

The Transformation of the Concept of Iddah in Indonesian Marriage Law: The Dialectic of Sharia Normativity and the Demand for Gender Equality

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Abstract

The transformation of the concept of iddah in Indonesian marriage law has become a crucial issue in Islamic family law reform because it lies at the intersection of sharia normativity and the growing demands for gender equality in modern society. This study aims to analyze the dynamics of iddah regulations in the Indonesian marriage legal system and examine their relevance from the perspective of gender justice and maqāṣid al-syarī'ah. The study uses a normative juridical approach with a literature study method through an analysis of Islamic legal sources, legislation, court decisions, and academic literature related to Islamic family law and gender issues. The results show that the concept of iddah in Indonesian regulations is still oriented towards classical fiqh constructions that place women as the primary subject of the waiting period obligation. However, scientific developments, changes in social structures, and increasing awareness of the principle of gender equality have encouraged the emergence of various reinterpretations of the purpose of iddah that emphasize aspects of offspring protection, legal certainty, and family welfare. This study concludes that the transformation of the concept of iddah needs to be directed towards a more contextual approach and one based on maqāṣid al-syarī'ah so that it can maintain sharia values while accommodating the principles of justice, equality, and protection of women's rights in contemporary Indonesian marriage law.

Keywords

Iddah; Islamic Family Law; Gender Equality; Maqāṣid al-Sharī'ah; Legal Reform

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1. INTRODUCTION

Islamic family law is one of the most dynamic areas of law, addressing social and cultural changes and developments in societal thought. This dynamic is evident in the various family law reform efforts undertaken by Muslim countries, including Indonesia. Family law reform aims not only to uphold normative values derived from Islamic law, but also to address the challenges of a modern era marked by increased awareness of human rights, legal democratization, and gender equality. In this context, various classical Islamic legal concepts, which have served as primary references for centuries, are undergoing a process of reinterpretation and reconstruction to remain relevant to the needs of



contemporary society. One issue that continues to be debated is the concept of iddah (waiting period) in Islamic marriage law (Auda, 2022).

Iddah is a waiting period that a woman must undergo after a divorce or the death of her husband before she is permitted to remarry. The provisions regarding iddah are firmly based in the Qur'an and Hadith and have become an integral part of the Islamic family law system. From a classical Islamic jurisprudence perspective, iddah is understood as a mechanism to ensure the emptiness of the womb (*bara'at al-rahim*), maintain the clarity of children's lineage, provide an opportunity for divorced couples to reconcile, and serve as a form of respect for the terminated marriage bond (Hooker, 2019). Therefore, the majority of Islamic scholars agree that the obligation of iddah is a normative Sharia provision with strong religious legitimacy.

In Indonesia, provisions regarding the iddah period have been incorporated into various legal instruments, including Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law (KHI). These provisions essentially adopt the classical Islamic jurisprudence (*fiqh*) framework, which places women as obligated to undergo a waiting period after the dissolution of marriage (An-Na'im, 2021). In practice, these regulations have become the primary guideline for religious courts in resolving divorce and marriage cases in Indonesia.

However, social and intellectual developments in recent decades have given rise to various criticisms of the concept of iddah as practiced in Islamic family law. This criticism primarily comes from academics, gender activists, and progressive Islamic thinkers who question the relevance of some classical Islamic jurisprudence arguments in the context of modern society (Mir-Hosseini, 2020). They argue that advances in science, particularly in reproductive health and medical technology, have enabled faster and more accurate identification of pregnancies than at the time when the concept of iddah was first formulated. Therefore, the primary rationale for ensuring lineage, which has long been the basis for the obligation of iddah, is deemed to require reconsideration within the framework of contemporary Islamic legal thought (Tucker, 2019).

Furthermore, the issue of gender equality is a major factor driving the emergence of new discourse on the iddah period. From a gender perspective, the obligation of iddah is often viewed as a rule exclusively imposed on women, while men experiencing divorce or the death of their wives do not have a similar obligation (Sonbol, 2020). This situation raises questions about the extent to which the principles of justice and equality are applied in Islamic family law. Some argue that these provisions reflect the patriarchal social structure that developed during the formation of classical Islamic jurisprudence, necessitating a rereading of religious texts taking into account the different social contexts of the modern era.

