

THE FORM OF 'IDAH AND ITS LAWS ACCORDING TO THE ISLAMIC PERSPECTIVE

A FORMA DE 'IDAH E SUAS LEIS DE ACORDO COM A PERSPECTIVA ISLÂMICA

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understanding the basis of the 'idah implementation without taking for granted at the purpose of its shari'at.

Keywords: Iddah. Law. Islamic Perspective. Women.

Abstract: Every marriage that is dissolved either because of divorce or the death of a spouse, it is obligatory for the wife involved to undergo a period called 'idah. The provision of this 'idah period contains several objectives to ensure that women's welfare is protected throughout the period as well as to fulfil the maqasid of sharia in general. Thus, the change of times and the lifestyle of women nowadays who focus less on the implementation of 'idah has caused confusion among Muslims, especially women in the implementation of 'idah based on the findings of previous studies. This study was conducted to provide a knowledge and understanding about the basis of the 'idah implementation in terms of the variety forms of 'idah duration so that it can be well understood by the community. This is important in ensuring that Islamic Shari'a is well be preserved and overcome problems in family institutions as a result of urbanization. Through a qualitative approach, this study utilizes secondary sources such as scriptures, previous studies and related books. The use of document analysis method is applied in analyzing the content at the same time producing a formulation that coincides with the goal of the study. The debate about the period of 'idah and the laws of its implementation is a form of knowledge that should be mastered by every Muslim, especially in Malaysia. Without a good understanding, the implementation of 'idah outlined in Islam has the potential to be practiced without fulfilling the requirements of syariah. Thus, this study is expected to help the community, especially women, in better

Resumo: Todo casamento que é dissolvido por divórcio ou morte do cônjuge, é obrigatório que a esposa envolvida passe por um período denominado 'idah. A provisão deste período 'idah contém vários objectivos para garantir que o bem-estar das mulheres seja protegido durante todo o período, bem como para cumprir o maqasid da sharia em geral. Assim, a mudança dos tempos e do estilo de vida das mulheres hoje em dia que se concentram menos na implementação do 'idah tem causado confusão entre os muçulmanos, especialmente as mulheres na implementação do 'idah com base nas conclusões de estudos anteriores. Este estudo foi realizado para fornecer conhecimento e compreensão sobre a base da implementação do 'idah em termos das diversas formas de duração do 'idah, para que possa ser bem compreendido pela comunidade. Isto é importante para garantir que a Sharia Islâmica seja bem preservada e supere os problemas nas instituições familiares como resultado da urbanização. Através de uma abordagem qualitativa, este estudo utiliza fontes secundárias, como escrituras, estudos anteriores e livros relacionados. A utilização do método de análise documental é aplicada na análise do conteúdo ao mesmo tempo em que produz uma formulação que coincide com o objetivo do estudo. O debate sobre o período de 'idah e as leis da sua implementação é uma forma de conhecimento que deve ser dominada por todos os muçulmanos, especialmente na Malásia. Sem uma boa compreensão, a implementação da 'idah delineada no Islão tem o potencial de ser praticada sem cumprir os requisitos da syariah. Assim, espera-se que este estudo ajude a comunidade, especialmente as mulheres, a compreender melhor a base da implementação do 'idah sem tomar como certo o propósito da sua shariat.

Palavras-chave: Iddah. Lei. Perspectiva islâmica. Mulheres.

1. Introduction

Marriage is a bond with lifelong commitment to a partner and is considered to be the longest form of worship in a Muslim's life. However, Islam also provides an alternative or method that allows a family institution to be dissolved when the goal of marriage is no longer able to be fulfilled through divorce. There are also marriages that end naturally when a partner either husband or wife dies. The fact is, dissolution of marriage through divorce has now become a common practice among Muslims compared to marriages that end due to the death of the spouse. Statistics on the number of divorces in Malaysia in 2019 and 2020 are recorded to be up to 83,355 cases (Department of Statistics Malaysia, 2021) in addition to the increase in the number of divorce cases registered every year.

Marriage stipulations not only include the commitment in marriage but also include the responsibilities of each party after the dissolution of marriage. The implications of every form of marriage dissolution will oblige the wife to go through a phase known as the 'idah period in fulfilling the obligation of a wife after divorce or the death of her husband. The duration of the implementation is different according to the type of divorce and the

condition of the wife when the marriage bond is dissolved, whether she has had intercourse or not, is pregnant or otherwise and is still menstruating or has stopped menstruating. This is because in addition to the general objective of 'idah which aims to ensure the purity of the woman's womb from the husband's seed, it also has some more specific objectives based on the type of separation that occurs.

