

TA'ABBUDI AND TA'AQQULI OBJECTS IN THE DETERMINATION OF IDDAH MAINTENANCE: A NORMATIVE MAQASIDI STUDY

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Abstract :

This article examines the normative structure of iddah maintenance in Islamic family law through an integrative framework that combines classical fiqh, maqāṣid al-shari‘ah, and Indonesian positive law. Although the Qur'an affirms the obligation to provide financial protection for women after divorce, the practice of Religious Courts in Indonesia demonstrates significant disparities in determining the amount of iddah maintenance. These irregularities arise from the lack of a clear distinction between the ta'abbudi dimension, which is fixed and ritual in nature, and the ta'aqquli dimension, which is rational and contextual, in understanding this legal provision.

This study employs a normative legal research method using statutory, conceptual, historical, and comparative approaches. The findings indicate that the obligation of iddah maintenance is grounded in a ta'abbudi dimension derived directly from the Qur'anic and Prophetic texts. Nevertheless, the form, amount, and mechanism of its fulfillment fall within the ta'aqquli domain, determined by the husband's economic capacity, the wife's reasonable needs, and prevailing socio-economic conditions. An examination of classical fiqh reveals methodological diversity, in which the Hanafi and Maliki schools emphasize maslahah and the protection of women, while the Shafi'i and Hanbali schools adopt a more textualist and restrictive approach. Judicial practice in Indonesian Religious Courts demonstrates a growing tendency to employ maqāṣid-based reasoning, particularly with regard to the protection of life (hifz al-nafs), property (hifz al-māl), and the principle of al-ma'rūf. This study concludes that iddah maintenance constitutes a hybrid legal norm whose obligation is fixed, while its implementation is context-dependent, and therefore recommends the formulation of more comprehensive judicial guidelines.

Keywords : Iddah maintenance, ta'abbudi, ta'aqquli, maqāṣid al-shari‘ah, judicial discretion, Islamic family law, Indonesian Religious Courts.

INTRODUCTION

Iddah maintenance constitutes one of the fundamental provisions in Islamic family law, as it is directly related to the protection of women following the dissolution of marriage. Within the framework of Indonesian positive law, this obligation is explicitly stipulated in Article 149 letter (b) of the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which requires a former husband who divorces his wife before the Religious Court to provide iddah maintenance, provided that the wife is not proven to have committed *nusyūz* (Compilation of Islamic Law, 1991). Normatively, the obligation of iddah maintenance is also firmly grounded in the Qur'an and the Prophetic traditions, which emphasize the husband's responsibility to provide financial support during the iddah



period as a form of protection and respect for women's dignity (Al-Zuhayli, 1989).

Nevertheless, judicial practice in Indonesian Religious Courts demonstrates highly significant disparities in the determination of the amount of iddah maintenance from one decision to another, even where the socio-economic conditions of the parties are relatively similar. In some rulings, iddah maintenance is awarded only in a minimal amount, or in certain cases not awarded at all, whereas in other decisions substantially higher amounts are granted. This phenomenon raises serious concerns regarding legal certainty, consistency of judicial decisions, and the realization of substantive justice within the practice of Religious Courts (Cammack & Feener, 2012).

These differences reflect divergent judicial approaches in understanding the legal status of iddah maintenance. Some judges tend to determine iddah maintenance textually, relying on Qur'anic verses and Prophetic traditions that affirm the husband's obligation to provide maintenance during the iddah period. Conversely, other judges regard iddah maintenance as a contextual provision, allowing the amount to be adjusted according to the husband's financial capacity and the wife's reasonable needs. This divergence of perspectives indicates a fundamental debate as to whether iddah maintenance should be understood as a ta'abbudi norm, which is fixed in nature, or as a ta'aqquli norm that allows rational and contextual reasoning grounded in *maqāṣid al-sharī'ah* (Al-Shāṭibī, 2003; Auda, 2008; Mudzhar, 2014).

Within the tradition of Islamic legal thought, the discussion of the ta'abbudi and ta'aqquli dimensions constitutes a fundamental aspect of *uṣūl al-fiqh*. Al-Ghazālī, in *al Mustafa*, distinguishes between purely devotional rulings (*ta'abbudiyyah*), whose effective cause ('illah) cannot be apprehended by human reason, and rulings pertaining to *mu'amalat*, which are constructed upon rationality and considerations of public interest (*maṣlahah*) (Al-Ghazālī, 1997). Similarly, al-Shāṭibī, in *al-Muwafaqat*, emphasizes that legal rulings governing social interactions, including family relations, are generally ta'aqquli in nature, as they are grounded in the objectives of protecting life, property, lineage, and human dignity (al-Shāṭibī, 2003).

This raises a central academic question: where does iddah maintenance fall within the ta'abbudi-ta'aqquli spectrum? Addressing this question requires a careful examination of the primary legal sources. The principal Qur'anic verse concerning iddah maintenance is found in the statement of Allah the Exalted:

أَنْكُو هُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ

"Provide housing for them where you dwell, according to your means" (Qur'an, al-Ṭalāq [65]: 6).

Classical exegetes such as Ibn Kathīr and al-Qurtubi interpret this verse as establishing a binding obligation that is ta'abbudi in nature, while recognizing that the standard of its fulfillment is flexible and contingent upon the husband's financial capacity and the wife's needs features that reflect a ta'aqquli character (Ibn Kathīr, 1999; al-Qurtubi, 2006).