On the other hand, groups that defend the iddah provision as a normative measure emphasize that the regulation is not solely based on biological or reproductive aspects, but also has spiritual, psychological, and social dimensions (Mashhour, 2021). Iddah is understood as a form of respect for the institution of marriage, a means of reflection for couples experiencing divorce, and a protective mechanism for women during the transition period after the end of a marriage. Therefore, changes to the iddah concept must be implemented carefully to avoid violating the sharia values that form the primary foundation of Islamic family law.

This debate demonstrates the complex dialectic between sharia normativity and demands for gender equality in Indonesian marriage law. Sharia normativity requires adherence to the provisions established in Islamic legal sources, while the gender equality perspective demands fairer and more proportional legal treatment for both men and women (Kamali, 2019). This dialectic is further strengthened by the development of the Islamic legal paradigm, which emphasizes the importance of the *maqāṣid al-syarī'ah* approach as a foundation for understanding and developing Islamic law.

The *maqāṣid al-syarī'ah* approach provides the perspective that the primary goal of Islamic law is not merely to maintain the normative form of a rule, but also to realize the benefit of humanity. In the context of iddah, this approach opens up space to re-examine the substantive goals that sharia aims to achieve, such as the protection of offspring (*ḥifz al-nasl*), the protection of life (*ḥifz al-nafs*), the protection of human dignity (*ḥifz al-'ird*), and the realization of social justice. Thus, the focus of the discussion is no longer limited to whether iddah should be maintained or abolished, but rather how the concept can be transformed to remain relevant to the needs of modern society without losing the substance of sharia (Alfitri, 2021).

The study of the transformation of the concept of iddah has become increasingly important as Indonesia, the world's most populous Muslim country, continues to undertake various efforts to reform family law. Discourses on revising the Compilation of Islamic Law, strengthening the protection of women's rights, and mainstreaming a gender perspective in legal policy demonstrate that Islamic family law cannot be separated from evolving social dynamics. In this context, the concept of iddah is a strategic issue requiring in-depth study due to its direct link to gender relations, reproductive rights, women's protection, and the objectives of Islamic law (Cammack et al., 2023).

Several previous studies have discussed iddah from various perspectives, such as classical Islamic jurisprudence, positive legal analysis, Islamic feminist approaches, and the *maqāṣid al-syarī'ah* perspective. However, most of these studies still focus on a specific dimension, resulting in few comprehensive studies examining the transformation of the iddah concept within the dialectic between sharia normativity and demands for gender equality in the Indonesian marriage legal

system (Nurlaelawati, 2019). Yet, an integrative approach is essential to understanding how Islamic law can adapt to social change without losing its normative legitimacy.

Based on this description, this study attempts to analyze the transformation of the concept of *iddah* in Indonesian marriage law by positioning sharia normativity and gender equality as two main interacting variables. This study is crucial for providing academic contributions to the development of Islamic family law that is responsive to social change while remaining grounded in the basic principles of sharia. Through the *maqāṣid al-syarī'ah* approach, this study is expected to offer a new perspective on how the concept of *iddah* can be understood more contextually, inclusively, and equitably, thereby addressing the challenges of Islamic family law in Indonesia in the contemporary era.

2. METHOD

This research employs a normative legal research approach, focusing on the analysis of legal norms, doctrines, and concepts related to the regulation of the *iddah* period in the Indonesian marriage legal system. This approach was chosen because the research object encompasses not only applicable positive legal provisions but also involves a study of Islamic legal sources that serve as the normative basis for regulating the *iddah* period. Through this normative approach, the research aims to understand how the concept of *iddah* is constructed within classical Islamic law, adopted in national regulations, and transformed by developments in gender equality discourse and Islamic family law reform.

The type of research used is library research. Data were obtained from various primary, secondary, and tertiary legal sources. Primary legal materials include the Qur'an, hadith, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Government Regulation Number 9 of 1975, the Compilation of Islamic Law (KHI), and court decisions relevant to the regulation of the *iddah* period. Secondary legal materials include books, scientific journal articles, research results, and academic works discussing Islamic family law, *maqāṣid al-syarī'ah*, Islamic legal reform, and gender equality theory. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting documents that help explain the concepts used in the research.