The rule of 'idah is not a new thing but has been practiced since the Jahiliyyah era with a little refinement after being legislated and adapted by the Islamic religion. The practice of 'idah is a form of worship prescribed by Allah through the evidence of the Qur'an, hadith and consensus. According to the term, 'idah is a term for the condition of women who are prohibited to marry as a sign of a servant's devotion to his Creator in addition to the period of mourning and sadness over the death of her husband (al-Khin et al., 2012). From psychological perspective, the ending of a significant relationship is one of the things that can cause sadness. Thus, the implementation of this prescribed 'idah can help the wife in adapting to a new life after separation in addition to managing the grief from the loss (Subramaniam & Ghazali, 2010). Indirectly, the implementation of 'idah and its legal implications is an important matter in preserving the welfare of the divorced wife and the death of the husband during the 'idah period.

2. Period of 'idah according to the condition of the wife

The shari'a regarding the stipulation of 'idah can be clearly seen through several proofs in the Quran and the Prophet's hadith. Every argument that stipulates about 'idah is also accompanied by the condition of women at the end of marriage and the period of 'idah that needs to be lived as a guide for Muslims in implementing this order (Abdullah et al., 2014). There are three different periods of 'idah based on the type of 'idah and the condition of the wife which is three *quru'*, three months, four months and ten days and until giving birth.

TYPE OF 'IDAH	STATUS OF THE WIFE	PERIOD OF 'IDAH
'idah of divorce	Not pregnant	Three quru' (Three holy times)
	Conceived	Until giving birth
	Menopause	Three months
	Not having intercourse	No 'idah
'idah of death	Not pregnant	4 months 10 days
	Conceived	Until giving birth

	Menopause	4 months 10 days
	Not having intercourse	4 months 10 days

Table 1: Summary of the 'Idah Period Based on the Type of 'idah and the Status of the Wife

2.1 Period of Three Quru' (Three Times Holy)

Al-quru' is a popular name used among popular scholars compared to the name *qurumwu* used by Imam Nafi' using *tasydid* on the letter waw without the hamzah (قرو) (al-Asqalani, 1991; al-Syirbini, 2006). The agreement to set the period of 'idah with quru' counting is a sariyat based on surah al-Baqarah verse 228. However, there is disagreement among scholars regarding the interpretation of *quru'* considering that it can carry several opposite meanings, namely holy or menstruation (al-Syirbini, 2006) as well as gathering and uniting (al-Asqalani, 1991). There is also an opinion that mentions that the true meaning of *al-quru'* is clean, while menstruation is the meaning of majaz and vice versa (al-Syirbini, 2006). The use of the word quru' with the meaning of menstruation can be seen through surah al-Talaq verse 1 which means "So you should divorce them when they can (face) their 'idah (properly)" (Ibn Katsir, 1987; al-Syirbini, 2006). This matter is also narrated by Ikrimah and al-'Amasy based on the surah al-Talaq with the conclusion that the word 'idah means holy, while quru' means menstruation (Ibn Katsir, 1987). It can also be understood through the hadith of Abu Daud and an-Nasai who mention the need to leave prayer on the days of menstruation as follows:

دعي الصلاة أيام أفرائك

Meaning: "Leave prayer during your period"

(HR. Abu Daud, no. 282; an-Nasai, no. 212)

If it seen from the perspective of the schools, the schools of Hanafi and Hanbali determine the calculation of the period of 'idah based on the calculation of menstruation period by relying on the meaning of *quru'* to menstruation since the menstruation is one of the methods in proving the purity of a woman's womb (al-Juzairi, 1990; al-Zuhayli, 2004). While the Syafi'i and Maliki schools determine the count of quru' by referring to the sacred period of a woman (al-Juzairi, 1990; al-Zuhayli, 2004) based on verse 1 of surah al-Talaq textually which orders divorce by talaq to be performed when wife in a pure state to facilitate

the process of 'idah calculation (al-Zuhaili, 2004). A critical debate in justifying the use of menstruation for the word *quru'* will cause the period of a woman's 'idah to be long when compared to the shorter period of 'idah based on the sacred meaning of the word (Zainuddin, 2016). However, the implementation of 'idah type *quru'* based on the meaning of menstruation is seen as a more cautious approach in fulfilling the maqasid of the Islamic law (Zainuddin, 2016).