Likewise, the hadist of Faṭimah bint Qays, narrated by Muslim, concerning a woman who was irrevocably divorced (*ṭalāq bā'in*) and was deemed not entitled to maintenance or housing, also demonstrates the contextual flexibility of Islamic law as shaped by historical circumstances. The Prophet ﷺ stated:

لَكِ نَفَقَةٌ وَلَا سُكْنَىٰ

"You are not entitled to maintenance or housing" (Muslim, hadist no. 1480). This hadist has been interpreted differently among the legal schools: the Shāfi'i and Ḥanbalī schools tend toward a more textualist reading, whereas the Ḥanafī and Mālikī schools emphasize considerations of *maṣlahah* and the protection of women, thereby illustrating an epistemic divergence between ta'abbudi and ta'aqquli approaches (Al-Zuhayli, 1989).

The academic and practical problem becomes even more complex when situated within the framework of Indonesian positive law. While the Compilation of Islamic Law (KHI) establishes the obligation of iddah maintenance, it does not specify the amount, standards of adequacy, or technical parameters for its determination. This normative silence provides broad space for judicial *ijtihad*, however, it simultaneously generates disparities in judicial decisions that undermine the principle of substantive justice (Mudzhar, 2014).

Previous studies on iddah maintenance have generally remained focused on partial aspects and have yet to provide a comprehensive understanding of its legal position within the framework of *uṣūl al-fiqh* and contemporary Islamic family law. Most studies are limited to textual analyses of classical fiqh without integrating a *maqāṣid al-shari'ah* approach, thereby failing to capture the dimension of legal rationality and the underlying objectives behind the stipulation of iddah maintenance (Al-Zuhayli, 1989; al-Shāṭibī, 2003). Other studies concentrate on Indonesian positive law, particularly the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), but do not situate it within the ta'abbudi-ta'aqquli conceptual spectrum, even though this categorization is crucial in determining whether a *shari'ah* provision should be understood as rigid or flexible (Mudzhar, 2014).

Several studies on the jurisprudence of Religious Courts merely document the existence of disparities in the amounts awarded for iddah maintenance without formulating theoretical parameters for assessing their adequacy. Other normative legal studies tend to be descriptive in nature and do not sufficiently explore the effective cause ('*illah*) of iddah maintenance, resulting in the inadequate integration of rationality, *maṣlahah*, and socio-economic context into the analysis (Cammack & Feener, 2012). Even studies that employ a *maqāṣid*-based approach generally fail to systematically link it to differences among the classical schools of law, despite the fact that each school's epistemological foundation is key to understanding the ta'abbudi-ta'aqquli spectrum more precisely (Auda, 2008).

Accordingly, there exists a clear academic gap in the absence of a comprehensive methodological framework capable of assessing iddah maintenance holistically through four interrelated dimensions: the ta'abbudi-

ta'aqquli theory in *uṣūl al-fiqh*, the principles of *maqāṣid al-sharī'ah*, comparative analysis of the classical schools of fiqh, and the context of Indonesian positive law as applied in Religious Court practice. This gap constitutes the primary rationale for the present study, which seeks to offer an integrative, systematic, and contextually relevant analysis for both theoretical discourse and judicial practice in determining iddah maintenance.

Based on this scholarly gap, the article is designed to address three main research questions. First, how is iddah maintenance constructed within classical fiqh, including the divergent views of the four Sunni schools and their respective evidentiary bases? Second, should iddah maintenance be more appropriately classified as a ta'abbudi provision that is fixed and immutable, or as a ta'aqquli provision that is rational and adaptable to social conditions? Third, what are the implications of this categorization for the practice of determining iddah maintenance within the Indonesian Religious Court system, particularly with regard to consistency of judgments, the realization of substantive justice, and the protection of women after divorce?

Through this integrative approach, the study is expected to provide both a solid theoretical foundation and practical guidance for judges, academics, and policymakers in understanding and determining iddah maintenance in a manner that is more just, measurable, and aligned with the objectives of Islamic law.

RESEARCH METHOD

This study adopts a normative legal approach (*doctrinal research*), which places legal texts as the primary object of analysis. Law is understood as a system of norms derived from Islamic legal sources, including *sharī'ah* texts, classical fiqh literature, statutory regulations, and judicial decisions. This approach is employed because the focus of the research lies in the theoretical and conceptual analysis of the legal position of iddah maintenance within Islamic law and Indonesian positive law, rather than in the collection of empirical field data (Soekanto & Mamudji, 2006; Marzuki, 2017).

To examine the issue comprehensively, this study applies several approaches in an integrated manner. The statutory approach is used to analyze positive legal norms governing iddah maintenance, particularly Law Number 1 of 1974 on Marriage, the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), and the jurisprudence of Indonesian Religious Courts. This approach provides an overview of the prevailing legal structure and the scope of judicial authority in determining the amount of iddah maintenance (Kompilasi Hukum Islam, 1991; Mertokusumo, 2009).

In addition, a conceptual approach is employed to construct a theoretical framework concerning the concepts of *ta'abbudi* and *ta'aqquli*, *maqāṣid al-sharī'ah*, legal *'illah*, and the principle of *al-ma'rūf*, which constitute the normative foundations for determining maintenance obligations. This approach facilitates an understanding of how Islamic legal norms may be fixed in nature or, alternatively, flexible and adaptive to social conditions (Mudzhar, 2014; Nasution, 2016).