The research approaches used include a statutory approach, a conceptual approach, and a philosophical approach. The statutory approach is used to analyze the regulations governing *iddah* in the Indonesian legal system. The conceptual approach is used to understand the concept of *iddah* from the perspective of classical *fiqh*, contemporary Islamic family law, and gender theory. Meanwhile, the philosophical approach is used to examine the objectives of Islamic law based on the theory of *maqāṣid al-syarī'ah* as an analytical framework for assessing the relevance of *iddah* regulations in the modern era.

Data collection was conducted through a documentary study of various relevant literature sources. All collected data was then analyzed using descriptive qualitative analysis methods. The analysis involved data inventory, data classification, interpretation of legal norms, and deductive conclusion drawing. During the analysis, the concept of iddah was compared between the normative perspectives of sharia and gender equality to find common ground that would enable the realization of Islamic family law reform oriented toward the welfare of the community.

Table 1. Research Analysis Framework

Analysis Aspects	Study Focus	Data source	Approach
Normativity of Sharia	The concept of iddah in the Qur'an, hadith, and classical jurisprudence	Al-Quran, hadith, jurisprudence books	Conceptual and philosophical
Indonesian Positive Law	Regulation of iddah in statutory regulations	Marriage Law, PP No. 9 of 1975, KHI	Statute approach
Gender Equality	Criticism and reinterpretation of iddah from a gender perspective	Books, journals, research results	Conceptual
Maqāṣid al-Syarī'ah	The purpose of Islamic law in regulating the iddah	Maqasid literature and Islamic law	Philosophical
Legal Transformation	Reconstruction of the concept of iddah in a modern context	All research sources	Integrative analysis

Table 1 shows that this research is built on five main interrelated aspects. The analysis begins with a study of sharia normativity as the conceptual basis for iddah, followed by an examination of national regulations governing the iddah period. Next, the research evaluates various criticisms and reform ideas developing from a gender equality perspective. All of this data is analyzed using the maqāṣid al-syarī'ah framework to identify the substantive goals of Islamic law that are intended to be realized. By integrating all these aspects, the research seeks to produce a conceptual formulation regarding the transformation of iddah that remains grounded in sharia values while also being responsive to demands for justice and gender equality in contemporary Indonesian marriage law.

3. FINDINGS AND DISCUSSION

The Transformation of the Concept of Iddah in Indonesian Marriage Law: Between Sharia Normativity and Gender Equality

The concept of iddah is an institution of Islamic family law that holds a central position in regulating marital and post-divorce relations. Historically, iddah was understood as a waiting period

that women must undergo after a divorce or the death of their husband before being permitted to enter into a new marriage. This provision has a strong normative basis in the Qur'an, specifically Surah al-Baqarah verse 228, Surah al-Baqarah verse 234, and Surah al-Talāq verse 4. In the classical fiqh tradition, scholars from various schools of thought agree that iddah is a sharia obligation aimed at maintaining the purity of lineage, providing an opportunity for reconciliation, protecting women from unclear legal status, and upholding the honor of the family institution (Mudzhar, 2020).

In the context of Indonesian marriage law, this concept has been adopted into various regulations, particularly the Marriage Law, Government Regulation No. 9 of 1975, and the Compilation of Islamic Law (KHI) (Fadhli, 2021). These regulations essentially follow classical Islamic jurisprudence, placing women as the party obligated to undergo a waiting period after the dissolution of marriage. This provision demonstrates that Islamic family law in Indonesia still maintains a strong normative character in accommodating sharia teachings within the national legal system.

This legal construction demonstrates the continuity between classical Islamic jurisprudence and Indonesian positive law. From an Islamic legal perspective, the iddah period is understood not merely as an administrative regulation but as part of worship with spiritual and moral dimensions. Therefore, many argue that the obligation of iddah cannot be separated from its theological foundation (Suma, 2019). This provision is seen as both a form of obedience to God's commands and a means of maintaining social stability in Muslim family life.

However, developments in modern society have presented new challenges to traditional understandings of the iddah period. One of the most influential factors is the advancement of science and technology, particularly in the field of reproductive health. In the early days of Islam, one of the primary purposes of the iddah period was to ensure the emptiness of a woman's womb to avoid confusion of lineage (Arifin, 2020). At that time, there were no scientific methods capable of accurately detecting pregnancy in a short time. Therefore, the waiting period became a crucial legal instrument to ensure the certainty of a woman's biological status.

