

Measurement of Iddah Calculations for Women Taken According to The Habits of The Banjar People and According to The Kitab An-Nikah

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Abstract:

Women who have been divorced from their spouses must observe the iddah period, during which they must refrain from all sexual relations with men. For a legally divorced woman to have time to try to reconcile with her husband, the iddah must reveal whether or not she is pregnant. In Islamic law, the standard of iddah has been set. However, in practice, there is no guarantee that Islamic law would be followed when determining the iddah of women whose husbands have divorced them according to societal traditions. The author employs approach the Kitab An-Nikah by Sheikh Muhammad Arsyad Al-Banjari in order to arrive at a set of guidelines for determining the iddah for divorced women. The author additionally used resources from similar literature to round out his investigation.

Keywords: Banjar, calculation, divorced, measurement, iddah, kitab an-nikah.

Introduction

In building a household, it is not sufficient to rely solely on looks, wealth, and love; because love is not always beautiful, there are times when there are problems, disturbances, challenges, sorrows, and differences that cannot be reconciled and saved again, resulting in the dissolution of domestic relations.¹ Actually, divorce is not outlawed in Islam, but Allah abhors it, thus it is the last alternative for resolving difficulties in a home that is on the verge of reconciling but cannot be reconciled and sustained any longer.² Islamic law regulates divorce in such a way that divorce is defined as the termination of a marital partnership owing to a specific word, and that there are numerous forms of divorce, including *talak*, *fasakh*, *ila'*, *syiqaq*, *li'an*, *zhihar*, and *taklik talak*. In Arabic, divorce is referred to as *talak*, which literally means "letting go." According to Islamic law, *talak* refers to divorcing, releasing, or liberating the wife from a marital partnership.³ A wife whose husband has divorced her must wait

¹ Anwar Hafidzi and Norwahdah Rezky Amalia, "Marriage Problems Because of Disgrace (Study of Book Fiqh Islam Wa Adilâtuḥ and Kitâb al-Nikâḥ)," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018): 274.

² Anwar Hafidzi, "Penolakan Nasab Anak Li'an Dan Dhihar Dengan Ta'liq (Analisis Komparatif Naskah Kitab Fiqh al-Islam Wa Adillatuhu Dengan al-Mughni)," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 1, no. 2 (2018): 77.

³ Leila Salarpour Goodarzi, "Mahr and Divorce: An Islamic Marriage Concept and Its Effects on Intrahousehold Bargaining Power of Couples," 2018.

a prescribed amount of time, known as the *iddah*, before remarrying.⁴ In accordance with Islamic law, the *iddah* period for women whose husbands have divorced is three menstrual cycles, or three *quru'*.⁵ If the woman is pregnant, the *iddah* period lasts until she gives birth to the child she is carrying, or three months, according to QS At-Thalaq verse 4.

Considering Islamic law in Indonesia, the author is interested in conducting research regarding the habits that exist in the Banjar community regarding the benchmarks beginning with where and how long it takes to count the *iddah* of women who have been divorced from their husbands. In line with Article 117 and Article 39 of Law Number 1 of 1974 pertaining to marriage, a *talak* divorce or divorce in Indonesia is only lawful if it is carried out through a trial procedure in the Religious Courts. This trial is conducted in the area where the wife resides. In the meanwhile, the community calculates the benchmark for their *iddah* based on either the issue of the Religious Court's ruling or the *lafadz* of the divorce vow that has been recited by her husband. In this study, the authors chose to use the field research method or commonly known as field research by conducting direct interviews and using the literature review method or commonly known as library research by using the book *An-Nikah* written by Sheikh Muhammad Arsyad Al-Banjari.⁶

Which of these materials and sources will be the basis for comparison in analyzing the benchmarks starting from where and how long the *iddah* counts for women who are divorced by their husbands.⁷ The author will also use a descriptive qualitative approach, as well as describe the material with other books, books, and journals as a reference so that further conclusions can be obtained for this research. In actuality, it is fairly rare to discover persons who do not comprehend *iddah* or who are unable to calculate or recognize its standards.⁸ Therefore, the author will compare the facts of the outcomes and contents of interviews with the community with Sheikh Muhammad Arsyad Al-book Banjari's *An-Nikah* so that they can be considered and gain knowledge.

Result and Discussion

Iddah Definition, Types, and Standards

Definition *Iddah* derives from the Arabic words *al-add* and *al-ihsha*, which signify women's calculated menstrual days and periods. *Iddah* is a grace period during which a woman waits to marry after her husband dies, separates, or breaks up. Women with its causes must perform *iddah*.

Ibn Mas'ud ra defines *Quru'* (waiting period due to divorce) as menstruation. *Quru'* calculates women's *iddah* based on numerous factor If a woman is still

⁴ Andi Batari Andisa, "The Use of Modalities in Indonesian Divorce Mediation Discourse," *ELS Journal on Interdisciplinary Studies in Humanities* 1, no. 2 (2018): 126.

