

Gender Approach in Islamic Family Law

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Abstract

This article deals with gender perspectives in Islamic family law. Nowadays related to gender talk is familiar to hear, even gender inequality has occurred a lot. People assume that gender dimilarity can cause various forms of inequality, such as the unimportance of roles related to political policies, women are only in the three R's, namely kitchen, well, mattress. This paper seeks to discuss the gender approach in Islamic family law from the aspects of reproduction, inheritance and iddah/ihdad. The author concludes that socio-historically the Qur'an was revealed in a culture that was very discriminatory against women, this is a patriarchal phenomenon that occurred in the old ignorant era. Currently, gender injustice has transformed from the ignorant era to the Islamic era, that women have obtained their rights as women, where in the past women were only underestimated and patriarchal culture reigned.

Keywords: *Gender, Family, Law*

Introduction

Discussions related to women's and gender issues have long been discussed since the 90s which was marked by the rampant discussions, seminars, advocacy, publishing and intense socialization through non-governmental organizations that deal with women's issues, however, discussions on

issues are considered finished, do not require new interpretations and formulations.¹

Women are considered very low-key even though they are people who come from the ataa, middle or lower circles, they are still considered to have no rights as men. Women do not have the right to education, to participate in politics, to property, or to work.

¹Ahmad Syarif A, Husband and Wife Gender Relations: A Study of the Views of Aisyiyah Figures

Sawwa" Journal of Gender Studies , Vol. 86, No. 1, Tahun 2018. hlm. 86.



Therefore, the position of women was not the same as that of men before the law at that time.²

Islamic history records that women have a meaningful role in various metamorphosis of society, customs, commerce and politics in the country. Gender balance is a social issue and is often a contentious topic. People assume that gender dimilarity can cause various forms of inequality, such as the unimportance of roles related to political policies, women are only in the three R's, namely kitchen, well, mattress. Injustice was hated by Allah Almighty, he had put Adam and Eve in a dignified position. By using thought, emotional, and receiving direction. The Qur'an does not recognize the difference between men and women, all are equal before Allah Almighty, this is contained in Qs. Al-Hujurat verse 13.

This verse explains that there is equality between women and men, there is no factor that causes the higher status of one human being over another, except the rank of faith and piety. Regardless of gender.³ Islamic teachings strongly promote the spirit of

equality and mutual respect and respect between human beings. However, if today the source of Islamic sharia is read textually and contaminated with a patriarchal frame of mind so that various views that still contain discrimination emerge, which distinguishes the status between men and women.⁴ The position of women in the teachings of Islam in essence gives great attention and honorable position to women.⁵

There are several literature reviews that the author collected, then classified as follows: namely gender approaches with various sciences, such as Islamic studies discussed by Nur Adilah Mahyaddin⁶ and Alvan Fathony,⁷ and Qur'anic studies discussed by Asna andriyani.⁸

The gender variable in Islamic studies in Nur's writing mentioned that this tuisan aims to reach women. Islamic and low positive difficult events have mixed details, but a great many women are objectified or subordinate in any situation compared to men and are more violent. With this problem is very important to be studied, and solved. Women are not only objects of violence but they have fitrah (basic

²Ahdiyatul Hidayah, Ahmad Bunyan Wahib, "Defending Women's Legal Rights through Organizations in Turkey", *An-Nisa': Journal of Gender Studies*. Vol. 15, No. 2, October 2022. hlm. 186.

³Nur Lailatul Musyafa'ah, "Gender Approach in Islamic Studies". *An-Nufus*, Vol. 9, No.2 Tahun 2009. hlm. 93.

⁴Sri Suhandjati Sukri, *Understanding Islam and Challenges of Gender Inequality*, (Yogyakarta: Gama Media, 2002), hlm. 30.

⁵M. Quraish Shihab, *Grounding the Qur'an*, (Bandung: Mizan, 2004), hlm. 269.

⁶Nur Adilah Mahyaddin, "Gender Approach in Islamic Studies," *Sangaji: Journal of Sharia and Legal Thought* Vol. 1, No. 2 Tahun 2017. hlm. 176.

⁷Alvan Fathony, "Gender in Islamic Studies," *Al-Adalah: Journal of Sharia and Islamic Law* Vol. 5, no. 1 Tahun 2020. hlm. 136.