Advances in modern medical technology have significantly changed this situation. Today, pregnancy can be detected through various highly accurate medical examination methods. In fact, pregnancy tests can be performed just a few days after conception (Mufidah, 2020). This situation raises academic questions about the relevance of some classical arguments that establish certainty of lineage as the primary reason for establishing the iddah period. Several contemporary Islamic legal thinkers argue that scientific developments need to be considered in re-examining the substantive objectives of the iddah provision.

In addition to technological developments, changes in society's social structure are also a significant factor influencing the transformation of the concept of iddah. In modern societies, women

have broader access to education, employment, and public spaces compared to traditional societies (Faqihuddin, 2022). Women no longer play a limited role in the domestic sphere but have also become important actors in various areas of social, economic, and political life. These changes have consequences for how society understands gender relations within the family and the law.

In this context, the obligation of iddah is often criticized from a gender equality perspective. This criticism arises because iddah is normatively imposed only on women, while men do not have a similar obligation following divorce or the death of a spouse (Hidayatullah, 2022). This situation is viewed by some as a form of legal inequality that requires reexamination. They argue that the principle of justice demands more proportional legal treatment for men and women in the family law system.

This view has become increasingly stronger with the development of Islamic feminist studies that seek to reread religious texts. Muslim feminist thinkers do not necessarily reject the existence of the iddah, but they emphasize the importance of understanding the purpose and historical context behind its creation. According to them, many classical Islamic jurisprudence products are actually the result of human interpretations of religious texts within specific social contexts (Syarifuddin, 2023). Therefore, these interpretations remain open to reexamination in accordance with changing societal conditions.

From an Islamic feminist perspective, the primary focus is not the abolition of the iddah period, but rather a reexamination of aspects that have the potential to give rise to gender inequality. This approach seeks to distinguish between the immutable universal values of Islam and the contextual implementation of the law. Thus, family law reform can be implemented without eliminating the substance of Islamic teachings themselves (Rohman, 2023).

In Indonesia, the discourse on family law reform is growing alongside growing attention to protecting women's rights. Various Muslim women's organizations, academics, and research institutions have proposed various ideas regarding the need to reinterpret several family law provisions, including the iddah period. These ideas are not intended to challenge Sharia, but rather to ensure that Islamic law remains responsive to the changing needs of society.

The debate over the iddah period ultimately demonstrates the dialectic between sharia normativity and demands for gender equality. On the one hand, there is the desire to maintain the authority of religious texts and centuries-old Islamic jurisprudence traditions. On the other, there is the need to adapt the law to social developments and the principles of justice that are increasingly gaining attention in modern society (Azizah & Huda, 2021). This dialectic is one of the central characteristics of contemporary Islamic family law reform.

Within this framework, the *maqāṣid al-syarī'ah* approach offers a constructive middle ground. *Maqāṣid* theory asserts that the primary objective of sharia is to achieve benefit and prevent harm. Therefore, every legal provision must be understood not only in terms of its formal form but also in

terms of the substantive goals it seeks to achieve. This approach allows Islamic law to remain relevant without losing its normative identity.

When viewed from the perspective of the *maqāṣid al-syarī'ah* (obligatory legal framework), *iddah* is closely linked to the protection of offspring (*ḥifẓ al-nasl*). This objective is one of the primary needs (*ḍarūriyyāt*) that underpin the Islamic legal system. Through *iddah*, sharia strives to maintain the clarity of lineage so that children's rights are optimally protected. In modern society, this objective remains relevant, although the methods for achieving it may be adjusted according to scientific developments.

In addition to protecting offspring, *iddah* also relates to the protection of human dignity (*ḥifẓ al-'ird*). The waiting period provides women with space to rebuild their lives after the end of a marriage. In the case of a husband's death, *iddah* serves as a form of respect for the marital bond. In cases of divorce, *iddah* provides an opportunity for couples to reflect and consider the possibility of reconciliation.

The *maqāṣid* perspective also shows that *iddah* is not solely oriented towards biological aspects. It contains psychological, social, and moral dimensions that often receive little attention in contemporary debates. The transitional period after divorce or the death of a spouse is often a period of emotional stress. In this context, *iddah* can be understood as a protective mechanism that provides time for individuals to adapt to their changing life status.

