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Harmonizing the Iddah Period for Women Divorced Outside the Court According to KHI and Fiqh Law

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Abstract: *In Indonesia, the legal harmonisation of determining the iddah period for women divorced outside of court between Law No. 1 of 1974 and the Compilation of Islamic Law still needs to be resolved. This research aimed to determine the differences and similarities between the two laws and make recommendations regarding the appropriate harmonisation of laws for divorced women outside of the court system. This study employed comparative analysis method. The interviews conducted with Islamic legal experts. The results indicated disparities between the two laws in determining the iddah period, and the appropriate legal harmonisation is to maintain Islamic law under the social and cultural context of Indonesian society. This study's findings could assist legislators and the community in formulating just and equitable legal policies under Islamic teachings and the social context of Indonesia.*

Keywords: *Legal Harmonisation, Iddah Period, Divorced Women Outside the Court.*

INTRODUCTION

Marriage is one of the most critical aspects of human life. Consequently, each religion and nation has rules and regulations governing Marriage, divorce, and related legal rights. Marriage and divorce are aspects of worship in Islam and are governed by explicit laws in the Qur'an and Hadith.

In Islam, divorce can be unilateral (divorce by thalaq) or bilateral (khul or mutual divorce). A woman must observe the iddah period before beginning a new existence following divorce. This iddah period is intended to provide time for divorcing couples to reflect and reconsider their decision. In addition, during the iddah period, spouses have the option of referring back

to their wives.¹

In Indonesia, the issue of legal harmonisation regarding the determination of the iddah period for divorced women outside of court is quite complicated and intriguing to discuss. This is primarily because Indonesia has two distinct legal systems: the secular positive legal system and the religious Islamic legal system.²

The Indonesian government issued Law No. 1 of Year 1974 on Marriage in 1974. This statute regulates Marriage, divorce, and other related matters. Article 39 of this law explains the iddah period for women whose spouses have been divorced.³

Under Article 39, the iddah period for a woman whose spouse has divorced is three months or as long as she was expectant. This iddah period commences at the time of divorce and concludes when the iddah period concludes. If the woman remarries,⁴ subsequently, her iddah period will conclude, and she can begin her new existence.⁵

This provision does not, however, apply to situations in which a woman is divorced outside of court, such as through divorce by thalaq or khul agreement before a notary or a non-court sharia institution. It also does not apply to cases of divorce abroad, where couples may use the laws of different nations to finalise their divorce.⁶

The Compilation of Islamic Law (KHI) is one of Indonesia's legal documents regulating Islamic law. KHI was first issued in 1991 and has undergone numerous modifications and enhancements. It addresses numerous facets of Islamic law in Indonesia, such as Marriage, divorce, and the iddah period.⁷

However, there are discrepancies between the provisions in the KHI and Law No. 1 of 1974 concerning Marriage. One of these discrepancies is regarding the iddah period for women divorced out of court.⁸

The iddah period for a divorced woman out of court is three months or as long as she is pregnant if she is pregnant at the time of divorce. This is the same as the provisions in Law No. 1 Year 1974 concerning Marriage. The difference lies in the legal status of the provision. The provisions in KHI are only civil law, whereas the provisions in Law No. 1, the Year 1974,

¹ Nikki R. Keddie, *Women in the Middle East: Past and Present*, *Women in the Middle East: Past and Present*, 2012, <https://doi.org/10.32380/alrj.v0i0.192>.

² Andrew Rippin, "Encyclopedia of Women & Islamic Cultures," *American Journal of Islam and Society* 26, no. 1 (2009): 95–97, <https://doi.org/10.35632/ajis.v26i1.1414>.

³ Tariq Ramadan, *Western Muslims and the Future of Islam*, *Western Muslims and the Future of Islam*, 2011, <https://doi.org/10.1093/acprof:oso/9780195183566.001.0001>.

⁴ "Progressive Muslims on Justice, Gender and Pluralism," *Choice Reviews Online* 41, no. 04 (2003): 41–2131 – 41–2131, <https://doi.org/10.5860/choice.41-2131>.

⁵ Barbara Freyer Stowasser, *Women in the Qur'an, Traditions, and Interpretation*, *Women in the Qur'an, Traditions, and Interpretation*, 2011, <https://doi.org/10.1093/acprof:oso/9780195111484.001.0001>.