Furthermore, a *maqāṣid al-shari'ah* approach is utilized to assess the extent to which iddah maintenance aligns with the primary objectives of Islamic law, particularly the protection of life, dignity, property, and lineage. Legal reasoning (*istinbāt al-ahkām*) is also applied through *bayānī*, *qiyāsī*, and *istiṣlāhī* methods to explore both the rational foundations and normative limitations of iddah maintenance. To enrich the analysis, historical and comparative approaches are employed, especially in comparing the views of the four Sunni schools of law and examining their relevance to the Indonesian legal context (Rofiq, 2015; Manan, 2006).

The sources of legal materials consist of primary, secondary, and tertiary legal materials. All materials are analyzed using deductive, interpretative, syllogistic, and content analysis methods in order to produce systematic and comprehensive conclusions regarding the legal position of iddah maintenance from the perspectives of fiqh, *maqāṣid al-shari'ah*, and Indonesian positive law.

FINDINGS AND DISCUSSION

Conceptual and Theoretical Framework

The study of iddah maintenance requires a solid theoretical foundation, as this issue lies at the intersection of the normative provisions of Islamic law, the objectives of Islamic law (*maqāṣid al-shari'ah*), and judicial reasoning in contemporary court practice. Iddah maintenance is not merely a post-divorce financial obligation; rather, it reflects how Islamic law positions women in a transitional and vulnerable condition following the dissolution of marriage. Accordingly, an understanding of the concepts of *ta'abbudi* and *ta'aqquli* within *uṣūl al-fiqh* becomes crucial in determining the normative character of iddah maintenance—whether it constitutes a fixed rule closed to rational reasoning or a provision open to social adaptation and considerations of public interest (*maṣlahah*) (Mudzhar, 2014; Rofiq, 2015).

In the classical tradition of *ushul al-fiqh*, Muslim jurists distinguish between *ta'abbudi* and *ta'aqquli* legal rulings. *Ta'abbudi* rulings are understood as legal commands whose effective cause ('illah) cannot be grasped by human reason, rendering obedience to them absolute and independent of rational justification. Al-Ghazālī explicitly states:

الْحُكَمُ التَّعْبُدِيُّ لَا تُعْقَلُ مَعَانِيهَا

"Ta'abbudi rulings are those whose rational causes cannot be comprehended" (Al-Ghazālī, 1997).

Clear examples of *ta'abbudi* rulings include the prescribed number of prayer units, the ritual procedures of pilgrimage, and the waiting period (*iddah*) due to death, which is definitively set at four months and ten days. In this category, the legal text is treated as final and does not permit reinterpretation based on social considerations; consequently, changes in social conditions do not affect the substance or form of the law.

Conversely, *ta'aqquli* rulings are legal provisions built upon rational causes and objectives of public welfare that can be apprehended by human reason. Such rulings are dynamic and contextual, allowing adjustment in

response to changes in time, place, and socio-economic conditions. Al-Shāṭibī firmly asserts:

الشريعة إنما وضعت لتحقيق المصالح

"The Sharī'ah was instituted solely for the realization of human welfare" (al-Shāṭibī, 2003).

Within this category, *mu'amalat* including family law and maintenance—constitute a primary domain for *ijtihād* and legal reasoning. Although maintenance obligations are grounded in scriptural texts, they are inseparable from rational considerations of human needs, financial capacity, and socially recognized standards of adequacy. Thus, *mu'amalāt* law is not understood as a static norm, but as an instrument for protecting evolving human interests (Nasution, 2016).

This raises a fundamental conceptual question: where does iddah maintenance fall within the *ta'abbudi-ta'aqquli* spectrum? Addressing this question requires moving beyond a purely textual reading of legal sources toward a *maqāṣid al-sharī'ah* approach. Ibn 'Āshūr emphasizes that family law constitutes one of the legal fields most closely connected to *maqāṣid*, as it directly concerns the protection of human dignity, social stability, and generational continuity (Ibn 'Āshūr, 2006).

In the context of iddah maintenance, its connection with *maqāṣid* is evident. The obligation serves to protect *hifz al-nafs* by ensuring the fulfillment of basic needs for women after divorce; to safeguard *hifz al-'ird* by preventing social marginalization and humiliation; to protect *hifz al-māl* through the recognition of women's economic rights; and to preserve *hifz al-nasl* by maintaining stability until the woman's pregnancy status is clarified. Accordingly, although the obligation of iddah maintenance originates from scriptural texts, its rational and welfare-oriented dimensions are highly prominent, particularly in its implementation and the determination of its amount (Manan, 2006).

The Qur'anic concept of *al-ma'ruf* further reinforces the *ta'aqquli* character of iddah maintenance. Allah the Exalted states in Qur'an, al-Baqarah [2]: 241:

وَعَلَى الْمُطَّلَّقَاتِ مَنْعَ بِالْمَعْرُوفِ حَفَّا عَلَى الْمُنْكَرِ

"For divorced women is a provision according to what is customary (*bi al-ma'ruf*), an obligation upon the righteous." Qur'an, al-Baqarah [2]: 241.