But then, if it seen from the implementatio, if a woman is divorced in a pure state and there are still a few days left, then the remaining pure period will be counted as one *quru'* and her 'idah will end after the third menstrual period from the time of divorce. This is a reference to surah al-Baqarah verse 196 which means: "The Hajj season is a number of months that are understood", which means two months and a small part of the third month. As for if the woman is divorced at the end of her sacred period, then her 'idah will only end after her fourth period. In this matter, there is an opinion that requires the passage of a period of one day and one night in the mentioned third and fourth menstrual cycle to ensure that the minimum requirement of menstruation is met. This means that if the blood that comes out stops before the end of the day and night and does not come out again for the next fifteen days, then the 'idah is not considered complete (al-Syirbini, 2006).

2.2 Period of three months

According to some narrations, the shari'at about 'idah for girls and menopausal women came after a question related to 'idah was asked to the Prophet S.A.W. by some friends such as Ubai bin Ka'ab, Khalad bin Nu'man and Muaz bin Jabal (al-Qurtubi, 2010). In this regard, imam al-Asqalani (1991) began the debate on the month-type 'idah for women who have never menstruated or who have stopped menstruating with atsar Mujahid as follows:

قال مجاهد إن لم تعلموا يحضن أو لا يحضن، واللآني قعدن عن المحيض واللآني لم يحضن فعدتھن
ثلاثة أشهر

Meaning: Mujahid said: "If you do not know whether they are menstruating or not. And women who have stopped menstruating (menopause) and who have not menstruated, then their 'idah period is three months.

Imam al-Syirbini (2006) also stated that the period of 'idah for women who have never menstruated either because they are still young or otherwise, even though they have given birth or experienced nifas and those who have stopped menstruating is three Hijri months. Sheikh Wahbah al-Zuhaily (2004) mentions that girls can menstruate as early as the age of nine based on existing references. Imam Juzairi (1990) even mentioned that the blood that comes out of girls who are not yet nine years old is considered the blood of disease. As for women who have never menstruated, the age of fifteen is the age agreed upon by scholars as the age of puberty for a person. In this matter, the Hanafi school still requires 'idah for girls in addition to other schools such as the Shafi'i, Maliki and Hanbali schools which exclude the implementation of 'idah on girls who are not yet able to have physical contact with their husbands (al-Juzairi, 1990).

Meanwhile, the discussion about the usual age of menopause among scholars has led to several opinions such as the age of 50 years, 60 years, 62 years, 70 years, 85 years and the longest, 90 years (al-Juzairi, 1990; al-Syirbini, 2006; al-Fatani, 2017). However, the age of 62 years is considered the average age for women to stop menstruating according to the expert opinion (al-Syirbini, 2006; al-Fatani, 2017). As for women who have stopped menstruating, whether they are free women or slaves, then it is obligatory for her to continue waiting until her period comes out and perform Idah with the *aqra* count until she reaches the menopause age limit for women that has been agreed upon by the scholars, which is 62 years before moving to month count (al-Syirbini, 2006; al-Fatani, 2017).

If the divorce takes place in the early morning or evening in the middle of the month, then the divorced woman has to complete the next two months and a few days of the fourth month to complete the thirty days of the first month. This is necessary even if the number of days in the first month is not complete thirty days. At the same time, if her period comes in the middle of the month, then it is obligatory for her to perform the Idah with the count of quru' since the woman is proven to be able to perform her Idah with the original rules. Therefore, for the period of 'idah before menstruation is not considered to fulfill one quru' from the side of the school (al-Syirbini, 2006). It is different for women who get their period after completing the 'idah with the month count, there are several different opinions about the duration of the 'idah that has been gone through. But according to the most accurate opinion, the woman does not need to repeat her 'idah with quru count' if she has married someone other than her husband or repeat it with quru count' if she has not married someone else (al-Syirbini, 2006).

2.3 Period of four months and ten days

'Idah with the month count of four months and ten days is subject to women whose husbands have died, whether they are independent and not pregnant, pregnant but cannot be convicted to the owner of 'idah, small children or women who do not have genitalia and wife who are not yet having an intercourse with her deceased husband (al-Syirbini, 2006). Al-Syirbini (2006) and al-Juzairi (1990) mentioned that the ruling of 'idah of death for four months and ten days is to protect the rights of her husband even though he has passed away without having to ensure the cleanliness of his wife's womb. In this case, for a slave woman whose husband dies, then for her 'idah is for two months and ten days, which is a part of the 'idah of a free woman (al-Syirbini, 2006). In addition to the implementation of 'idah for four months and ten days, women whose husbands have died also need to go through the mourning process throughout that period with some specific regulations.