⁸Asna Andriani, "A gender approach in the study of the Koran," *Al-Tsiqob: Journal of Economics and Islamic Da'wah* Vol. 2, No. 3 Tahun 2017. hlm. 38.

rights) that must be respected. The term gender should be clearly understood and there should be no misunderstandings. First, gender is a concept that looks at the roles of men and women from social and cultural aspects. Second, forms of gender injustice can be seen through various manifestations such as marginalization, subordination, the formation of stereotypes (labeling), violence (violence) and workload. Third, gender issues in Islamic studies still raise various disputes.⁹

Furthermore, the variables of Islamic studies have also been discussed by Alvan. His writings discuss the study of the method of reading the text of Nasr Hamid Abu Zayd. This article attempts to explore the gender perspective in the thought of the figure, namely Nasr Hamid Abu Zayd as a leading Muslim feminism. Her gender thinking is the fruit of a contextual reading method project developed in reading gender-biased verses, especially in terms of polygamy, inheritance, aurat and qawamah. In this paper mentions that Nasr Hamid Abu Zayd used the device *manhaj al-qira'ah al-siyaqiyah* which is a method of contextual reading. The approach in question is a historical approach by connecting all aspects of law mentioned in the Qur'an in the social conditions of Arab society

in the 7th century A.D. Consequently he said that all laws contained in the Qur'an including women's issues are not final and always change according to historical conditions, time and place.¹⁰

In contrast to the research, Asna's article discusses the gender approach in Qur'anic studies. Asna tries to express the paradigm of interpretation in the study of the Qur'an with a gender approach used by feminists, in order to gain understanding and interpretation of the verses of the Qur'an. This article concludes that it is legitimate to criticize feminists, because it is a thought that is not necessarily good or bad. In interpretation feminists must hold several principles, first. Islam is the inspiration, motivation, advocacy and best source of value in fighting for women's rights.

Second, gender and feminism are not seen as ideas or movements against men, but instead make men partners to uphold the values of justice. Third, interpreting the Qur'an must be integral. Fourth, keep substantive and constant matters that have become rational agreement, so as to produce interpretations that are more authoritative-intersubjective and still reflect pluralistic, not monolithic, views. Fifth, the development of

⁹ Nur Adilah Mahyaddin, "Gender Approach in Islamic Studies," *SANGAJI: Journal of Sharia and Legal Thinking* Vol. 1, No. 2 Tahun 2017. hlm. 176.

¹⁰ Alvan Fathony, "Gender in Islamic Studies," *Al-'Adalah: Journal of Sharia and Islamic Law* Vol. 5, No. 1 Tahun 2020. hlm. 136.

feminist interpretation does not have to leave at all the legacy of past scientific treasures, so that there is no discontinuity in the history of interpretive science.¹¹

The paper that the author will discuss here is different from previous research, this paper seeks to discuss the gender approach within the scope of Islamic family law.

Method

This paper uses a library research approach (literature study), which is research whose subject is in the form of literature literature. The source of the data departs from documentation from books and other scientific articles that discuss the gender approach in Islamic family law.¹² Data collection techniques are carried out by selecting data that correlates with the theme of this article. Collection is carried out by analyzing data in accordance with theory to obtain conclusions.¹³

Discussion

Gender in the Islamic Frame

The fact is that Islam puts women in the same position as men. This similarity can be seen from several verses of the Qur'an;¹⁴

- 1) In terms of devotion

¹¹ Asna Andriani, "A gender approach in the study of the Koran," *Al-Tsiqob: Journal of Economics and Islamic Da'wah* Vol. 2, No. 3 Tahun 2017. hlm. 38.

¹²D, Rosyada, *Qualitative Research for Education*, (Jakarta: Prenada Media, 2020), p. 25.

¹³L. J Moleong, *Qualitative Research Methodology*, (Bandung: PT. Remaja Rosdakarya, 2021), hlm. 20.

