exchange, trade and cooperation in business. As for preserving wealth, the Islamic religion prohibits theft, punishes men and women who steal, prohibits fraud and betrayal and damage to other people's property, prevents stupid and careless people, and avoids danger.

Firstly, one part of *hifz al-din* is to adhere to the teachings of the Islamic religion. Muslims must carry out religious commands, namely that fair behavior is upheld within the family. The relevance in matters of *iddah* is that if the ex-wife is still in the *iddah* period, at least the ex-husband will not rush to marry another woman. It is unfair if the consequences of divorce are borne by the woman herself. From the view of the *maqashid sharia* *hifz ad-din* whose aim is to uphold the benefit, peace and happiness of

²⁸ Rahmat Hidayat Nasution M. Syukri Albani Nasution, *Filsafat Hukum Islam & Maqashid Syariah* (Jakarta: Kencana, 2020), 58.

mankind. Islamic law has the principle of justice, so the iddah should also apply to men.

The two *hifẓ al-nafs* protect the soul in order to realize the law on marriage to obtain children and the continuation of offspring as well as the continuity of the human species in the most perfect form of continuity. the meaning of caring for the soul is maintaining an honorable life, and protecting it from all kinds of disturbances and threats to its safety²⁹. *Maqashid sharia hifẓ al-nafs* in order to maintain, maintain, support and improve the quality of life in a family, for example in family matters, marriage is a birth bond inner relationship between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the belief in God Almighty with the aim of forming a happy and eternal family, so that the need for syibhul iddah as a break for men and women .

Third, *hifẓ al-aql* is maintaining reason, Muslims must maintain their reason in everyday life. Divorce has many consequences, one of which is emotional disturbance, while *Isam* in *hifẓ al-aql* keeps the mind stable and normal, although this may be a bit difficult to achieve because divorce certainly has a negative impact on the wife who has to carry out the iddah period. Maintaining reason by attracting goodness, namely waiting for the wife's iddah and rejecting the mental damage to the wife that occurs if the ex-husband immediately remarries when the ex-wife is still in the iddah period, justice for the wife which is the result of the breakup of the marriage, the child's right to receive love from both parents Even though they are separated, harmonious conditions will make children better and the nation's moral safety will decrease, namely the reduction in juvenile delinquency which arises from the consequences of broken family relationships. This can be avoided if the husband observes shibhul iddah after the divorce.

The fourth *hifẓ al-nasl* in *maqashid sharia* is in the form of *hifẓ al-nasl*, namely caring for offspring. An important part of *hifẓ al-nasl* is marriage. To see the review of *maqashid syria hifẓ al-nasl* or the maintenance of offspring in the matter of *iddah* which aims to determine the cleanliness of the uterus, a wife who is divorced by her husband must carry out the iddah period for three sacred times, with the aim of ensuring the emptiness of the uterus or the possibility that the wife is pregnant. While men do not have an *iddah* period, actually *iddah* also has the aim of preventing the spread of infectious diseases through sexual relations and the aim of *iddah* for men is to maintain good relations with offspring (children). With this, the application of *iddah* is not only for women, men also have *syibhul iddah* after divorce.

Fifth, *hifẓ al-mal*, namely maintaining and preserving the existence of assets and spending them in the appropriate channels. If drawn into the issue of *iddah*, *hifẓ al-mal* or safeguarding assets is related to the stability of married life, however the economy is an important sector in family life. The background to divorce, one of the factors causing it is problems economically, so that men who are carrying out the iddah period can remain focused on supporting their wife who is carrying out the iddah and children only and not think about remarriage which requires money.

CONCLUSION

Syibhul Iddah became a legal reform applied to KUA in Indonesia with the publication of a Circular Letter from the Minister of Religion of the Republic of Indonesia through the Director General of Islamic Community Guidance Number: P005/DJ.III/Hk.00.7/10/2021, which regulates the waiting time for men who wants to remarry when his wife is in the state of *iddah talak raj'i*. According to Wahbah

²⁹ Muhamdiyah Djafar, *Pengantar Ilmu Fikih (Suatu Pengantar Tentang Ilmu Hukum Islam dalam Berbagai Madzhab)* (Jakarta: Kalam Mulia, 1993), 58.

Zuhaili, the existence of iddah in men is due to the existence of mani syar'i so that men during their wife's iddah period during *talak raj'i* cannot immediately remarry before their wife's iddah period ends. The articles in the KHI implicitly regulate *syibhul iddah*, namely in article 42 and article 70 letter a which regulate men's waiting time, then in article 170 paragraph 2 which seems to discriminate against women because of the sentence "Husbands who are left to die by their wives, do period mourning according to propriety" that indeed when the wife passes away finally the man does not violate any sharia or existing provisions if he immediately remarries, but it is clear in the KHI that it is explained according to propriety, meaning that propriety cannot be taken into account. in a timely manner but interpreted appropriately, this must be pursued proportionally for men so as not to harm the marriage that has been built and just disappear, the essence of marriage is as *mitqiqan ghalizhan* so that the need for a break is a form of appreciation for the marriage which is *mitqiqan ghalizhan*.

If we look at the wisdom and purpose of implementing the *iddah* period for wives, it is indeed necessary to also shibhul iddah for husbands because there are many problems for both parties, the family, as well as social ethics in society and shibhul iddah is something urgent that must be implemented to prevent polygamy. covert, illegal polygamy and also legal smuggling. *Syibhul Iddah* is applied while still paying attention to the sharia values in it so that it does not violate the provisions of the Al Qur'an and hadith, so maqasid sharia analysis is used by looking at the maslahah values of establishing and implementing a law for the implementation of comprehensive justice. Syibhul Iddah is something that is urgent to implement because of the benefit of the Daruriyat nature, namely marriage between a man and a woman, ultimately the man does not violate any syar'i obstacles or existing provisions. However, this can result in covert polygamy or legal smuggling which creates new problems. If this happens, prevention is needed so it must be regulated in regulations because it is something that is urgent. The implementation of syibhul iddah can be considered to bring benefits by continuing to uphold mashlahah values for both parties, moreover the priority is not to violate and continue to maintain the values of Islamic sharia, so that justice in accordance with the teachings of the Islamic religion is carried out well on the basis of maqashid syari' ah and benefit.

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