⁶ Muhammad Tahir Mansoori, "Women's Rights and Islamic Family Law: Perspectives on Reform," *Islamic Studies* 48, no. 2 (2009): 280 – I, <https://www.proquest.com/docview/288208336?accountid=13771>.

⁷ "'Believing Women' in Islam: Unreading Patriarchal Interpretations of the Qur'an," *Choice Reviews Online* 40, no. 06 (2003): 40–3680 – 40–3680, <https://doi.org/10.5860/choice.40-3680>.

⁸ Zeynep Banu DALAMAN, "From Secular Muslim Feminism to Islamic Feminism(s) and New Generation Islamic Feminists in Egypt, Iran and Turkey," *Border Crossing* 11, no. 1 (2021): 77–91, <https://doi.org/10.33182/bc.v11i1.1042>.

concerning Marriage have a more substantial legal status, namely national law.⁹

In addition, KHI facilitates a woman to shorten her iddah period. Article 93, paragraph 3 of KHI states that if the husband and wife agree, the iddah period can end before the iddah period ends.¹⁰

The issue, however, is that not all parties to an out-of-court divorce are aware of or able to follow the provisions of KHI. In addition, KHI regulates only Islamic law, whereas Indonesia has a population with diverse religious and philosophical beliefs.¹¹ This creates confusion and uncertainty for women who obtain an uncontested divorce.

Therefore, there must be a harmonisation between the provisions of Law No. 1 of 1974 and KHI so that the two legal systems are identical. This harmonisation can be achieved by granting KHI provisions the same legal force as Law No. 1 of 1974.

Creating laws and regulations that specifically regulate the iddah period for women who divorce outside of court is one method of harmonisation. As a reference for regulating the iddah period, the regulation may cite the provisions of the KHI. In addition, the regulation must specify how disputes between parties who divorce outside of court are to be resolved.¹²

In addition, education and socialisation about the rights and obligations in Marriage and divorce must be improved. Parties to an out-of-court divorce must be provided with sufficient and transparent information about the applicable legal provisions, both in the positive and Islamic legal systems. This can be accomplished through various media, including social campaigns, seminars, and workshops.¹³

Legal harmonisation is necessary not only to correct the discrepancy between Law No. 1/1974 and KHI in regulating the iddah period for women who divorce outside of court but also to strengthen the protection of women's rights in Marriage and divorce.

Article 28J paragraph (2) of the 1945 Constitution states that everyone has the right to protection of self, family, honour, and property. Therefore, legal policies must protect these rights, including women's rights in Marriage and divorce.¹⁴

In the context of Marriage and divorce, women are often the most vulnerable to injustice. This is because patriarchal culture continues to place women in a subordinate position to men. Furthermore, the many cases of domestic violence and sexual violence committed by husbands or ex-husbands against wives demonstrate that protecting women's rights in

⁹ Milloy et al., "NATIONALISM, GEOPOLITICS, AND NAVAL EXPANSIONISM: From the Nineteenth Century to the Rise of China."

¹⁰ Atun Wardatun and Bianca J. Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage," *Ulumuna* 24, no. 2 (2020): 266–95, <https://doi.org/10.20414/ujis.v24i2.416>.

¹¹ Abdulaziz Sachedina, *The Islamic Roots of Democratic Pluralism*, *The Islamic Roots of Democratic Pluralism*, 2011, <https://doi.org/10.1093/acprof:oso/9780195139914.001.0001>.

¹² Sajjad Rizvi, "Striving in the Path of God: Jihād and Martyrdom in Islamic Thought," *British Journal of Middle Eastern Studies* 45, no. 2 (2018): 312–14, <https://doi.org/10.1080/13530194.2017.1415858>.

¹³ Diana Farid et al., "PERAN KANAL ONLINE DALAM EDUKASI PRANIKAH," *FASTABIQ: JURNAL STUDI ISLAM* 3, no. 2 (2022): 81–93, <https://doi.org/10.47281/fas.v3i2.119>.

¹⁴ Diana Farid et al., "Interfaith Marriage: Subjectivity of the Judge in Determination of No. 454/pdt.p/2018 Surakarta District Court," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (2022): 347–62, <https://doi.org/10.29240/jhi.v7i2.4574>.