Women have the same opportunity and ability as men to be servants ideally according to the Qur'an as revealed in the Qur'an sura al-Hujurat 13:

Translation: O man, Behold, We created you from a man and a woman, and made you into nations and tribes, that you might know one another. Indeed, the noblest among you in the sight of Allah is the most pious among you. Indeed, Allah is All-Knowing, All-Knowing.¹⁵

There are two narrations that cause the verse to come down, namely: first, from Ibn Abi Malikadedeh says, that on the day of victory, the companions of bilal (black) chanted the call to prayer at the Kaaba. Then among the companions said, "Is the black man the one who is the call to prayer? Some of them say, "if God doesn't like it, replace it", then this verse comes down. Secondly, the verse came down because of the case of Abi Hindun, that the Prophet (peace be upon him) told people to become slaves, then they asked, "O Messenger of Allah, will you marry our daughters to them?", so this verse came down.¹⁶

- 2) In terms of Event Status

¹⁴Mansour Fakh, *Discussing Gender Discourse Feminism from an Islamic Perspective*, (Surabaya: Treatise, 1996) hlm. 152-154.

¹⁵Ministry of Religion of the Republic of Indonesia, *the Qur'an and its Translation*, (Jakarta: PT. Sygma Examedia Arkanleema, 2009). hlm. 517.

¹⁶As-Suyuti, *Lubab an Nuqul fi Asbab an Nuzul*, (Cairo: Dar al Muqtim, 2008), hlm. 205.

*The Qur'an explains that women and men were created by Allah in equal degrees, as Allah says in Sura an-Nisa verse 1.*¹⁷

3) Seen in Humanity

Before Islam came, some Arabs buried dead baby girls for fear of being poor or tainted by name. It is mentioned in the Qur'an Sura An-Nahl 58-59:¹⁸

It can be concluded that the above verse is only an example of the many verses of the Qur'an that clearly mention both types of men and women and mention one by one the direction of the Qur'an's attention to them. In other words, the man or woman is you according to the time of your birth. But masculine or feminine is formed because of accepted socialization that makes you feminine or masculine. Therefore, a liberating religious interpretation is needed in interpreting the nature of women's freedom. The objective reality that must be created is the emergence of a reconstruction of interpretations that are more interpreted democratically and contextually, so that religion really

becomes a teaching that respects various gender issues.¹⁹

One of the missions of the Prophet Muhammad SAW as a bearer of Islam is to raise the dignity and dignity of women because the teachings he brought contained a mission of liberation from oppression. Women are part of oppressed, marginalized groups and do not get their rights in life. Thus the Prophet had started a new tradition in the view of women, he carried out a major overhaul of the worldview (word view).²⁰

The status of women during the time of the Prophet can be seen in their involvement with a number of important roles that have monumental historical significance. For example, in the process of narrating hadith and forming Early Islamic discourse. A number of opinions circulating among biographers say that there is no doubt that the role of women is very large in this matter. Ibn Ishaq, an early biographer, mentions no fewer than 50 women as narrators of hadith. In the book of Al-Muwatha' there are also quite a lot of hadiths narrated by women.

¹⁷Ministry of Religion of the Republic of Indonesia, *the Qur'an and its Translation*, (Jakarta: PT. Sygma Examedia Arkanleema, 2009). hlm. 77.

¹⁸Ministry of Religion of the Republic of Indonesia, *the Koran and its translation*, (Jakarta: PT. Sygma Examedia Arkanleema, 2009) hlm. 273.

¹⁹Riha Nadhifah Minnuril Jannah and Naning ma'rifatul Faiqoh, Gender Equity Approaches to the

Application of Iddah in terms of Islamic Studies, Urwatul Wutsqo: *Journal of Educational and Islamic Studies* . Vol. 10, No. 1, Marc 2020. hlm. 61.

²⁰Riha Nadhifah Minnuril Jannah and Naning ma'rifatul Faiqoh, Gender Equity Approaches to the Application of Iddah in terms of Islamic Studies, Urwatul Wutsqo: *Journal of Educational and Islamic Studies*. Vol. 10, No. 1. Tahun 2020. hlm. 61.

In constructing an Islamic society, Rasulullah made efforts to promote the dignity and dignity of women through revision of the jahiliyah tradition. This is the process of forming the concept of gender equality and justice in Islamic law, namely;²¹

- 1) Protection of women's rights through the law, women cannot be mistreated by anyone because, they are considered equal before the applicable laws and regulations that are different from the ignorant era.
- 2) Improvement of family law, women get the right to determine a mate, get dowry, inheritance rights, restrictions and regulation of polygyny, file talaq, regulate balanced spousal rights and child entrepreneur rights.
- 3) Women are allowed to access public roles, visit mosques, get the right to education, participate in wars, migrate with the Prophet, perform bayat before the Prophet and decision-making roles.
- 4) Women have the right to spend their property, because property is a symbol of freedom and honor for everyone.

