

DISCUSSING THE PROBLEMS OF IMPLEMENTING *IDDAH* FOR CAREER WOMEN

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Abstract

Every human being expects a lasting relationship with his partner, but often relationships fail either because of divorce or death. The failure of a husband and wife relationship has a legal impact on a wife who is left behind, the wife who is left behind is obliged to perform *iddah*, *iddah* is Islamic law which aims to ensure that a woman's womb is empty before remarrying another man. In the implementation of *iddah*, there are restrictions to do, including the prohibition of applying, marrying, leaving the house and *ihdad*. *Ihdad* is a prohibition on dressing up. This problem then becomes a problem in itself for a career woman who in her daily life is required to leave the house to carry out her activities in her role as a career woman. As a professional, career women are required to dress and look like a pro. This then becomes a problem for a career woman who is carrying out *iddah*. On the one hand, make-up is prohibited, on the other hand, they are required to do so. Basically, Wahbah Zuhaili mentions that the essence of *ihdad* is to break the path that can make other prohibitions done, namely the interest of people to propose and get married. From the essence of the *ihdad*, a pregnant woman can take a middle path, which is to continue to carry out her role as a career woman, and keep her behavior and style simple so as not to invite men to approach and propose to her. That way *iddah* as sharia and the essence of *ihdad* can still be carried out.

Keywords: Problematic, Iddah, Career Women, Islamic Law.

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INTRODUCTION

The act of human trafficking is an act that is not in accordance with human dignity and has actually violated human rights, so that action must be taken firmly. Legal protection for child victims of human trafficking is inadequate in accordance with statutory regulations and human rights (Setiawati et al, 2021). Indonesia has provided a legal basis for the criminal conduct of human trafficking as stated in Article 1 paragraph (1) of the Law of the Republic of Indonesia Number 21 of 2007 concerning the Crime of Human trafficking, hereinafter referred to as the Law on Human trafficking, providing a definition related to the crime of human trafficking. A person who is an act or conduct involving the recruitment, transportation, harboring, dispatch, transfer or receipt of a person by means of the threat of force, use of force, abduction, confinement, fraud, deception, abuse of power or position of vulnerability, debt bondage or the giving of payments or benefits, so as to obtain the consent of the person who has control over the other person, whether carried out within the country or between countries, for the purpose of exploitation or causing the person to be exploited, and whoever commits the crime of human trafficking will be punished in accordance with human trafficking law.

Allah says that human beings are created in pairs, in Islam to live with our spouses it is prescribed in a legal marriage according to religion, with a legal marriage, what is common for people in pairs is to have a relationship to get a child. In living a household, of course, a couple tries to fulfill their daily needs, although basically daily needs are a responsibility given by religion to men, but in reality the magnitude of the necessities of life makes a man unable to fully fulfill all his needs. The changing times with gender equality made a wife who was initially just waiting for a living from her husband to feel compelled to help meet the needs of the family by becoming a career woman. Not forever in life, a married couple goes according to expectations, sometimes destiny says otherwise, problems in the household that make many end in divorce. It is not uncommon for a husband and wife to be separated by death.

As a devout Muslim, it is appropriate to carry out what has become the Shari'a. One of the things that Islam requires is to perform iddah for a person whose husband has abandoned him. None other than the iddah to empty a woman's womb from the water of her husband who left her. That way it becomes clear the lineage of marriage after that.

The iddah is contained in the Al-Quran surah al-Baqoroh:

وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُنَّ بِاللَّهِ وَالْيَوْمِ الْآخِرِ
وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ
حَكِيمٌ ٢٢٨

The means :

“Women who have been divorced should refrain (wait) three times for quru'. They should not hide what Allah has created in their wombs, if they believe in Allah and the doomsday. And her husbands have the right to refer to her in the waiting period, if they (husbands) want islah. And women have rights that are balanced with their obligations according to the right way. However, husbands have one level of advantage over their wives. And Allah is Mighty, Most Wise.” As in Al-Baqoroh verse 228

The verse explains that the implementation of the iddah is nothing but emptying the womb until it becomes clear that a descendant will be after him. In Islamic law, the implementation of iddah is divided according to the conditions. More than that, Islam also forbids women who are on iddah to leave the house. This then becomes a separate problem for career women, it is impossible for a career woman to quit her job for reasons of iddah, and there is no single company that regulates leave for someone who does iddah. This problem will then be the focus of the author's discussion.