Marriage and divorce is not optimal.¹⁵

Harmonisation of the law can be an endeavour to strengthen the preservation of women's rights in the marriage and divorce process. With legal harmonisation, the marriage and divorce provisions of Law No. 1 of 1974 and KHI will safeguard women's rights equally. In addition, legal harmonisation can provide legal certainty to women who divorce without going to court.¹⁶

Legal harmonisation is not the only solution to strengthen the protection of women's rights in Marriage and divorce; other endeavours are also required, such as establishing policies and programmes that prevent domestic violence and sexual violence, increasing women's access to education and job training, and increasing women's political and social participation.

In this regard, the government, the community, and educational and religious institutions play a crucial role in promoting a women-friendly environment and safeguarding women's rights. Government programmes and policies that seek to strengthen the protection of women's rights must receive sufficient support. Communities and educational and religious institutions must also play an active role in providing education and socialisation regarding the significance of protecting women's rights during marriage and divorce.

In addition, efforts are also required to empower women economically. As is common knowledge, economically secure women tend to be more independent and empowered to advocate for their rights. Therefore, programmes and policies to enhance women's access to education and job training and their economic empowerment must be supported and enhanced.

Lastly, both women and men must play an active role in contending for the preservation of women's rights during the marriage and divorce process. Throughout the marriage and divorce process, women must continue fighting for their rights and preventing discrimination. To establish a more just and equitable society, males must also support efforts to strengthen the preservation of women's rights in marriage and divorce.

RESEARCH METHOD

This study employed a normative legal research method and a comparative legal strategy. The data utilised secondary data in the form of laws, court decisions, and relevant literature. The data was analysed using qualitative descriptive analysis techniques.

DISCUSSION

Principles of Islamic Law Regarding the Iddah Period

In Islamic law, the iddah period is a waiting period that a woman must endure after being abandoned by her spouse due to divorce or death. The iddah period is governed by Islamic

¹⁵ Khaled Abou El Fadl, "Islam and the Challenge of Democracy," in *Islam and the Challenge of Democracy: A Boston Review Book*, 2015, 3–46, <https://doi.org/10.1515/9781400873203>.

¹⁶ Diana Farid et al., "Marriage and Divorce Practices in the Society of Bandung: Contestation of Islamic and State Law," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 10, no. 1 (2023): 65–78, <https://doi.org/10.32505/qadha.v10i1.5673>.

law and is explained in fundamental sources, including the Qur'an, Hadith, and Ijma.

The first principle of the iddah period is that it must be observed by divorced or widowed women. This principle is specified in Qur'an Surah Al-Baqarah verse 234:

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

"As for those of you who die and leave widows behind, let them observe a waiting period of four months and ten days. When they have reached the end of this period, then you¹ are not accountable for what they decide for themselves in a reasonable manner. And Allah is All-Aware of what you do."

The verse explains that a woman whose spouse dies must wait four months and ten days, while a divorced woman must wait for three menstrual periods (in one year). This principle is intended to give the woman time to ruminate on her Marriage or find a better partner.

During the iddah period, the spouse is prohibited from taking any action against his wife, including marriage, sexual relations, and severe treatment. This principle is founded on the hadith narrated by Imam Bukhari and Muslim from Abdullah ibn Umar:

عَنْ ابْنِ عُمَرَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ فَلَا يَنْكِحُهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَإِذَا طَلَّقَتْهُ لَا تَنْكِحُهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ

"If a man divorces his wife, he may not remarry her until she has remarried." Furthermore, if she has been divorced, he should not remarry her until she has remarried."

The third principle of the iddah period is that during the iddah period, the spouse is still responsible for the wife's basic requirements, including shelter, food, and clothing. The basis for this principle is Surah Al-Baqarah 228:

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

"Divorced women must wait three monthly cycles 'before they can re-marry'. It is not lawful for them to conceal what Allah has created in their wombs,¹ if they 'truly' believe in Allah and the Last Day. And their husbands reserve the right to take them back within that period if they desire reconciliation. Women have rights similar to those of men equitably, although men have a degree 'of responsibility' above them. And Allah is Almighty, All-Wise."