- 5) Women have the right to life by enacting rules prohibiting the murder of girls which is a tradition of the Arab jahiliyah.²²

Since the Prophet SAW died, the understanding of the holy book of the Qur'an has become a big problem for Muslims. When he was alive, all questions related to religion in general and understanding of the Qur'an in particular could be directly asked of him. But the death of the Prophet (peace be upon him) forced Muslims to understand his holy book for themselves. It is for this purpose that history records the various attempts made by scholars to develop an interpretive methodology to understand the holy book of the Qur'an.²³

In understanding the text of the Qur'an, some mufassir use the method of tafsir bi al-ra'yi (interpretation of the Qur'an that relies on the logic of interpretation itself).²⁴ Many

²¹Riha Nadhifah Minnuril Jannah and Naning ma'rifatul Faiqoh, *Approaches to Gender Equity in the Application of Iddah in terms of Islamic Studies*, Urwatul Wutsqo: *Journal of Educational and Islamic Studies*. Vol. 10, No. 1, March 2021. hlm. 61.

²²Riha Nadhifah Minnuril Jannah and Naning ma'rifatul Faiqoh, *Gender Equity Approaches to the Application of Iddah in terms of Islamic Studies*, Urwatul Wutsqo: *Journal of Educational and Islamic Studies*. Vol. 10, No.1, March 2021. hlm. 61.

²³Fauziah Nurdin, "Religious Moderation according to Al-Qur'an and Hadith". *Scientific Journal of Al Mu'ashirah: Multi Perspective Media of Al-Qur'an and Al-Hadith Studies* Vol. 18, No. 1, January 2021. hlm. 59-70.

²⁴However, there is actually no absolute objective interpretation. Interpretation is always

influenced by the socio-historical background, experience, education, conditions and situation of the interpreter himself. As Ashar Ali Engineer said that everyone has their own worldview, lives in their own intellectual universe and draws conclusions based on the worldview they hold (Asghar Ali Engineer, *Women's Rights in Islam*, ter. Farid Wijidi and Cici Farkha Assegaf (Yogyakarta: Bentang Budaya Foundation, 1994), p., 15). Therefore, texts which are actually sociological in nature are only understood literally and textually, so that the results of their interpretation are clearly gender biased (read Abdul Mustaqim, *Paradigm of Feminist Interpretation.....*, hlm. 26-27).

interpretations using this method are gender biased. To avoid this bias, the interpretation and understanding of the verses of the Qur'an needs to be revisited, reinterpreted and reactualized.

In line with the emergence of gender issues that are increasingly being echoed by women activists, both on a local, national and international scale, the reconstruction of the methodology of interpretation of the Qur'an becomes a necessity, in order to produce an interpretation that is more gender-sensitive and able to answer the problems of contemporary religious social change.

In this case, Amina Wadud Muhsin offers a holistic / hermeneutic method of interpretation, which is interpretation that uses all methods of interpretation and relates to various social, economic, political, principles of equality, mutual respect, and also includes women's issues that arise in the era of modernity. This holistic method has also been offered by Fazlur Rahman, the basic assumption that Qur'anic verses revealed in a

certain time tend to use expressions that are relative to the situation that surrounds them. Hence it cannot be reduced or limited by the historical situation at the time it was revealed. The Qur'an is valid for all ages.²⁵ Therefore, in order to maintain the relevance of the Qur'an to the development of human life, the Qur'an must be interpreted repeatedly, because the Qur'an is the book of *shahih li kulli zaman wa makan*. So it must always be interpreted along with and in line with the acceleration of change and development of the times.²⁶

Similarly, Riffat Hassan also offers a method of comparison, namely by making a comparison between texts, including the gospel texts in Genesis II. In addition, he also uses the historical-critical-contextual method, with steps: (1) Find the true meaning of a certain concept based on its original root, in this case using semantic analysis, then put the meaning according to the context of the society at that time. (2) Assuming that the content of the Qur'an is

²⁵Ahmad Zabidi, "Amina Wadud Method in Al-Quran Interpretation". *Alwazikhoebillah Journal: Islamic Studies, Education, Economics, Humanities* Vol. 6 No. 2 July 2020, hlm. 1-9.