This verse indicates that post-divorce maintenance is not numerically fixed by the Sharī'ah, but rather entrusted to the principle of *ma'rūf*, namely socially recognized standards of fairness. Classical exegetes such as al-Qurṭubī explain that *ma'rūf* requires consideration of the husband's financial capacity, the wife's reasonable needs, and prevailing local customs (al-Qurṭubī, 2006). Consequently, the amount of iddah maintenance is inherently elastic and context-dependent.

Meanwhile, classical fiqh discussions on iddah maintenance reveal significant diversity among jurists. Addressed primarily in the chapters on *al-nafaqāt* and *al-ṭalāq*, debates revolve around two main issues: whether iddah maintenance is obligatory only in revocable divorce (*ṭalaq raj'i*) or also in irrevocable divorce (*ṭalaq ba'in*), and whether it applies to non-pregnant women. These differences reflect epistemological divergences in interpreting legal texts

between a textual (*bayani*) approach that tends to classify iddah maintenance as *ta'abbudi*, and a rational-teleological (*ta'lili* and *istislahi*) approach that understands it as *ta'aqquli*.

Accordingly, this conceptual framework affirms that debates surrounding iddah maintenance are not merely technical differences in fiqh, but rather reflect deeper divergences in understanding the nature of Islamic law itself. An analysis of the views of the classical legal schools in the subsequent section therefore becomes essential to determine whether iddah maintenance should be treated as a fixed normative rule or as a welfare-based norm requiring contextual judicial reasoning within Religious Court practice in Indonesia.

Classical Fiqh Analysis on Iddah Maintenance

An analysis of classical fiqh reveals that the differences among the four Sunni *mazhab* regarding iddah maintenance do not merely represent divergent legal opinions, but rather reflect fundamental methodological differences in interpreting scriptural texts (*nass*), identifying the effective cause ('*illah*) of legal rulings, and balancing textual literalism with the objectives of public welfare (*maslahah*). These differences therefore constitute a crucial entry point for determining whether iddah maintenance should be positioned as a *ta'abbudi* rule strictly bound to the text or as a *ta'aqquli* rule that allows broader space for rational reasoning and socio-economic considerations (Rofiq, 2015; Nasution, 2016).

1. Mazhab Hanafi

The Hanafi *mazhab* is the most expansive in extending the obligation of iddah maintenance, applying it to both revocable (*talāq raj'i*) and irrevocable (*talāq bā'in*) divorce, and to women who are pregnant as well as those who are not. This position is not merely the result of a textual reading of iddah-related verses, but rather reflects the Hanafi methodological tendency to prioritize public welfare, social stability, and the protection of vulnerable parties within family law (Mudzhar, 2014). Al-Kasani states in *Bada'i' al-Sana'i'*:

لِلْمُطَلَّقَةِ الْبَائِنِ النَّقْعَةُ وَالسُّكْنَى إِذَا كَانَتْ حَامِلاً

"An irrevocably divorced woman is entitled to maintenance and residence if she is pregnant." (al-Kasani, 2005)

For the Hanafi *mazhab*, pregnancy constitutes an effective legal cause ('*illah*) that cannot be negated by the form of divorce. Beyond this, Hanafi jurists also maintain that non-pregnant women may still be entitled to iddah maintenance when the absence of such support would expose them to economic vulnerability. This reasoning consistently demonstrates a *ta'aqquli* orientation: the scriptural text serves as a moral foundation, while its application is shaped by social realities. By extending iddah maintenance to cases of irrevocable divorce, the Hanafi *mazhab* seeks to prevent structural injustice that would contradict the *maqāṣid al-shari'ah*, particularly the protection of life (*hifz al-nafs*) and property (*hifz al-māl*) (Manan, 2006).

2. Mazhab Maliki

The Maliki *mazhab* adopts a position largely parallel to that of the Hanafi *mazhab*, albeit grounded in a distinct methodological framework. While the

Hanafi *mazhab* relies heavily on *qiyās* and *istihsān*, the Maliki *mazhab* emphasizes *maṣlaḥah mursalah*, namely considerations of public interest that are not explicitly regulated by textual evidence but remain consistent with the objectives of the Shari'ah (Rofiq, 2015). The text of *al-Mudawwanah* states:

وتجب النفقة والسكنى للمطلقة إذا كانت حاملاً، لا فرق بين الرجعية والبائن

"Maintenance and residence are obligatory for a divorced woman if she is pregnant, without distinction between revocable and irrevocable divorce."
(Sahnun, 2004)

This formulation indicates that the Maliki *mazhab* imposes iddah maintenance on pregnant women regardless of the form of divorce. Moreover, in certain cases involving non-pregnant women, Maliki jurists tend to uphold the obligation of iddah maintenance when the divorce is not attributable to the wife's misconduct. Such reasoning reflects the Maliki view that Islamic law does not intend to place women in a structurally disadvantaged position after divorce (Nasution, 2016).

The methodological strength of the Maliki *mazhab* lies in its refusal to absolutize the hadist of Fāṭimah bint Qays. Instead, the hadist is understood as a contextual and particular case rather than a universally binding rule. Accordingly, iddah maintenance is viewed as part of *tadbīr al-usrah* (family governance), in which considerations of welfare outweigh rigid textualism. Collectively, these arguments strongly support the characterization of iddah maintenance as a substantively *ta'aqquli* legal norm.