⁵ Muhamad Abduh, "Implementasi Dan Relevansi Iwad Dari Pelanggaran Taklik Talak Di Pengadilan Agama Banjarmasin," *Sakina: Journal of Family Studies* 5, no. 2 (2021).

⁶ Anwar Hafidzi, "Determination Of Sekufu In The Kitabun Nikah Al-Banjari," *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 125.

⁷ Andisa, "The Use of Modalities in Indonesian Divorce Mediation Discourse," 130.

⁸ Hafidzi, "Determination Of Sekufu In The Kitabun Nikah Al-Banjari."

menstruation after her husband's divorce and her husband has been married, her iddah is three menstrual cycles. QS Al-Baqarah 228. If a woman was divorced by her husband and is not menstruating or no longer menstruating, her iddah is 3 months, according to QS At-Thalaq verse 4. 2) If a divorced woman is in *istihadah* and cannot distinguish between menstrual blood and *istihadah* blood, her iddah is 3 months. According to QS At-Thalaq verse 4, a woman's *iddah* is measured by her child's birth, whether she is pregnant or not. QS Al-Baqarah verse 234 states that iddah is 4 months and 10 days for a woman who dies by her husband in a state of not being pregnant, whether her husband consumed her or not, and whether she is small, mature, or grown up.

Sheikh Muhammad Arsyad Al-Banjari

Muhammad Arsyad bin Abdullah Al-Banjari was born at 3 a.m. on Thursday, March 19, 1710 AD, in Lok Gabang, Astambul District, Banjar Regency.⁹ His parents, Siti Aminah bint Husein and Abdulloh bin Abu Bakar, were married. From his intelligence, expertise, and temperament, he showed indicators of being a great leader. As a child, he was talented in painting and writing, which astounded everyone who saw him.¹⁰ The sultan wanted to teach him because of his knowledge. He lived in the palace and studied religion and other subjects alongside the sultan's children and grandchildren until he was 30. He married Tuan Bajut. He planned to study in Israel while his wife was pregnant with their first child. He went to the holy region to fulfill his dreams after his wife and the sultan blessed him. Al-Faqih Sheikh Muhammad bin Sulaiman Al-Kurdi and al-Arif Billah were his professors. Sheikh Muhammad bin Abdul Karim al-Samman al-Hasani al-Madani. He returned to Martapura, the heart of the Banjar Sultanate, in Ramadan 1186 H or 1772 AD. Sheikh Muhammad Arsyad Al-Banjari was buried at Kelampayan, Astambul District, Banjar Regency, on Tuesday night between Isha and Maghrib on 6 Shawwal 1227 H or 13 October 1812 AD. His book *Sabilal Muhtadin Littafaquh Fi Amriddin* is being utilized today.¹¹

The Iddah Standards Sheikh Muhammad Arsyad Al-book Banjari's

Here, I refer to a passage from his work *An-Nikah*, specifically:¹²

جك بركات فرمفوان يغ طلاق فد حال اي بونتنيغ دمكيان كاتن : "عدهكو سوده لال دغن برانق ؟ دان انكار سوامين اكن يغ دمكين ايت نسچاي دبنركنله فرمفوان ايت دغن سومفهڤن جك ناف انم بولن دان دوا لحظه درفد وقتو يغ دافة برهمفون كدوان كمدين درفد نكاحن. كرن سكورغ ۲ ماس بونتنيغ ايت انم بولن دوا لحظه، سلحظه باكي وطى دان سلحظه باكي برانق.

So if you tell a pregnant woman that she is legally divorced, she will respond,

⁹ Khairullah Khairullah, Akhmad Rizkhi Ridhani, and Aminah Aminah, "Karakteristik Konselor Islami (Kajian Empiris Nilai-Nilai Pendidikan Karakter Syekh Muhammad Arsyad Al-Banjari)," *Jurnal Bimbingan Dan Konseling Ar-Rahman* 4, no. 2 (2018): 47.

¹⁰ Fathurrahman Azhari, "Pemikiran Hukum Kearifan Lokal Syekh Muhammad Arsyad Al-Banjari Dalam Kitab Sabilal Muhtadin," 2016.

¹¹ Abnan Pancasilwati, "EPISTEMOLOGI FIQH SABILAL MUHTADIN," *Mazahib: Jurnal Pemikiran Hukum Islam* 14, no. 1 (2015).

¹² Syaikh Muhammad Arsyad al-Banjari, *Kitabun Nikah* (Martapura: Darus Syakirin, n.d.).

"My iddah has passed with children," right? And if six months and two *lahzoh* (for a while) have passed after her marriage than the time they can come together, then the woman's oath will have fully justified her husband's disobedience to such a thing. Due to the fact that a minimum of six months, two *lahzah*, *selahzoh* for watha, and *selahzoh* for children must elapse during pregnancy.

What this means is that if a man divorces his wife while she is pregnant, she has the right to remain his wife until she delivers birth, or until the end of the six months and two *lahzah* that have passed since the couple was married. Due to the fact that a minimum of six months, two *lahzah*, *selahzah* for whata (having sex), and *selahzah* for giving birth is required for a successful pregnancy.