²⁶Abdul Mustaqim, *Contemporary Al-Qur'an Studies*. (Yogyakarta: PT Tiara Wacana, 2002), hlm. 47.

actually a mutually reinforcing interweaving of understanding between verses, making it impossible for its contents to contradict each other. Even these notions reinforce each other and form a whole value system. This is used by Riffat to assess all other sources of value. (3) The principle of ethics is used as a verification of interpretation, meaning that an interpretation is only considered valid and correct if it is in line with the principles and values of justice (value of justice) and vice versa the interpretation is null and void by itself if it ignores or results in oppression and is contrary to the principles of justice.²⁷

In addition, in the interpretation of the Qur'an Asghar Ali Engineer also offers sociological methods, emphasizing: (1) Basically the Qur'an consists of normative aspects²⁸ and contextual.²⁹ (2) Understanding and interpretation are always influenced by perceptions, worldviews, experiences, and socio-cultural conditions of mufassir, so that it becomes a

historical analysis in interpretation. (3) The meaning of the Qur'an is in harmony with the progress of the times.

GENDER OPERATIONS IN FAMILY LAW CASES

Gender and Reproductive Roles in Islam

Socio-historically the Qur'an was revealed in a culture that was very discriminatory against women, this is a patriarchal phenomenon that occurred in the old ignorant era.³⁰ At that time the society was also nomadic, the Qur'an was realistic at that time. Through the texts handed down, the Qur'an actually seeks to carry out cultural transformation wisely and realistically. Husen Muhammad explained that a critical reading of the socio-cultural structure of the Arabs when the Qur'an came down, especially as it concerns women, shows clearly how the processes of socio-cultural transformation are being carried out by Islam very progressively.³¹ Even Umar mentioned that the Arabs did not

²⁷Asna Andriani, *Gender Approach in Qur'anic Studies*, (*Al-Tsiqob: Islamic and Da'wa Journal*). hlm. 32.

²⁸What is meant by normative, that the Qur'an has essential values that place humans in the realm of humanity, where humans are equal and have the same rights, these values are not limited by space and time.

²⁹What is meant by contextual, that the Qur'an cannot be separated from its historical value, where the Qur'an was revealed, what are its socio-cultural

conditions, because the Qur'an socially functions as a guide that demands relevance anywhere and everywhere. until whenever.

³⁰Toshiko Izutsu, *The Relationship between God and Man*, translated Amiruddin et al (Yogyakarta: PT. Tiara Wacana, 1987), hlm. 17.

³¹Husen Muhammad, *Islam is a Women-Friendly Religion*, (Yogyakarta: LKiS, 2004), p. 17.

consider women important at all. but when Islam came and God called them the Arabs realized that women had rights over men.³²

The culture of discrimination against women in pre-Islamic times, especially in the issue of female reproduction, is reflected in the treatment of pre-Islamic societies towards menstruating women, which further descends Qs. al-Baqarah verse 222. Arab society treats women inhumanely. They have a rule against menstruating women, that menstruating women must isolate themselves and everything they touch or occupy becomes unclean.³³

This kind of regulation turns out to have an impact on husband-wife relationships. Husbands do not want to eat and drink with menstruating wives, not even live in the same house. This kind of treatment is also found in the Jewish community of Medina. Among the Jews' treatment of menstruating wives were giving place to menstruating women for seven

days, touching them stained and unclean, not being allowed to stay in the same house, not being allowed to eat and drink and sleeping together.³⁴ This is the question of friends, which is to make the verse about menstruation go down. The companions of Annas narrated that the prophet replied that you can do everything with your menstruating wife except having intercourse.³⁵

So, realistically and evolutively, the Qur'an seeks to transform the habits and ways of life that are discriminatory against these women. The Qur'an has addressed various women's issues, including those related to their reproduction. Based on the social structure of the Arabs at the time the Qur'an was revealed, the rules concerning women's issues, including problems with women's reproductive systems and functions, underwent a process of transformation.³⁶

The stereotypes that occurred against women in pre-Islamic times were a form of discrimination against

³²Ibid., hlm. 259.