MATERIALS AND METHODS

This article uses a normative juridical research method, the author also uses a legal approach to laws and regulations (Statute approach). The data sources contained in this article are divided into two namely primary data and secondary data, while the primary data include, Al-Quran and As-shunnah, while secondary data consists of previous research journals related to the subject matter discussed in this study. The results of this research will be made in the form of an analytical perspective.

RESULTS AND DISCUSSION

A. Iddah: Period and Mechanism of Implementation.

In the implementation of the Shari'a, of course there are provisions that must be met, from the time of its implementation as well as the mechanism or procedure for implementing it. Shari'a does not generalize the length of the implementation of the iddah period, the implementation period of iddah also depends on the situation faced by the woman, left because of divorce, left to die and left during pregnancy, each of which has its own implementation mechanism as follows:

1. Qobla Dukhul

The iddah of a woman who has not been dukhul (has not had intercourse). That is a condition of a woman being divorced by a husband before the occurrence of intercourse between the two, this has been regulated in the Qur'an Surah Al Ahzab verse 49:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُونَهَا فَمَنَعُوهُنَّ وَسَرَخُوهُنَّ سَرَاحًا جَمِيلًا ٤٩

Meaning: "O you who believe, if you marry believing women, then you divorce them before you interfere, then it is not obligatory for them to make 'iddah for you which you ask to complete. So give them mut'ah and release them in the best way."

The verse explains that if a woman is divorced before the *Al mass* between the two of them occurs, then the woman does not need to perform iddah, because her uterus has not been filled with her husband's water. The word *Al mass* in the verse is interpreted and understood by scholars as *dukhul* (*Rusyd*). The sentence *qobla an tamassuhunna* is interpreted before the *dukhul* occurs between the two. However, there are scholars who argue that in the matter of *dukhul*, there are two meanings, *dukhul haqiqiy* and *khalwat bi hukmi dukhul* making out and other fondling that does not result in sexual intercourse is categorized as *khalwat bi hukmi dhukhul*. With such an understanding, Ali Hasballah argues that the woman is obliged to carry out the iddah walah which is not the same as the iddah of a person who performs *dukhul haqiqiy* (Ali, 1968). Sayyid Sabiq in his book *Fiqh Al Sunnah* asserts that iddah is obligatory on the wife in order to obey her husband who died and pay attention to his rights, even though he has not had intercourse with his wife (Sabiq).

The problem of *iddah qabla dukhul* then widened with the debate of scholars about how the *iddah* of a person who had just reconciled was then divorced again before the occurrence of *dukhul*? Fuqoha Amsor argues that the woman must make a new calculation in her '*iddah*', namely since she was last divorced by her husband. According to al-Shafi'i, it is enough for the woman to calculate her *iddah* since she was first divorced (before her husband reconciled). It is different with Daud al-Zhahiri who argues that the woman does not need to calculate her *iddah* anymore, either completing her previous iddah or calculating the new *iddah* (*Rusyd*).

2. Ba'da Dukhul

If *qobla dukhul* in the previous explanation is defined as a woman who has not had intercourse with her husband, then *ba'da dukhul* is a woman who has had sex as married women in general. Of course this situation will be very different from the previous situation, *istibra* or emptying the uterus which is the main purpose of iddah becomes a separate calculation for women who have performed *dukhul* with their husbands. Ensuring that the uterus is empty is of course the goal. The Qur'an has given us instructions in its calculations, it is contained in Al Baqoroh verse 228:

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنْنَ بِاللَّهِ وَالْيَوْمِ
الْآخِرِ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ
عَزِيزٌ حَكِيمٌ ٢٢٨

It means:" "Women who have been divorced should refrain (wait) three times quru'. they should not hide what Allah has created in their wombs, if they believe in Allah and the doomsday. And her husbands have the right to refer to her in the waiting period, if they

(husbands) want *ishlah*. and women have rights that are balanced with their obligations according to the right way. husbands, however, have a degree of advantage over their wives. And Allah is Mighty, Most Wise.” (Ministry of Religion).