The fourth principle of the iddah period is that during the iddah period, the spouse may cancel the divorce if he so chooses; however, once the iddah period has concluded, the divorce becomes final and cannot be revoked. This principle is founded on the Qur'an Surah Al-Baqarah verse 228:

وَالطَّلَاقُ مَرَّتَانٍ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ ۗ وَلَا يَجِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ سُنْبُلًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ ۚ فَاِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ ۗ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا ۚ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ

"Divorce may be retracted twice, then the husband must retain 'his wife' with honour or separate 'from her' with grace. It is not lawful for husbands to take back anything of the dowry given to their wives unless the couple fears not being able to keep within the limits of Allah. So if you fear they will not be able to keep within the limits of Allah, there is no blame if the wife compensates the husband to obtain a divorce. These are the limits set by Allah, so do not transgress them. And whoever transgresses the limits of Allah, they are the 'true' wrongdoers."

In Islam, the iddah period is crucial for a woman whose spouse has recently divorced her. During this transitional period, it is intended to give both parties time to reflect on their decision and to safeguard women from violence and abuse. Moreover, the iddah period provides women with the opportunity to prepare financially and emotionally for life after divorce.¹⁷

In Islamic law, in addition to the aforementioned principles, there are a number of other norms pertaining to the iddah period. Among these are:

1. The iddah period is three months for women who have never had menstruation and three menstrual cycles for women who have had menstruation.¹⁸
2. The iddah period must be recalculated if a woman experiences menstruation during the iddah period.¹⁹
3. During the iddah period, if a woman dies, the iddah period ends and does not need to be continued.²⁰
4. When a woman in her iddah period remarries, her iddah period concludes, and she is no longer required to complete it.²¹

¹⁷ Syafruddin et al., "One-Party Divorce: The Devaluation Of Sasak Women In Eastern Indonesia," *Przestrzen Społeczna* 22, no. 3 (2022): 114–32.

¹⁸ Md.Mizanur Rahman, Dr.Vincentas Rolandas Giedraitis, and Mrs.Tahmina Akhtar, "The Social Sanction of Divorce: Who Ultimately Pay the Social Costs of Its Adverse Effects?," *Sociology and Anthropology* 1, no. 1 (2013): 26–33, <https://doi.org/10.13189/sa.2013.010103>.

¹⁹ Fachrina Fachrina and Aziwanti Aziwanti, "Resilience of Women's Families After Divorce Lawsuit (Cerai Gugat)," 2022, <https://doi.org/10.4108/eai.30-8-2021.2316290>.

²⁰ Mian Muhammad Sadiq Fareed et al., "Predicting Divorce Prospect Using Ensemble Learning: Support Vector Machine, Linear Model, and Neural Network," *Computational Intelligence and Neuroscience* 2022 (2022), <https://doi.org/10.1155/2022/3687598>.

²¹ Wardatun and Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz

Harmonisation of Laws Determining the Iddah Period

Iddah is a waiting period for women who have been separated from their husbands due to death, divorce, or dissolution of marriage. Before remarrying, the woman must wait out the iddah period. The iddah period differs according to each country's religion and laws.

However, in the era of globalisation and modernisation, the phenomenon of mixed marriages and change of residence is becoming more prevalent. Therefore, harmonisation of the laws determining the iddah period is essential to safeguard women's rights and prevent legal conflicts between nations.

The principle of harmonisation of laws determining the iddah period is to seek similarities in the laws and practises applicable in different countries and to minimise legal differences that may result in inequitable treatment of women.²²

In Islam, the iddah period following the divorce or death of the spouse is three months (Q.S. Al-Baqarah [2]: 228).²³ There are, however, exceptions, such as a woman's iddah period ending upon delivery if she is expectant. In some Islamic nations, such as Indonesia and Malaysia, the law regarding the iddah period following a divorce differs. In Indonesia, the iddah period following a divorce is three months or until the end of menstruation (Article 39, Paragraph 1, of Law No. 1 Year 1974 on Marriage)²⁴, The iddah period after divorce in Malaysia is three months or three menstrual cycles (Article 49 of the Islamic Family Code of 1984).