³³Imam Abu Hasan Ahmad AL-Wahidi, *Asbab Nuzul al-Qur'an*, (Beirut: Dar al-Kutub Al-'Alamiyah, 1991), hlm. 77.

³⁴ *Ibid.*, hlm. 76.

³⁵Zaitunah Subhan, *Al-Qur'an and Women: Towards Gender Equality in Interpretation*, (Jakarta: Kencana, 2015), hlm. 232.

³⁶Nafisatul Mu'awwanah, "Gender Analysis of Reproductive Verses of Women in the Qur'an". Indonesian Journal of Gender Studies | Vol. 2, No. 1. hlm. 26-30.

women at that time. Women at this time are unsparingly labeled as unclean, so they are given a separate place during menstruation, forbidden to eat and sleep together.³⁷ When Islam came, the Qur'an explained that the concept of menstruation was a nuisance for women whose only prohibition was sexual intercourse, not social interaction. In addition, because this disorder includes pain in terms of physical and psychological women, social distance and adds pain to a woman.

Gender in Islamic Inheritance Law

The law of inheritance in the Qur'an delivered by the Prophet Muhammad (PBUH), has changed the pre-Islamic inheritance law and at the same time overhauled the structure of kinship relations and even overhauled the system of ownership of objects, especially heirlooms.³⁸ The structure of pre-Islamic society was heavily influenced by tribal groups. Property including the inheritance of the deceased, belongs to his tribe. Men dominate life. Women are not allowed to own property, except women from

certain circles. Even women became something inherited.³⁹

This is seen in the Qur'an surah an-Nisa' (4): 19

Translation: O believers, it is not lawful for you to inherit women by force.

This verse does not indicate that it is permissible to bequeath women by force. according to the custom of some Arab Jahiliyah when a man dies, then his eldest son or another member of his family inherits the widow. The widow may be married alone or married to another person whose dowry is taken by the testator.

Word of Allah Almighty in Qs. an-Nisa' (4): 7

Translation: "For men there is a right to a share of the estate of his parents and relatives, and for a woman there is a right to a share (also) of the estate of his parents and relatives, either a little or a lot according to the portion that has been determined."

This verse describes the existence of a man and a woman as heirs, who are declared to both obtain a share of the estate of the father's mother and relatives without any

³⁷Nur Azizah, "The Position of Women in World History and Islam with Gender Equality". JSGA Vol. 02 No. 02 of 2020. hlm. 21-33.

³⁸Edi Darmawijaya, "Social Stratification, Kinship Systems and Gender Relations in Pre-Islamic Arab Communities". Takammul: Journal of Gender

and Islamic Studies and Child Protection Vol. 6, No. 2 July-December 2017. hlm. 132-136.

³⁹Ahmad Rofiq, Islamic Law in Indonesia, (Jakarta: PT Raja Grafindo Persada, 4th Cet., 2000), hlm. 355.

discrimination. The provisions of the Qur'an, two parts for men and one for women in inheritance law have a socio-cultural background where this provision is decreed. The two parts of men as their rights at that time did not stand alone. But coupled with the obligation to provide for the wife and or sister when in a state without guardianship, so this provision is very attached to the balance of rights and obligations proportionally.

The provision that the concept of 2:1 inheritance division is against the concept of justice and equality, there are several things that must be considered.⁴⁰ First, comparing with the social reality that occurred before, women who at that time were not given the right to inheritance even became objects to be inherited. From this we can see that, the enactment of the Sharia regarding the granting of inheritance rights to women is very fair. By granting inheritance rights to women, Islam stipulates that men and women have equal standing in terms of inheriting inheritance. Secondly, to give an answer to the question of why

in quantity there are differences between men and women, it is necessary to look at the social setting that existed in family life at that time, the burden of earning and providing for a living was entirely the responsibility of men.