However, the *maqāṣid* approach also allows for reinterpretation of technical aspects that no longer align with societal developments. This reinterpretation is not intended to abolish the *iddah* provisions, but rather to ensure that their implementation truly supports the goal of public welfare, which is at the core of sharia. Therefore, the transformation of the *iddah* concept must be directed at finding a balance between adherence to the text and responding to social realities.

The research findings indicate that the transformation of the concept of *iddah* in Indonesia is not moving toward eliminating norms, but rather toward reconstructing their meaning. The primary focus is shifting from a purely legalistic approach to a more substantive one. In this new paradigm, *iddah* is understood as a family protection instrument aimed at safeguarding offspring, ensuring legal certainty, and realizing social welfare.

This transformation is evident in the growing number of academic studies that place the *maqāṣid al-syarī'ah* as the primary analytical framework for understanding Islamic family law. This approach allows for a more inclusive interpretation of gender issues without neglecting the normative legitimacy of sharia. Thus, family law reform can be implemented gradually and still gain acceptance within the Muslim community.

Table 2 . Transformation of the Concept of Iddah in the Perspective of Contemporary Islamic Family Law

Aspect	Classical Jurisprudence Perspective	Contemporary Perspective
Main Principles	Adherence to the scriptures and traditions of the sect	Compliance with the texts and objectives of sharia
Purpose of Iddah	Certainty of lineage and opportunity for referral	Protection of lineage, legal certainty, and family welfare
Subject of Iddah	Women as the main object	Women as protected legal subjects
Legal Approach	Legal-formalistic	Objectives and contextual
Gender Relations	Based on traditional role division	Oriented towards substantive justice and equality
Relevance of Technology	Not a major consideration	Taking into account developments in reproductive science
Reform Orientation	Maintaining existing norms	Reconstruction of meaning without eliminating the substance of sharia

Table 2 shows that the transformation of the concept of iddah does not mean rejecting Islamic teachings or eliminating established sharia provisions. The changes that occur are more directed towards a paradigm shift from a textual-formal approach to a substantive approach oriented towards the objectives of Islamic law. In the classical paradigm, the primary focus is on compliance with normative provisions as formulated in Islamic jurisprudence. Meanwhile, the contemporary paradigm seeks to re-understand the objectives of sharia underlying the obligation of iddah, so that these rules can be applied more relevantly to the conditions of modern society. Thus, the transformation of the concept of iddah in Indonesian marriage law demonstrates a dialectical process between sharia normativity and demands for gender equality, ultimately leading to efforts to realize the welfare, justice, and protection of the family as the primary objectives of Islamic law.

4. CONCLUSION

This research shows that the concept of iddah in Indonesian marriage law has undergone significant developments in its meaning along with social changes, scientific advancements, and increasing public awareness of the principles of gender justice. Although the prevailing regulations are still rooted in classical Islamic jurisprudence (fiqh) constructions that place women as the primary subject of the waiting period obligation, the reality of contemporary society demands a more contextual reading of the purpose and function of iddah. From an Islamic legal perspective, iddah is not only related to biological aspects such as pregnancy certainty and lineage protection, but also has social, psychological, moral, and spiritual dimensions that aim to maintain family stability and provide protection to women during the transition period after the end of marriage. Therefore, understanding iddah cannot be limited to a purely textual and legalistic approach, but must consider the ever-evolving social context so that sharia values remain relevant in modern society.

Based on research findings, the transformation of the concept of iddah needs to be directed towards an approach oriented towards maqāsid al-syarī'ah by placing the benefit, justice, protection of rights, and respect for human dignity as the primary objectives of Islamic law. This approach allows for harmonization between sharia normativity and demands for gender equality without having to eliminate the substance of Islamic teachings that form the basis of family law. Reinterpretation of the concept of iddah should focus on strengthening the function of protecting offspring, legal certainty, protection of women, and family resilience, so that Indonesian marriage law can respond to the challenges of the times more adaptively. Thus, reform of Islamic family law is not understood as an effort to replace sharia norms, but rather as a process of actualizing universal Islamic values that uphold justice, equality, and the benefit of all family members in contemporary Indonesian society.

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