دمکین ایت دان اداله فرمفوان ایت دطلاق ددالم سوچین یغ ددهلوی اوله حیض، نسچای دبزرکنله ای دغن سومفهښ جک ګناف تیځ فوله دوا هاری دان دوا لحظه کمډین درفد طلاق، کرن سسکورغ ۲ ماس دافه لال عدهښ فرمفوان دغن سوچ یغ دطلاق ای ددالم سوچ یغ ددهلوی اوله حیض یاییت تیځ فوله دوا هاری دان دوا لحظه، سلحظه باکی سوچ یغ فرتام دان سلحظه ماسوق کفد حیض یغ کتبیځ.

If her husband does not accept her talaq in her purity before menstruation, she will be fully justified by her oath when 32 days and 2 *selahzah* (for a while) have elapsed. Then, from divorce, because at the very least, a woman can complete the iddah of the holy lady whose divorce occurs during the sacred, which is preceded by menstruation (lasting 32 days and 2 *lahzahs*; *selahzah* for the first holy, and *selahzah* entering the third menstrual cycle).

A lady who has been divorced by her husband during her virginal state will experience a threefold increase in the sanctity of her iddah period, the time immediately preceding her menstrual cycle. If a woman gets divorced before her period starts, she must observe iddah for at least 32 days and 2 *lahzah* (*selahzah* for the first sacred period and *selahzah* for the beginning of the third menstrual cycle).

دان جک برکات ای : "تله لال عدهکو دغن تیځ کالی سوچ " دان انکار سوامیښ اکن یغ ددمکین ایت دان اداله فرمفوان ایت دطلاق ددالم سوچین یغ ددهلوی اوله حیض، نسچای دبزرکنله ای دغن سومفهښ جک ګناف تیځ فوله دوا هاری دان دوا لحظه کمډین درفد طلاق، کرن سسکورغ ۲ ماس دافه لال عدهښ فرمفوان دغن سوچ یغ دطلاق ای ددالم سوچ یغ ددهلوی اوله حیض یاییت تیځ فوله دوا هاری دان دوا لحظه، سلحظه باکی سوچ یغ فرتام دان سلحظه ماسوق کفد حیض یغ کتبیځ.

If the talaq occurs between the two bloods, rather than before the first, then the iddah is at least forty-eight days and *selahzah* (as soon as possible), because another talaq (divorce) falls in it, it is *not* stated to be compared to iddah, because it is sacred that the iddah is said to be more than the iddah.

And by this, I mean When a woman's husband divorces her during a holy time that was not preceded by menstruation, the iddah period is computed from the divorce, which is between two menstruations, and is therefore at least 48 days long.

دان جک دطلاق ای ددالم حیض نسچای دبزرکنله ای دغن سومفهښ جک ګناف امفه فوله توجه هاری دان ساتو لحظه درفد طلاق، کرن سکوراغ ۲ ماس یغ دافه لال عده فرمفوان دغن سوچ یغ دطلاق ای ددالم حیض یاییت امفه فوله توجه هاری دان ساتو لحظه یعنی لحظه ماسوق کفد حیض یغ کامفه. اینله جک ادا فرمفوان ایت مردیهک.

And if the divorce is granted while the woman is menstruating, he will have

every right to swear on her behalf after she has been divorced for at least forty-seven days and one *selahzah*, since this is the minimum amount of time required for the iddah to be valid for a woman who divorced while she was impure. So, Lahzah is now on her fourth period. That is, assuming there are any available women. [9]

Since the minimum length of iddah for a woman who is divorced when she is menstruating is 47 days and *selahzah*, when she begins her fourth menstruation, this means that if a woman is divorced by her husband while she is menstruating, her oath is justified if it is 47 days and *selahzah*.

This signifies that the answers given by the sources agree with the ones found in Sheikh Muhammad Arsyad Al-Banjari's *An-Nikah* book of fiqh according to the causes. The only difference is that a woman's iddah, which lasts 4 months and 10 days, applies only when her husband divorces her because of her death. Thus, the iddah term and the bare minimum iddah required for women whose husbands have divorced them are clarified in the aforementioned passage, translation, and analysis from the book of *An-Nikah*.

Conclusion

It is possible to draw the following conclusions from the discussion that the author has described: the benchmark for the period of iddah according to community habits is as follows: the iddah of women who are still menstruating is three menstrual periods (three quru), the iddah of women who do not menstruate again is three months, the iddah of women who are left behind by their husbands is four months and ten days while they are not pregnant. When it comes to divorce cases, the iddah is calculated after the husband has made a vow of divorce in front of the court, giving it permanent legal force, or after the issuance of the divorce certificate, whichever comes first. This is what I can conclude based on the results of interviews with prominent members of the Banjar community about the beginning of the process of calculating the iddah period for women whose husbands have divorced them. Despite the fact that the period of iddah for women has ended, the decision of the Religious Courts has not yet been issued. This indicates that the period of iddah has not yet officially ended, and it is best to wait for the decision of the Religious Courts to ensure that there are no complications in other types of civil matters.

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