Based on the majority scholars, if a woman is divorced by *raj'i* divorce and is later her husband died, then the woman who initially performed the 'idah of divorce must move to the 'idah of death. Indirectly, this abolishes the laws of 'idah *talaq raj'i* and abolishes the remaining 'idah divorce as well as maintenance benefits received during the 'idah divorce (al-Syirbini, 2006). At the same time, the laws of 'idah of death such as the obligation to mourn (*ihdad*) with the prohibition of adornment, the prohibition of wearing perfume and the prohibition of leaving the house are implemented immediately (al-Syirbini, 2006). Differently for the woman whose husband died and who was divorced by *talaq bain*, she needs to continue her 'idah of divorce without having to perform *ihdad* since she is no longer holds the status of the deceased's wife during the 'idah period (al-Juzairi, 1990; al-Syirbini, 2006).

2.4 Period until giving birth

The rule of 'idah by giving birth is subject to women who are divorced by their husbands with *raj'i* or *bain* divorce and those whose husbands die while pregnant (al-Syirbini, 2006). For a pregnant woman who is divorced by her husband, it is required that her 'idah through the birth of her child is entrusted to the owner of the 'idah (صاحب العدة) whether it is her husband or someone else such as *wat'i syubhah* or even possibly as denied with *li'an* (al-Syirbini, 2006; al-Fatani, 2017). Imam Syirbini (2006) explains the term 'giving birth' which means all parts of the baby that was conceived even if there are twin babies, scholars

require that both babies come out as a whole, whether alive or dead as the end of the 'idah period of a pregnant woman (al-Syirbini, 2006; al-Fatani, 2017). At the same time, if the husband of the pregnant wife dies while he is still a child and it is impossible to conceive his wife (not yet nine years old), then the 'idah is not based on until giving birth but with the 'idah death for four months and ten days considering her pregnancy cannot be entrusted to her husband who is still a child (al-Fatani, 2017).

In addition, a pregnant woman is also considered to have fulfilled the period of *istibra'* (purification of her womb) when the *mudghah* (مضغة) comes out, which is a lump of flesh that shows a human appearance even though it is in a less clear state than the *qawabil* (expert in removing the child from the womb). According to Zamakhsyari, the size of the *mudghah* is as the size of the chewed food (al-Syirbini, 2006). This includes *mudghah* with a clear appearance like a human child which can also be recognized by those who are not *qawabil* by the appearance of the shape of hands, fingers, nails or by washing them. Meanwhile, if what comes out of the woman's womb is *alaqah*, which is the semen inside the womb that will become a blood clot, then it is not sufficient to be considered as the end of 'idah (al-Syirbini, 2006). In addition, if a woman confesses that she has aborted her baby, then her confession will be accepted with an oath and considered to be the end of her 'idah, even though in reality the woman is lying. This is because only she can be trusted in matters related to her pregnancy (al-Syirbini, 2006).

3. Categories of 'Idah and Related Law

'idah is divided into two categories, namely 'idah of divorce and 'idah of death. Each category has a different duration and related laws based on the condition of a woman when she is divorced or left by her deceased husband. The implementation period of 'idah that has been set consists of three months or three holy times, three months, four months and ten days and giving birth, taking into account the condition of the woman whether she is still menstruating or otherwise and also if she is pregnant (al-Khin et et al., 2012). Each type of divorce also causes different legal implications in the implementation of 'idah.

3.1 implementation of 'idah of divorce

The 'idah of divorce is the 'idah that is obligatory on a wife who has been legally divorced by her husband through divorce or fasakh after the occurrence of intercourse between the two. As for women who are divorced before sexual intercourse, no 'idah will be imposed on the woman (al-Khin et al., 2012). This is based on the words of Allah S.W.T:

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

Meaning: *O you who have believed, when you marry believing women and then divorce them before you have touched them [i.e., consummated the marriage], then there is not for you any waiting period to count concerning them. So provide for them and give them a gracious release.*

(Al-Ahzab:49)

The determination of 'idah duration for a woman who has had intercourse with her husband before the divorce takes place involves matters such as the type of 'idah, either raj'i divorce or bain divorce, and the condition at the time of divorce such as whether she is menstruating or pregnant, which will affect the period 'idah that will be subject to a woman who has been divorced (al-Khin et al., 2012). The overall determination of the 'idah of divorce can be seen clearly through Table 1 below.