From this verse, it can be concluded that a woman's *iddah* is three *quru'* or in other words three periods, but there are problems for a woman who does not have a period like women in general, either because she is still young and has not had a menstrual period or is old. who entered the age of menopause so that they no longer have periods. In this matter, scholars make it easy to calculate months because usually women have one period in one month, up to three *quru'*, which means three months for those who do not have maa periods. By calculating the predetermined length of time, the *istibra* or emptying of the uterus can be ascertained.

3. Iddah is left to die.

Separation is not always a matter of divorce, even death is one of the reasons for the separation of husband and wife. In the Qur'an, the *iddah* of a wife whose husband dies is contained in Al Baqoroh verse 234:

وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِي مَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ ۚ ۲۳۴

which means: "And those who die among you and leave their wives, let them (wives) wait for four months and ten days. Then when they have reached (the end of) their *idah*, then there is no sin for you regarding what they do to themselves according to the proper way."

The verse clearly states that the *iddah* of a wife whose husband dies is four months and ten days.

4. Iddah unseen husband

If previously we discussed about a wife left by her husband because of death, then how is the *iddah* of a wife whose husband is unseen/*ghoib*, the word unseen/*ghoib* here is not intended for metaphysical beings, but rather the meaning of the mysterious disappearance of her husband, there is no news about it. There is a history of the companions of the apostles about this. The following is a history of this problem:

"It has been told to me Yahya from Malik from Yahya bin Sa'id from Sa'id bin Musayyab that Umar bin Khattab said; "A woman who has lost her husband and does not know of his whereabouts, then let her wait for him for four years. Then she undergoes the *iddah* period of four months and ten days and after that she may remarry." Malik said; "If she marry after the *iddah* period is over, then her (second) husband has intercourse with her or has not had sex with her, then the first husband is no longer entitled to her." (H.R. Malik).

From this narration, it can be concluded that the *sahanat* equates the *iddah* of an unseen person with the *iddah* of a woman whose husband has left her. This is based on the fact that a person who disappears without a trace is sentenced to death.

5. Iddah of pregnant women

If the purpose of *iddah* is to ensure that the uterus is empty, then what about the one which is clearly in her womb that there is a seed that grows from the husband who left her? The provisions regarding the *iddah* of pregnant women can be seen in the Qur'an Surah At Thalaq verse 4:

وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

Meaning: "And pregnant women, their *iddah* is until they give birth to their wombs..."

The verse clearly states that the *iddah* of a pregnant woman is until the birth of the womb. That way there is no longer a debate over the lineage of a child if a woman remarries.

In its implementation, *iddah* does not only talk about the period of its implementation, but there are also rules about what can and cannot be done during *iddah*. Rules that limit the

movement of a person who carries out the *iddah* as a legal consequence of the *iddah*. Wahbah Zuhaily in his book *Fiqh al Islami wa fairlatuhu* explains the prohibition for women who are carrying out *iddah* as follows:

1. Prohibition of being applied for

For a man, he should know the prohibition of *iddah*, one of which is the prohibition on being proposed, of course in this case women play a passive role, but not a few men who know that a woman is no longer married will try to approach her. In this case, a woman should give understanding to the man who approaches her to wait after the *iddah* period is over. The prohibition applies to open applications or satire, but satire applications may be made for women who have been abandoned by their husbands due to death. The opinion of the permissibility of being applied lonely for women who are left behind is contained in the Al-Quran Surah Al Baqarah verse 235:

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خُطْبَةِ النِّسَاءِ أَوْ أَكْتَنْتُمْ فِي أَنْفُسِكُمْ عَلِيمَ اللَّهِ أَنَّكُمْ سَتَذَكُرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْزَمُوا عُقْدَةَ النِّكَاحِ حَتَّىٰ يَبْلُغَ الْكِتَابُ أَجَلَهُ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ ٢٣٥

Meaning: "And there is no sin for you to propose to these women in satire or you hide (the desire to marry them) in your heart. Allah knows that you will mention them, in the meantime do not make a marriage promise with them in secret, except just say (to them) words that are *ma'ruf*. And do not set your heart (settled) to make a marriage contract, before the *iddah* is finished. And know that Allah knows what is in your heart; So fear Him, and know that Allah is Forgiving, Most Forbearing.