Gender in Iddah and Ihdad Issues

Since this divorce began to have an iddah (waiting period) for women (wives) with various consequences that must be borne. The existence of iddah provisions for women who are rejected is always associated with the reason for knowing the cleanliness of the uterus.⁴¹ While only women have a uterus and experience pregnancy, it is logical that iddah only applies to women. That iddah is only related to sex (sex) is natural and cannot be changed. However, if iddah only knows the cleanliness of the uterus, even one menstruation can be. However, gender injustice arises why three menstruations must be delayed for those who have been divorced. Three months for those who are

⁴⁰Lilik Andaryuni, "Reform of Islamic Inheritance Law in Turkey and in Somalia", *Wisdom: Journal of Islamic Studies*, Vol. 14, No. 1 Tahun 2018. hlm. 160.

⁴¹Erwin Hikmatiar, "Evidence of Iddah in Divorce Lawsuits". *Mizan; Journal of Sharia Science, FAI Ibn Khaldun University (UIKA) Bogor* Vol. 4 No. 1 Tahun 2016. hlm. 131-172.

menopausal, and four months for women whose husbands die.⁴²

The concept of iddah discriminates against women because it limits women's space after divorce or the death of their husbands. Women are required to limit associations, lifestyles, daily activities and even careers, while men are free to do anything after divorce and even remarrying is allowed without waiting for the completion of the iddah period. Whereas in the context of modern life like this, women are faced with the demands and challenges of the times that are no different from men, namely playing an active role, not only in the domestic sphere but also in the public sphere.⁴³

Under such conditions, the obligation of iddah accompanied by the obligation of subsistence (*mut'ah*) of the husband towards the wife who is divorced during the period of iddah (Qs. al-Baqarah verses 236-240) and (Qs. al-Ahzab verse 49), can provide post-divorce economic protection for women at the time the verse is revealed. It can be interpreted that this iddah provision is to ease the

economic burden of divorced women. If the provision of post-divorce income is not provided by the husband, it will aggravate the wife's condition, especially if the wife is pregnant. Thus, with the concept of iddah, there needs to be a balance so that men do not marry without considering the circumstances and conditions of the wife.⁴⁴

The obligation of iddah is actually also intended to provide protection to women after divorce. First, iddah plays a very important role in maintaining the honor and credibility of a woman. This has to do with the obligation for *Mu'taddah* to live her iddah in the house where she lived with her husband. By performing iddah where her husband used to be, it can protect her from slander if it turns out that she is pregnant. Second, iddah is aimed at ensuring the health of mothers and children. This is related to the husband's obligation to guarantee the income and residence of his divorced wife while still pregnant. It is obvious that such a thing is also intended to ensure the health of the child conceived. Furthermore, ank

⁴²Satria Effendi Muh Zein, *Contemporary Islamic Family Law Problems* (Jakarta: Kencana, 2010), hlm. 152.

⁴³Uzulia Febri Hidayati, "Gender Review of the Construction of 'Iddah and Ihdad in Compilation of

Islamic Law (KHI)", *Thesis*, UIN Sunan Kalijaga Yogyakarta, (2018), hlm. 3.

⁴⁴Indar, "Iddah in Gender Justice", *Yinyang, Center for Gender Studies STAIN Purwokerto*, Vol 5, No. 1 Tahun 2010. hlm. 15.

care does not end with birth, because the father still has the obligation to provide care costs for the child and the mother, even if the mother has been divorced, until she breastfeeds the child.⁴⁵

Therefore, for the sake of creating harmony between men and women, as well as justice, iddah must be considered by both men and women. This is especially true of the purpose of Iddah for reconciliation of tafajju' men and women should engage with each other.⁴⁶ By considering the illah of the law, it is very logically acceptable, scientifically and can be accounted for if the implementation of iddah iddah is gender and not only for women. So that men are obliged to iddah. Thus, the wisdom and purpose of iddah will be achieved and the dignity of humanity in marriage will be maintained, because the need for a good and balanced life and justice is a human right.

Conclusion

Islamic history records that women have a meaningful role in various metamorphosis of society, customs, commerce and politics in the country. Gender balance is a social issue and is often a contentious topic. People assume that gender dimilarity can cause various forms of inequality, such as the unimportance of roles related to political policies, women are only in the three R's, namely kitchen, well, mattress. Socio-historically the Qur'an was revealed in a culture that was very discriminatory against women, this is a patriarchal phenomenon that occurred in the old ignorant era. Currently, gender injustice has transformed from the ignorant era to the Islamic era, that women have obtained their rights as women, where in the past women were only underestimated and patriarchal culture reigned.

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