a) For a wife who has not yet menstruated (not yet reached puberty) or who has menopausal, her 'idah will end after the passage of three months from the time of the divorce (al-Khin et al., 2012) and this is based on the word of God in the surah at-Talaq verse 4:

وَاللَّائِي يَئِسْنَ مِنَ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ ارْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ وَاللَّائِي لَمْ يَحْضُنَّ

Meaning: *And those who no longer expect menstruation among your women – if you doubt, then their period is three months, and [also for] those who have not menstruated. And for those who are pregnant, their term is until they give birth. And whoever fears Allah – He will make for him of his matter ease.*

(At-Talaq:4)

b) For a wife who is not pregnant and is still menstruating (not menopause), her 'idah ends with the passage of three holy times or her menstruation, in accordance with the three quru' rules, starting after the divorce occurs (al-Khin et al., 2012). This refers to surah al-Baqarah verse 228:

وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ ۖ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي
 أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنْنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ

Meaning: *Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day. And their husbands have more right to take them back in this [period] if they want reconciliation. And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise.*

(Al-Baqarah:228)

c) For a wife who is pregnant at the time of divorce, her 'idah will end after giving birth, whether the child born is alive or otherwise, full-term (at least six months in the womb) or less than that period or even miscarriage (al -Khin et al., 2012). Evidence that points to this ruling can be found through surah at-Talaq verse 4:

وَأُولَاتِ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ ۚ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ أَمْرِهِ يُسْرًا

Meaning: *And those who no longer expect menstruation among your women – if you doubt, then their period is three months, and [also for] those who have not menstruated. And for those who are pregnant, their term is until they give birth. And whoever fears Allah – He will make for him of his matter ease.*

(At-Talaq: 4)

Category of Women with 'Idah	Type of 'Idah	Condition During Divorced	Duration of 'Idah
	Raj'i or bain divorce and never had intercourse	Menstruation / no menstruation	None
	Raj'i or bain divorce	Menstruation	Three holy times / menstruation
		No menstruation	Three months
		Pregnant	After giving birth or miscarriage
	Raj'i or bain divorce and experiencing istihadhah	Menstruation with: i.Irregular menstrual cycle but knowing the blood flow pattern (معتدة مميزة)	Three holy times / menstruation
	Menstruation with:	Three months	

		i. Irregular menstrual cycle ii. Not knowing the blood flow habits i. Cannot differentiate the menstruation (معتدة غير مميزة)	
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Table 2: Summary of 'idah Divorce

3.2 arising laws due to 'idah of divorce

1. If the 'idah of divorce involved is 'idah with raj'i divorce, then the law that will apply due to the 'idah is (al-Khin et al., 2012):

- a) The wife must get the right of residence until the end of her 'idah period. In this case, it is best to have a house or a place where the divorce is pronounced if it suits with the needs and there is no syar'i harm that will prevent it.
- b) The wife is also obliged to receive all forms of maintenance such as food, clothing and so on as obtained during the marriage period, whether she is pregnant or not. This is because, according to syar'i, women in this category are still under the control of their husbands and can get back together as long as the 'idah period has not yet ended.
- c) The wife must also be at home and must not leave it unless there is a compelling situation (*dharurat*).

The argument for the following legal ruling is as follows:

لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يُخْرِجَنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُبَيَّنَةٍ ۗ

Meaning: *Do not turn them out of their [husbands'] houses, nor should they [themselves] leave [during that period] unless they are committing a clear immorality.*

(At-Talaq:1)

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارِرُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

Meaning: *Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them.*

(At-Talaq:6)

1. If the 'idah is due to bain divorce, then the legal ruling that needs to be implemented depends on the condition of the wife at the time of divorce, whether she is pregnant or not. (al-Khin et al., 2012):

a) The wife is entitled to a place to live during her 'idah period, whether pregnant or not (al-Khin et al., 2012). This is based on the verse:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ لِلَّهِ رَبِّكُمْ ۖ لَا تُخْرِجُوهُنَّ
مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُّبِينَةٍ ۚ

Meaning: *O Prophet, when you [Muslims] divorce women, divorce them for [the commencement of] their waiting period and keep count of the waiting period, and fear Allah, your Lord. Do not turn them out of their [husbands'] houses, nor should they [themselves] leave [during that period] unless they are committing a clear immorality.*

(At-Talaq:1)

b) The husband is obliged to provide all forms of maintenance such as clothing, food and expenses to the wife who is pregnant during divorced. Meanwhile, for a wife who is not pregnant at the time of divorce, she is not eligible to receive any form of alimony other than a place to live (al-Khin et al., 2012).