2. Prohibition of marriage

If at the beginning it was said that women are prohibited from being proposed to during the *iddah* process, the second prohibition is more on the active role of women, namely marriage. In the previous verse al-baqarah it has been explained that women who are on *iddah* are not only prohibited from being proposed to, but also prohibited from marrying. Even Wahbah Zuhaily in his book explains that if a person forces a marriage while carrying out the *iddah*, then the marriage is invalid. And the two must be separated.

3. Prohibition leaving the house

Some of the opinions of scholars regarding the prohibition of going out of the house are divided as follows:

- a. The Hanafi school distinguishes between *iddah* due to divorce or due to death in the case of prohibition to leave the house. Hanafiyyah forbids a person who performs the *iddah* to leave the house both day and night as Allah says:

لَا تَخْرُجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُبِينَةٍ

Meaning: Do not take them out of their homes and do not leave them (allowed) to go out unless they do clear heinous deeds.

And in verse 6 in the same surah:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

Meaning: "Put them (wives) where you live"

However, for a woman whose husband died, Hanafiyah allowed her to go out during the day to fulfill her needs, because there was no one to provide her with a living. In contrast to divorce, because living during the *iddah* is still the wife's right.

Wahbah Zuhaily added that this is a rule for the *iddah* of a true marriage, while for a fasid marriage there is no such rule, and the *iddah* of a person who is young or crazy is allowed to leave the house.

- b. The opinions of Malikiyah and Hanabilah are in line with Hanafiyah that a person who performs *iddah* may leave the house because of an emergency or there is an

excuse, and similar in terms of going out of the house to meet his needs (earning a living) during the day, but these two schools of thought do not distinguish between *iddah* due to divorce or cause of death.

- c. Imam Shafi'i does not allow a person who performs the *iddah* to leave the house without an excuse.

4. Don't dress up

The prohibition of dressing up is better known as *ihdad*. Al-Ahdad means to limit oneself. What is meant by limiting oneself here is the prohibition of wearing luxurious jewelry and perfumes. According to Zayn al-Din Ibn Nujaym ulama¹ Madhhab Hanafiyah: *Ihdad* means "Leaving ornaments (jewelry) and the like that are done by women during the *iddah* of divorce or the death of the husband." In addition, Abu Hasan al-Mawardi, one of the scholars of the Shafi'iyyah Madhhab said: *Ihdad* is "Preventing decoration from clothes or other than clothes when decorating results in arousing men's passion for her". From the above definition, it can be concluded that a person who is carrying out *iddah* is prohibited from dressing up which includes wearing perfumes, decorating himself, polishing himself.

Every shari'a must have a certain purpose in protecting its followers, in this case one of the reasons for this prohibition is so that it does not become an attraction for men to approach it, given that being proposed is one of the things that is prohibited, the thing that invites this to happen is also prohibited. Ibn Rusd argues that this is *sad adzariah* that is closing the path of illegitimacy. So all forms that create a path that invites to do haram are then prohibited by religion.

B. Problems with career women's *iddah*

Career woman consists of two words, woman and career. In the Indonesian Dictionary, women are defined as mature women. In this sense, it excludes women from among the children. While the word career has two meanings: first, career means development and progress in life, work, position and so on. Second, career also means work that gives hope for advancement. From this definition, the combined career women can be defined as women who work in achieving their hopes and dreams. In other words, career women are working women with expertise and desired fields.

Ray Sitoresmin Prabuningrat, explained about how the role of women is pinned as a career, according to him career women are part of the role played and how women behave in work to advance themselves. Career women have dual roles, namely roles that are inherent in their nature related to the household and the nature of motherhood and work outside the home. Thus a career woman must meet various requirements and may not be owned by every woman.

Furthermore, Muhammad Al-Jauhari argues that for a woman, a career is very necessary so that she is used to realizing her identity and building her personality. Because in this case women can still realize their true identity perfectly by working as housewives, while actively participating in social or political activities.

The definition above shows that not all working women can be said to be career women, because career women are only assigned to certain groups of women with certain criteria. However, in a pragmatic sense, career women are women who work.