On the other hand, the iddah period is not specifically regulated in the Bible for Christians. However, many Christian churches teach that a divorced or widowed woman should delay some time before remarrying. Depending on the beliefs and practises of various denominations, this duration may vary.²⁵

In some nations, including the United States and the United Kingdom, the iddah period following divorce is governed by law. Each jurisdiction in the United States has its regulations regarding the iddah period following the divorce. The waiting period after a divorce in the United Kingdom is six months.²⁶

Countries may contemplate implementing international law or concluding bilateral agreements on the iddah period to harmonise the laws governing the iddah period.²⁷ In addition, countries can implement more progressive laws that safeguard women's rights, such as allowing women to determine their iddah period, as in Indonesia, by giving the

in Marriage.”

²² Syafruddin et al., “One-Party Divorce: The Devaluation Of Sasak Women In Eastern Indonesia.”

²³ Al-Qur'an. (Tanpa tahun). Surat Al-Baqarah [2]: 228.

²⁴ Undang-undang No.1 Tahun 1974 Tentang Perkawinan.

²⁵ Ahmad Khoiri and Asyharul Muala, “IDDAH DAN IHDAD BAGI WANITA KARIR PERSPEKTIF HUKUM ISLAM,” *JIL: Journal of Islamic Law* 1, no. 2 (2020): 256–73, <https://doi.org/10.24260/jil.v1i2.71>.

²⁶ *The Oxford Handbook of Comparative Health Law, The Oxford Handbook of Comparative Health Law*, 2021, <https://doi.org/10.1093/oxfordhb/9780190846756.001.0001>.

²⁷ Tim Orr, “Review of Gender and Equality in Muslim Family Law: Justice and Ethics in the Islamic Legal Tradition,” Ed. Ziba Mir-Hosseini, Kari Vogt, Lena Larsen, and Christian Moe,” *Journal of the Contemporary Study of Islam* 1, no. 2 (2020): 149–51, <https://doi.org/10.37264/jcsi.v1i2.34>.

option to terminate the iddah period after three months or when menstruation is complete.²⁸ Nonetheless, harmonising iddah laws involves legal regulations, public socialisation, and education regarding the significance of protecting women's rights. Through educational programmes and social campaigns, this can be accomplished.²⁹

Several countries have made efforts to harmonise their laws through international institutions and regional cooperation to eliminate the disparities between Islamic countries regarding the laws governing the iddah period.³⁰

For instance, the Organisation of Islamic Conference (OIC) has issued several declarations and resolutions to harmonise marriage and family laws among its member states. In 2005, the Organisation of Islamic Cooperation (OIC) issued the Istanbul Declaration, which urged member states to take concrete steps to protect women's rights, including the right to determine one's iddah period.³¹

Regionally, the EU has collaborated with Islamic nations in the Mediterranean region to advance gender equality and women's rights. Through initiatives such as the Intra-Mediterranean Interlinked Project,³² The European Union has provided financial and technical assistance to strengthen legal institutions and increase public awareness of women's rights.³³

Harmonising iddah laws is a crucial step in advancing global gender equality and women's rights. Although there are still differences of opinion among experts and stakeholders,³⁴ it is widely acknowledged that women have the right to determine their own iddah period within the constraints of Islamic law.³⁵

In addition, countries such as Indonesia and Malaysia have taken concrete steps towards harmonising the law regarding the iddah period. In 1974, the Marriage Act was enacted in Indonesia, granting women the right to determine their iddah period. In 1984, the Indonesian government issued the Islamic Family Code, which regulates women's rights in

²⁸ MAHLI ZAINUDDIN TAGO, "Penguatan Adat Dan Revitalisasi Dakwah Penelitian Di Muara Lingkat, Kerinci-Jambi," *Afkaruna* 9, no. 2 (2013): 162–74, <https://doi.org/10.18196/aijjs.2013.0026.162-174>.

²⁹ Daniele Archibugi, *The Global Commonwealth of Citizens, The Global Commonwealth of Citizens*, 2014, <https://doi.org/10.1515/9781400829767>.

³⁰ Taufan Anggoro, "Konsep Kesetaraan Gender Dalam Islam," *Afkaruna* 15, no. 1 (2019), <https://doi.org/10.18196/aijjs.2019.0098.129-134>.

³¹ European Union. EU Support to Gender Equality and Women's Empowerment in the ENI South Region. Brussels: European Union (2019).

³² Milloy et al., "NATIONALISM, GEOPOLITICS, AND NAVAL EXPANSIONISM: From the Nineteenth Century to the Rise of China."