وَإِنْ كُنَّ أَوْهَلَاتٍ حَمْلًا فَأَنْفِقُوا عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّ ۚ

Meaning: *And if they should be pregnant, then spend on them until they give birth*

(At-Talaq:6)

b) The wife is also obliged to reside and is not required to leave the house or residence that has been prepared until her 'idah is completed unless there is a need such as going out to work to earn a living for herself in addition to her employment status that prevents her from staying at home. Women with bain divorce are also not forbidden to leave the house to visit their neighbors to relieve their boredom (al-Khin et al., 2012).

لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُّبِينَةٍ ۚ

Meaning: *Do not turn them out of their [husbands'] houses, nor should they [themselves] leave [during that period] unless they are committing a clear immorality.*

(At-Talaq:1)

The proof that allows women with bain divorce to leave the house when there is a need is a hadith narrated from Jabir r.a:

"My aunt is divorced. He wanted to pick his dates but a man stopped him from going out. He complained to the Prophet S.A.W. and His Majesty said: "Go out and pick your dates. Hopefully you give charity or you do good".

(HR. Muslim, no. 1483)

The incident of Fatimah bint Qais when she divorced her husband with bain divorce, the Prophet S.A.W. said:

"You have no right to alimony unless you are pregnant"

(Sunan Tirmizi, no. 1190)

3.3 implementation of the 'idah of death

'idah of death is a demand of 'idah that is imposed on women whose husbands have died, whether they have or have not had intercourse with their husbands (al-Khin et al., 2012). The stipulation for the implementation of the 'idah of death is not as complicated as the 'idah of divorce and only involves two different periods, namely four months and ten days or until giving birth for a woman who was pregnant at the time of her husband's death (al-Khin et al., 2012). The division of the 'idah for a woman on the death of her husband is as follows:

a) If a woman is pregnant when her husband dies, then the period of her 'idah is until she gives birth to a child regardless of whether the pregnancy is long or short from the day of her husband's death (al-Khin et al., 2012). The Word of Allah S.W.T:

وَأُولَاتِ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ ۚ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ أَمْرِهِ يُسْرًا

Meaning: *And for those who are pregnant, their term is until they give birth. And whoever fears Allah – He will make for him of his matter ease.*

(At-Talaq:4)

b) If the woman whose husband died is not pregnant or pregnant but from another man's seed, it is even impossible to say from the seed of her deceased husband because her husband has not reached puberty or has been abandoned for more than four years, then the duration of 'idah is for four months and ten days, whether she had intercourse or not (al-Khin et al., 2012).

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

Meaning: *And those who are taken in death among you and leave wives behind – they, [the wives, shall] wait four months and ten [days]. And when they have fulfilled their term, then there is no blame upon you for what they do with themselves in an acceptable manner. And Allah is [fully] Acquainted with what you do.*

(Al-Baqarah:234)

3.4 arising laws of the 'idah of death

a) A wife whose husband dies must mourn her husband's death by leaving any jewelry and fragrances during the 'idah period. The wearing of clothes that attract attention, the use of makeup, or jewelry such as gold, silver and so on is absolutely prohibited and even sinful if done (al-Khin et al., 2012).

b) The wife is also obliged to reside and not leave the residence provided throughout the period of her 'idah, unless there is any need (al-Khin et al., 2012).

4. Conclusion

The responsibility as a wife does not stop immediately with the pronouncement of divorce or due to the death of the husband. Islam has laid down perfect guidelines and rules for its servants in safeguarding the interests and the rights of the parties involved in the dissolution of marriage. This study shows that the type of divorce and the condition of the wife when the divorce occurs are two important aspects in determining the form of the 'idah period that a wife will undergo. In addition, this matter also affects the legal implications that

will result the related type of 'idah. This is because every woman has a different menstrual cycle with the possibility of dealing with complicated 'idah problems that require further research and explanation. Therefore, the debate about this 'idah needs to be studied and taken seriously in order to respond to the attitude of the community who are now more inclined to follow the practices of others without understanding the basis of the implementation of the Shari'at and thus take matters related to this 'idah for granted.

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