3. Mazhab Shafi'i

The Shafi'i *mazhab* adopts the most restrictive position regarding iddah maintenance. It firmly relies on the hadist of Fāṭimah bint Qays:

ليس للمبتوة نفقة ولا سكنى إلا أن تكون حاملاً

"An irrevocably divorced woman has no right to maintenance or residence unless she is pregnant." (Muslim, n.d.)

This hadist is interpreted by the Shafi'i *mazhab* as a general and binding legal principle. Such an interpretation is consistent with the broader epistemological orientation of the Shafi'i *mazhab*, which places primary emphasis on textual authority (*naṣḥiyah*) and limits the scope of expansive rationalization based on public interest (*istiṣlāh*) (Mudzhar, 2014).

For the Shafi'i *mazhab*, an irrevocable divorce terminates the marital relationship entirely, thereby nullifying the obligation of maintenance except where pregnancy establishes an independent legal cause related to lineage. Within this framework, iddah maintenance is treated as a *ta'abbudi* rule that strictly adheres to the literal wording of the text, leaving minimal room for contextual interpretation. From the Shafi'i perspective, legal certainty and fidelity to the text take precedence over considerations of public welfare. Although often perceived as rigid, this position is epistemologically coherent and represents an essential dimension of Islamic legal thought (Rofiq, 2015).

4. Mazhab Hanbali

The Hanbali *mazhab* occupies an intermediate position between the textual rigidity of the Shafi'i *mazhab* and the more rationalist approaches of the Hanafi and Maliki *mazhab*. While accepting the literal meaning of the hadist of Fāṭimah

bint Qays, Hanbali jurists do not disregard clear rational causes such as pregnancy. Ibn Qudāmah states in *al-Mughni*:

نفقة للمبتوة إلا أن تكون حاملاً، فلهذا وجبت نفقتها

"There is no maintenance for an irrevocably divorced woman unless she is pregnant; for that reason, maintenance becomes obligatory." (Ibn Qudāmah, 2006)

This statement indicates that, for the Hanbali *mazhab*, pregnancy constitutes a decisive '*illah*' necessitating the obligation of iddah maintenance, even in cases of irrevocable divorce. Accordingly, the Hanbali approach integrates *ta'abbudi* elements in defining legal boundaries while simultaneously acknowledging *ta'aqquli* considerations in circumstances requiring the protection of women and unborn children.

Comparative Analysis within the Ta'abbudi and Ta'aqquli Spectrum

From an epistemological perspective, the divergent views of the fiqh *mazhab* on iddah maintenance fundamentally stem from differing paradigms in understanding the relationship between scriptural texts (*naṣṣ*) and the objectives of Islamic law (*maqāṣid al-shari'ah*). The Hanafi and Maliki *mazhab* consistently position iddah maintenance as a rule that is predominantly *ta'aqquli*, insofar as the obligation is not understood merely as textual compliance, but rather as a legal instrument aimed at protecting women in the post-divorce phase. Within the epistemological construction of these two *mazhab*, the *Shari'ah* text serves as a normative starting point that must be read in conjunction with social realities, women's potential economic vulnerability, and the broader social consequences of divorce (Rofiq, 2015; Nasution, 2016).

This approach demonstrates that, for the Hanafi and Maliki *mazhab*, family law—including iddah maintenance cannot be detached from considerations of public welfare (*maṣlahah*) and the objectives of protection, particularly the preservation of life (*hifẓ al-nafs*) and property (*hifẓ al-māl*). Consequently, rigid limitations on the obligation of maintenance based solely on the form of divorce are viewed as potentially generating substantive injustice. In other words, within the *ta'aqquli* paradigm, social justice is treated as an inherent value embedded within legal interpretation, rather than as an external consideration detached from the scriptural text (Mudzhar, 2014).

By contrast, the Shafi'i and Hanbali *mazhab* are more closely aligned with a *ta'abbudi* approach, as they rely heavily on the hadist of Fātimah bint Qays as the primary benchmark for determining the existence of an obligation to provide iddah maintenance. From this perspective, legal legitimacy is derived primarily from the clarity of the textual formulation, while considerations of public welfare are accorded a more limited role. The Shafi'i *mazhab*, in particular, holds that an irrevocable divorce (*talāq bā'in*) completely terminates the legal marital relationship, rendering the obligation of maintenance irrelevant unless an explicit '*illah*'—namely pregnancy—is present. This approach reflects an epistemological orientation that prioritizes legal certainty and textual consistency, even at the expense of contextual flexibility (Rofiq, 2015).

The Hanbali *mazhab* occupies an intermediate or middle position. While accepting the textual boundaries established by the hadist, Hanbali jurists nonetheless recognize strong rational causes such as pregnancy as a basis for imposing the obligation of iddah maintenance. This position indicates that the Hanbali *mazhab* does not entirely foreclose the space for *ta'aqquli* reasoning, but rather confines it to conditions that are explicitly acknowledged by the text. Accordingly, the Hanbali approach combines adherence to scriptural authority (*ta'abbudi*) with limited recognition of substantive protective needs (*ta'aqquli*) (Manan, 2006).

These epistemological differences ultimately reflect divergent understandings of the objectives of the *Shari'ah* itself: whether Islamic law is to be understood primarily as a system of textual norms that must be followed literally, or as a value-oriented legal system aimed at realizing justice and social welfare. In this regard, the Hanafi and Maliki *mazhab* are more closely aligned with a *maqāṣid*-oriented paradigm, whereas the Shafi'i and Hanbali *mazhab* place greater emphasis on text-oriented reasoning (Mudzhar, 2014; Nasution, 2016).