To carry out the work a career woman generally goes to a career place alone, this is generally based on her unwillingness to trouble her husband or parents who also work for a living. The going exit of a woman from the house then also becomes a legal problem in itself. Is it permissible for a woman to leave the house without her *mahram*, because in reality there is no career woman who is accompanied by her *mahram*. Basically, women must obey their parents. Especially for those who are already married, they must submit to their husbands, if they want to leave the house, they must first get permission from their husbands. The

problem of leaving the house then developed into the realm of how the *iddah* of a career woman above has been mentioned that one of the prohibitions for a person who carries out *iddah* is leaving the house. It can be concluded in the previous discussion that the majority of scholars other than Imam Shafi'i allow women to leave the house during the day to meet their needs.

Then we draw the context into the problems faced by career women in carrying out *iddah*. The existing reality forces career women to leave the house. For women who have careers who work outside the home, the position of women and men is the same. How is it possible for women to do *ihdad*, if they are women who have to do the same work as men, which is to leave the house to meet the needs of their families (children). Therefore, it is necessary to pay attention to the application of *ihdad* for career women. First, in dressing attractively, women who are in *Ihdad*, besides that they also have to work with an attractive appearance, such as company leaders, offices and so on. Dressing attractively to support his career in the company is certainly the main factor as a leader, because he can be an example for his employees. Second, in developing their careers, there are women who have to deal directly with other people and some who don't.

Basically Wahbah Az Zuhaili allows women to do something that is prohibited because of an emergency. However, in the context of a career woman's *ihdad*, it is a matter of whether it reaches an emergency level so that it can violate one of the prohibitions in the implementation of *iddah*. The polemic about the permissibility and limitation of preening for women who are doing *iddah*, or even those who forbid themselves to make up, will of course always occur given the social conditions or cultural culture in their respective regions. Especially if those who experience this are women who turn out to have busy lives. It is related to earning a living for their children, of course *ihdad* for women with *iddah* is very detrimental. So the author analyzes this *ihdad* is a form of etiquette for a wife who is abandoned by her husband (dead). Then if work or other professionalism requires a different appearance, it is enough to be natural and not to show off.

The urgency of a career woman in staying out of the house is certainly related to the urgency of her life and future. Especially for a single parent whose husband died, he had to live his life as the head of the household. Muhammad Masrur argues that the *iddah* period for career women is still allowed to work because basically it is an emergency condition to meet the needs of life, as well as a commitment to work with the institution or place that employs her. That is, between the commitment as a worker and the position of a woman who is doing *iddah*, it must be balanced, on the other hand, a woman must work and on the other hand a woman who is doing *iddah*.

Returning to the essence of the *iddah* law is *istibro'* womb and the essence of *ihdad* is to break the path for other prohibitions that have been prescribed, so with the existing emergencies, career women should be able to take the middle path, work according to their portions to meet the needs of themselves and their families, and carry out their duties. The essence of the prohibition on self-adornment, namely avoiding attracting men to it, one of which is by dressing modestly and dressing unobtrusively. Until the *iddah* is still carried out and the essence of *ihdad* is also carried out. As is the opinion of Imam Muwalli Sya'rawi who allows career women to continue to carry out their activities on condition that: 1. Get permission from their guardian, namely their father or husband for a lawful job such as being an educator for students, or being a special nurse for female patients. 2. Do not mix with men or do seclusion with another man. 3. There is no *tabarruj* and displays jewelry that can be invite slander.

A set of rules that have been prescribed is certainly a form of religious love for its people. The implementation of *iddah* is also a form of protecting women from unwanted things. So that the scholars think deeply about the issue of protecting a woman who is

carrying out *iddah*. So with different times and different urgencies, it is better for Muslims to carry out their emergencies without violating the essence of the established rules.

CONCLUSION

Every woman who separates from her husband either because of divorce or because of death should carry out *iddah* as Islamic law. This is in order to maintain the clarity of the lineage of the child if there is a seed in the womb, the certainty of emptying the uterus or what can also be called *istibro'* womb makes the child conceived by a woman clear of ownership. This is the essence of the implementation of *iddah*.

In *iddah* there are prohibitions for its implementers, including the prohibition on being proposed, the prohibition on marriage, the prohibition on leaving the house, the prohibition on *ihdad* (decoration of oneself). Two of these prohibitions are problematic for a career woman, but some scholars allow career women to go out to fulfill their needs. In *ihdad*, a middle way can be taken, namely continuing to carry out her profession as a career woman but still keeping it from being the essence of *ihdad*, by taking care not to be the attention of men to approach and guarding anything that can violate other prohibitions.

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