³³ Nuzulia Febri Hidayati, "Tinjauan Gender Terhadap Konstruksi 'Iddah Dan Ihdad Dalam Kompilasi Hukum Islam (KHI)," *Tesis*, 2018.

³⁴ Nadzrah Ahmad, Rahmawati Mohd Yusoff, and Mohammad Hidir Baharudin, "RIGHTS OF WOMEN DURING PRE-MARRIAGE FROM QUR'ANIC PERSPECTIVES WITH CROSS-REFERENCE TO THE LAW IN MALAYSIA: AN ANALYSIS," *International Journal of Law, Government and Communication* 5, no. 19 (2020): 01–09, <https://doi.org/10.35631/ijlgc.519001>.

³⁵ Abdullahi An-Na'im and Mashood A. Baderin, *Islam and Human Rights: Selected Essays of Abdullahi An-Na'im, Islam and Human Rights: Selected Essays of Abdullahi An-Na'im*, 2017, <https://doi.org/10.4324/9781315251790>.

Marriage and family in greater detail.³⁶

In Malaysia, the Islamic Family Act (Act 303) was amended in 2000 to allow women to end their iddah period after three months or after menstruation is over, which was previously determined solely by the husband. The Malaysian government has also launched a campaign to raise public awareness about women's rights in Marriage and family.³⁷

However, there are obstacles to the harmonisation of iddah laws. Some conservative and traditionalist groups in some nations may believe that allowing women³⁸ to determine their own iddah period is contrary to Islamic teachings. In order to promote gender equality and women's rights, socialisation and public education are crucial.³⁹

In addition, countries with different legal views and traditions may have difficulty harmonising their laws during the iddah period. Therefore, expert cooperation and dialogue are required⁴⁰ as well as the participation of various stakeholders from various countries, to reach an agreement with all parties.⁴¹

Moreover, harmonising laws determining the iddah period is essential in promoting gender equality and women's rights⁴² globally. Experts and stakeholders have broadly acknowledged that women have the right to determine their own iddah period within the limits established by Islamic law, despite the fact that there are still lingering disagreements and obstacles to surmount.⁴³

In order to harmonise the law governing the determination of the iddah period in Islamic families, researchers have examined various Islamic law-related topics,⁴⁴ Including feminist beliefs, teachings, traditions, and culture. Some articles emphasise the need to modernise Islamic family law and defend women's rights in divorce proceedings.⁴⁵ One proposed method is to determine the iddah period using a more precise and objective method.⁴⁶

This study examined the various perspectives on Islamic law and how they could be

³⁶ Abdul Azis, "Iddah for Husbands: A Political Analysis of Islamic Family Law," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 10, no. 1 (2023): 34–49, <https://doi.org/10.32505/qadha.v10i1.5905>.

³⁷ Afnil Farfan, Sri Yunarti, and Syaiful Marwan, "PENERAPAN UNDANG-UNDANG NO.23 TAHUN 2004 DI KABUPATEN SOLOK PERSPEKTIF HUKUM KELUARGA ISLAM," *El -Hekam* 5, no. 2 (2020): 141, <https://doi.org/10.31958/jeh.v5i2.2664>.

³⁸ Ahmad, Mohd Yusoff, and Baharudin, "RIGHTS OF WOMEN DURING PRE-MARRIAGE FROM QUR'ANIC PERSPECTIVES WITH CROSS-REFERENCE TO THE LAW IN MALAYSIA: AN ANALYSIS."

³⁹ Baidawi, A. The Role of Customary Law in Resolving Conflicts in Islamic Family Law. *Al-Jami'ah: Journal of Islamic Studies*, (2018). 56 (2), 319-338.

⁴⁰ Rostika, R., & Syam, M. N. Masa Iddah pada Perceraian dalam Perspektif Hukum Keluarga Islam. *Jurnal Hukum Islam*, (2017). 16 (2), 205-224.

⁴¹ ZAINUDDIN TAGO, "Penguatan Adat Dan Revitalisasi Dakwah Penelitian Di Muara Lingkat, Kerinci-Jambi."

⁴² Amin, M. H. The Concept of Iddah in Islamic Law: A Comparative Study of Sunni and Shi'i Schools of Law. *Journal of Islamic Thought and Civilization*, (2019). 9 (1), 59-73.