This comparative framework provides an essential foundation for assessing the legal position of iddah maintenance within the Indonesian context. The Islamic family law system in Indonesia particularly as reflected in the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI) and the practice of the Religious Courts does not adhere exclusively to a single *mazhab*, but rather adopts an eclectic approach that emphasizes public welfare and substantive justice. The obligation of iddah maintenance under Article 149(b) of the KHI, which does not rigidly distinguish between revocable and irrevocable divorce and does not prescribe a fixed nominal amount, indicates a clear tendency within Indonesian positive law to adopt a *ta'aqquli* paradigm akin to that of the Hanafi and Maliki *mazhab* (Manan, 2006; Rofiq, 2015).

Accordingly, from an epistemological standpoint, it can be affirmed that the practice of determining iddah maintenance in Indonesia possesses strong legitimacy to be developed within a *ta'aqquli* framework grounded in *maqāṣid al-shari'ah*. Such an approach not only aligns with the objective of protecting women after divorce, but also provides judges with rational space to assess the husband's financial capacity, the wife's reasonable needs, and the prevailing socio economic context in a proportional and equitable manner.

Analysis of Scriptural Evidence and Shari'ah Foundations

The discussion of iddah maintenance cannot be separated from an in-depth analysis of the *Shari'ah* evidences that constitute the foundation of Islamic family law. The Qur'an, the Prophetic traditions, and classical juristic interpretations not only establish the normative basis of the obligation to provide iddah maintenance, but also open a space for rational legal reasoning to assess the extent to which this obligation is *ta'abbudi*—that is, directly derived from binding scriptural texts or *ta'aqquli*, namely a rule that may be analyzed through legal causes ('illah) and considerations of public welfare (*maṣlahah*) and is therefore adaptable to social dynamics. Through this approach, it becomes evident that iddah maintenance possesses a dual character: its legal obligation is

fixed on the basis of scriptural authority, while its implementation and amount remain elastic and are determined through rational assessment.

The Qur'an provides the clearest legal legitimacy for the obligation of iddah maintenance, particularly through QS. al-Ṭalaq [65]: 6:

أَسْكُنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجُودُكُمْ

"Provide housing for them where you reside, according to your means."

This verse combines an imperative command with a principle of flexibility. The phrase *askinūhunna* affirms a non-negotiable legal obligation, whereas the clause *min wujdikum* entrusts the form and extent of fulfillment to the husband's financial capacity. Ibn Kathīr explains that this phrase means '*alā qadr tāqatikum* (in accordance with the extent of your ability), indicating that the scriptural text deliberately refrains from prescribing a fixed quantitative standard (Ibn Kathīr, 2000). This demonstrates that while the obligation of iddah maintenance is *ta'abbudi* in nature, its nominal value and practical implementation fall within the *ta'aqquli* domain because they are directly linked to the factual circumstances of the parties.

Another relevant verse is QS. al-Baqarah [2]: 241:

وَعَلَى الْمُطَّافَقَاتِ مَنَاعَ بِالْمَعْرُوفِ

"For divorced women there is provision according to what is customary (bi al-ma'ruf)."

This verse regulates the obligation of *mut'ah* as a form of respect and protection for women after divorce. Although *mut'ah* and iddah maintenance are not entirely identical, both are grounded in the same principle of safeguarding women's economic security and dignity. Al-Qurtubī emphasizes that the standard of *ma'rūf* is relative, depending on local custom, social conditions, and the financial capacity of the obligated party (al-Qurtubī, 2006). The emphasis on *ma'rūf* clearly indicates that Sharī'ah explicitly allows rational legal reasoning in determining post-divorce financial obligations, thereby reinforcing the *ta'aqquli* character of its implementation.

Furthermore, QS. al-Ṭalaq [65]: 6 explicitly establishes the obligation of maintenance for pregnant women:

وَإِنْ كَنَّ أُولَاتٍ حَمِلْ فَأَنْفُوا عَلَيْهِنَّ حَتَّى يَضْعَفْ حَمْلُهُنَّ

"If they are pregnant, then spend on them until they give birth."

This verse imposes the obligation of maintenance without distinguishing between revocable (*raj'i*) and irrevocable (*bā'in*) divorce. The '*illah* explicitly stated by the text is the presence of pregnancy, which is definitive and cannot be negated by any other consideration. Accordingly, the obligation in this context is *ta'abbudi*. Nevertheless, the Qur'an still does not specify the amount or form of maintenance, leaving its implementation within the realm of *ta'aqquli* reasoning.

The hadist of Fātimah bint Qays constitutes the central point of juristic debate concerning iddah maintenance in cases of irrevocable divorce. In a narration reported by Muslim, the Prophet ﷺ stated:

لَيْسَ لَكُمْ نَفَقَةٌ وَلَا سَكَنَى

"You are not entitled to maintenance or housing."

Textually, this hadist negates the obligation of maintenance and housing for a woman who has been divorced irrevocably. However, the historical context of this narration is highly specific: Fātimah was divorced three times, her former husband was in financial difficulty, and security considerations prevented her from remaining in her former marital residence. For this reason, the Hanafi and Maliki *mazhab* regard the hadist as casuistic rather than a universal norm. Abū Ḥanīfah rejected its application as a general legal rule because it conflicts with analogical reasoning (*qiyās*) and potentially leads to the neglect of women during a vulnerable period (al-Kāsānī, 1986). Similarly, Imam Mālik considered that the hadist could not override broader considerations of public welfare in family law (Mālik, 1994). By contrast, the Shafi'i and Hanbali *mazhab* interpret the hadist literally and use it as the basis for restricting the obligation of iddah maintenance in cases of irrevocable divorce, except where pregnancy is present. This divergence illustrates how the same scriptural evidence may generate different legal constructions depending on whether *ta'abbudi* or *ta'aqquli* reasoning is prioritized.

Classical Qur'anic exegesis further reinforces the rational dimension of iddah maintenance. Al-Qurṭubi states:

النَّفَقَةُ وَالسُّكُنُى وَاجِبَةٌ لِلمُطَلَّقَةِ فِي الْعِدَّةِ لِحَقِّ الْوَلَدِ وَلِحَاجَتِهَا

"Maintenance and housing are obligatory for a divorced woman during her iddah due to the right of the child and her own need."

This statement highlights the dual 'illah of iddah maintenance: the protection of women and the safeguarding of children's rights (al-Qurṭubi, 2006). Fakhr al-Dīn al-Rāzī likewise emphasizes that the concept of *ma'rūf* in verses concerning maintenance requires judges to consider the husband's economic capacity and the wife's objective needs, thereby prohibiting a mechanical or uniform determination of maintenance amounts (al-Rāzī, 2004). Classical *tafsīr* thus strengthens the conclusion that Shari'ah does not intend to standardize the nominal value of iddah maintenance.

Overall, the Shari'ah evidences reveal a hybrid legal structure of iddah maintenance. The obligation itself is binding in a *ta'abbudi* sense because it is directly grounded in scriptural texts, yet its amount and mode of implementation are *ta'aqquli*, as they are determined through considerations of public welfare, customary standards (*ma'rūf*), and the concrete circumstances of the parties involved. Consequently, iddah maintenance should not be understood as a rigid ritual rule, but rather as an instrument of social protection. The logical implication is that judges of the Religious Courts are required to integrate scriptural authority, the principles of *maqāṣid al-shari'ah*, social standards of fairness, and economic realities when determining iddah maintenance in a proportional manner that ensures substantive justice.

Implementation of Iddah Maintenance within Indonesia's Positive Legal System and the Practice of the Religious Courts

The issue of iddah maintenance becomes more concrete when examined within the framework of Indonesia's positive legal system. As a country

characterized by legal pluralism, Indonesia accommodates Islamic law in the sphere of family law through the Religious Courts. Consequently, classical fiqh norms are not applied mechanically, but rather through a process of judicial interpretation that takes into account social context, legal objectives, and considerations of justice. Therefore, understanding how the concept of iddah maintenance in classical fiqh is integrated into the structure of positive law constitutes an essential step toward formulating a normative framework that is fair, proportional, and practically applicable for judges of the Religious Courts. The relationship between fiqh, *maqāṣid al-shari'ah*, and positive law can be traced through an analysis of statutory regulations and judicial practice (Manan, 2006; Rofiq, 2015).

At the regulatory level, Law No. 1 of 1974 on Marriage and its implementing regulations do not provide detailed provisions regarding iddah maintenance. More explicit regulation is instead found in the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which functions as the substantive law of the Religious Courts. Article 149(b) of the KHI stipulates that in the case of a revocable divorce (*talāq raj'i*), the former husband is obliged to provide maintenance, housing, and clothing to the former wife during the iddah period, provided that the wife is not proven to be *nushūz* (Kompilasi Hukum Islam, 1991). However, the KHI does not expressly regulate the obligation of iddah maintenance in cases of irrevocable divorce (*talāq bā'in*), except implicitly for pregnant wives as stipulated in Article 156(c).

This normative construction indicates that the KHI is structurally closer to the Shafi'i *mazhab*, which limits the obligation of iddah maintenance to revocable divorce and pregnancy (Rofiq, 2015). Nevertheless, the absence of detailed provisions concerning the amount, standards of adequacy, and parameters of need suggests that the drafters of the KHI deliberately opened a space for judicial *ijtihād*. In this sense, the KHI should not be understood as a rigid codification of fiqh, but rather as an open normative framework that allows the application of principles of *maṣlaḥah* and *al-ma'rūf* in accordance with social development (Manan, 2006).

At the practical level, the Religious Courts as institutions exercising judicial authority are confronted with highly diverse divorce cases that cannot always be resolved through a purely textual approach. Accordingly, judicial decisions play a strategic role in shaping the legal landscape of iddah maintenance in Indonesia. A number of court decisions demonstrate that judges tend to prioritize substantive justice rather than rigid adherence to a single *mazhab*. This tendency is reflected in judicial practices that determine iddah maintenance by considering the husband's financial capacity, the wife's reasonable needs, local living standards, and the socio-economic conditions of the parties (Mudzhar, 2014).

In several cases, judges have even awarded iddah maintenance in instances of irrevocable divorce, despite the absence of an explicit obligation in the KHI. Such considerations generally arise when the wife is in a vulnerable position, lacks a stable source of income, or bears responsibility for dependent

children. This approach indicates that judges do not treat the KHI as the upper limit of legal reasoning, but rather as a starting point that can be further developed through *ijtihād* grounded in considerations of public welfare (*maṣlahah*) (Nasution, 2016).