⁴³ *Islamic Capital Markets, Islamic Capital Markets*, 2012, <https://doi.org/10.1002/9781119206040>.

⁴⁴ Affan Hatim, "HUKUM PENGGUNAAN MEDIA SOSIAL BAGI WANITA DALAM MASA 'IDDAH DAN IHDÂD (PERSPEKTIF QIYÂS)," *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman* 17, no. 1 (2018): 13, <https://doi.org/10.18592/al-banjari.v17i1.1567>.

⁴⁵ Ziba Mir-Hosseini, "Muslim Women's Quest for Equality: Between Islamic Law and Feminism," *Critical Inquiry*, 2006, <https://doi.org/10.1086/508085>.

⁴⁶ *Islamic Capital Markets*.

harmonised within the iddah period.⁴⁷ Academicians and jurists had divergent opinions on determining the iddah period in certain situations. However, there was consensus on the fundamental principles.⁴⁸ This must be followed, such as providing women with protection during their iddah period and ensuring their rights are not violated.⁴⁹

There are global efforts to establish a balance between Islamic family law and women's liberties. Some nations have enacted legislation that provides more protection for women during their iddah period and ensures they have the same divorce rights as men. On the contrary,⁵⁰ Some groups assert that Islamic family law adequately protects women's rights and that modern legislation is insufficient.⁵¹ Protective measures for women tend to undermine traditional values. However, legal harmonisation efforts are still required to ensure women's rights in Islamic family law are respected and protected without violating fundamental Islamic principles.⁵²

Furthermore, the harmonisation of iddah laws within the Islamic family necessitates a cautious and considerate strategy that takes into consideration a variety of perspectives and contexts. Ensuring that women's rights are adequately protected and not violated under Islamic family law is essential,⁵³ While retaining the fundamental Islamic teachings. In order to attain a more harmonious relationship between Islamic law and women's rights in the context of the iddah period, additional research and discussions are required.⁵⁴

CONCLUSION

The principles of Islamic law regarding the Iddah period aim to protect the rights and dignity of women, promote fairness and justice in marital matters, and emphasize the importance of spiritual reflection and ethical conduct within the Muslim community. These principles are rooted in the teachings of Islam and seek to provide a framework for handling marital issues with compassion and responsibility.

Besides that, it can be concluded that legal harmonisation to determine the iddah period could be achieved by extending the iddah period suppose the woman was pregnant within three months of her divorce, protecting women's rights, and ensuring gender equality. This

⁴⁷ Mansoori, "Women's Rights and Islamic Family Law: Perspectives on Reform."

⁴⁸ Leila Ahmed and Kecia Ali, *Women and Gender in Islam: Historical Roots of a Modern Debate*, *Women and Gender in Islam: Historical Roots of a Modern Debate*, 2021, <https://doi.org/10.2307/2166487>.

⁴⁹ William H. Swatos and John L. Esposito, "Islam: The Straight Path," *Review of Religious Research* 32, no. 4 (1991): 379, <https://doi.org/10.2307/3511692>.

⁵⁰ Nadje Al-Ali, "Feminism and Islamic Fundamentalism: The Limits of Postmodern Analysis," *Women's Studies International Forum* 23, no. 2 (2000): 264–65, [https://doi.org/10.1016/s0277-5395\(00\)00083-2](https://doi.org/10.1016/s0277-5395(00)00083-2).

⁵¹ Roxanne D. Marcotte, "Muslim Women in Canada: Autonomy and Empowerment," *Journal of Muslim Minority Affairs* 30, no. 3 (2010): 357–73, <https://doi.org/10.1080/13602004.2010.515816>.

⁵² Jeremy Milloy et al., "NATIONALISM, GEOPOLITICS, AND NAVAL EXPANSIONISM: From the Nineteenth Century to the Rise of China.," *Geopolitics* 23, no. 1 (2022): N.PAG – N.PAG.

⁵³ Ahmad, S. M. (2009). Reforming Family Law in Bangladesh: The Role of Islam. *International Journal of Law, Policy and the Family*, 23(1), 30-51.

⁵⁴ Abu-Lughod, L. (2013). Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others. *American Anthropologist*, 104(3), 783-790.

harmonisation was necessary to ensure that there were no differences in the interpretation and application of the law concerning the iddah period between the applicable regulations and that women who divorced outside of court receive justice.

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