An analysis of judicial reasoning in Religious Court decisions reveals that *maqāṣid al-shari'ah* frequently function as an implicit foundation for determining iddah maintenance. Judges often emphasize the importance of protecting women after divorce as parties who are structurally more vulnerable. This reasoning aligns with *maqāṣid*-based principles such as the protection of life (*hifz al-nafs*), the protection of dignity (*hifz al-'ird*), and the protection of property rights (*hifz al-māl*) (Mudzhar, 2014). In several decisions, iddah maintenance has even been employed as a corrective instrument to prevent gender-based injustice, an approach consistent with contemporary developments in family law that prioritize the protection of women's rights.

The relevance of classical fiqh in Indonesian legal practice is evident in the manner in which judges combine perspectives from different *mazhab*. While the Shafi'i *mazhab* offers relatively strict limitations, the Hanafi and Maliki *mazhab* provide more flexible and socially responsive approaches. In practice, judges of the Religious Courts frequently adopt a position closer to the principle of *maṣlahah* as articulated by the Hanafi and Maliki *mazhab*, particularly in cases involving pregnant women, women without independent income, or economically capable husbands. This practice demonstrates the functional use of *takhayyur* and *talfiq* to achieve substantive justice (Manan, 2006; Rofiq, 2015).

Further developments can be observed in appellate decisions of the Religious High Courts. In several cases, judicial panels have not only referred to the KHI, but also considered theories of human needs (*darūriyyāt*, *hājiyyāt*, and *taḥsīniyyāt*), the principle of *al-ma'rūf*, and local living cost standards. Some decisions explicitly state that the amount of iddah maintenance must reflect the actual cost of living in the locality where the parties reside (Nasution, 2016). This approach strengthens the *ta'aqquli* character of iddah maintenance, as its determination is based on an analysis of concrete circumstances rather than fixed, universal figures.

Nevertheless, judicial practice also reveals the persistence of decisions that apply a strictly textual approach, particularly in cases of irrevocable divorce. In such decisions, judges deny iddah maintenance by referring to the hadith of Fāṭimah bint Qays and Article 149 of the KHI. This approach positions iddah maintenance as a *ta'abbudi* rule that cannot be extended through considerations of public welfare. However, this tendency has gradually diminished alongside growing judicial awareness that the function of the Religious Courts is not merely to ensure legal certainty, but also to guarantee social and economic protection for women as the parties most affected by divorce (Mudzhar, 2014).

Within the broader context of harmonizing Islamic law and Indonesia's positive legal system, judicial practice demonstrates that iddah maintenance possesses a hybrid character. Its obligation is *ta'abbudi* in nature, as it is derived from scriptural texts and recognized by national law, while its implementation is

ta'aqquli, as it is determined through rational considerations, factual circumstances, and objectives of public welfare. Classical fiqh norms are not treated as rigid minimum or maximum limits, but rather as an epistemological framework guiding legal reasoning. Judges then adapt this framework to the realities of litigation and the demands of substantive justice.

These developments indicate that Indonesian positive law is moving toward a *maqāṣid*-oriented judiciary, namely a judicial model that places the objectives of *Shari'ah* and substantive justice at the center of legal reasoning. Such an approach enables the Religious Courts to be more responsive to the needs of women after divorce, while simultaneously ensuring that classical fiqh continues to function as a moral and normative foundation within Indonesia's Islamic family law system.

CONCLUSION

Based on the foregoing analysis, it can be firmly asserted that the problem of iddah maintenance does not merely lie in normative differences or in the absence of explicit provisions regarding its nominal amount within Indonesia's positive law. Rather, the core issue concerns the lack of a comprehensive epistemological framework for understanding the legal nature of iddah maintenance itself. When iddah maintenance is understood in a partial manner—either solely as a text-based normative obligation or, conversely, as a fully discretionary and context-dependent policy judicial disparity and legal uncertainty become inevitable. Accordingly, the integration of the *ta'abbudi ta'aqquli* theoretical framework, *maqāṣid al-shari'ah*, classical fiqh differences among the *mazhab*, and the practice of Indonesia's Religious Courts constitutes a methodological prerequisite for a proportional and coherent understanding of iddah maintenance (Manan, 2006; Mudzhar, 2014).

The integrative framework developed in this article positions iddah maintenance as a *Shari'ah*-based obligation that is *ta'abbudi* at the existential level, insofar as it is directly grounded in the Qur'an and the Prophetic traditions, yet *ta'aqquli* at the level of implementation, particularly with respect to determining its form and amount. This conceptualization serves to mediate the inherent tension between legal certainty and substantive justice in the practice of the Religious Courts. By acknowledging both the binding nature of scriptural authority and the necessity of rational, context-sensitive assessment, this framework enables a more balanced judicial approach to iddah maintenance (Rofiq, 2015; Nasution, 2016).

Consequently, these findings provide a solid conceptual foundation for formulating the conclusions of this study. They affirm the position of iddah maintenance within the broader construction of Islamic law and clarify its implications for judicial practice in Indonesia. More importantly, this approach supports the development of a model for determining iddah maintenance that is fair, consistent, and oriented toward the protection of women as the most vulnerable parties in the aftermath of divorce within Indonesia's Islamic judicial system (Mudzhar, 2014).

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