

Gender Justice in the Concept of *Iddah*: A Contextual Reading of Al-Kasani's Thought for Working Women in Indonesia

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Abstract: The concept of *iddah* in Islam is a fundamental aspect of family law, serving as a transitional period for women following divorce or the death of a husband. However, modern social and economic developments have led to an increasing number of women pursuing careers, raising questions about the relevance of *iddah* regulations in contemporary contexts. This study aims to analyze the concept of *iddah* for Working Women based on the thoughts of Imam Ala'uddin Al-Kasani, examining it through the lens of gender and marital dynamics in the context of Islamic family law in Indonesia. This research employs a qualitative approach with a literature analysis of Al-Kasani's seminal work, *Bada'i as-Sana'i fi Tartib as-Syarai'*. Additionally, it compares his views with contemporary scholars and the policies of Islamic family law in Indonesia. The findings reveal that Al-Kasani emphasized *iddah* as a mechanism to protect women's rights, particularly concerning lineage and financial security. However, in the context of women in modern careers, the application of *iddah* needs to be reassessed, considering women's economic roles and the evolving dynamics of marital relationships. This study concludes that the recontextualization of *iddah* should be carried out with a focus on gender justice while preserving the *maqashid syariah* (higher objectives of Islamic law) within family law. Therefore, a more inclusive and contextual reinterpretation of Islamic legal rulings is necessary to ensure that *iddah* remains relevant to the lives of modern Muslim women in Indonesia. This research contributes to the academic discourse by offering a fresh perspective on the concept of *iddah* within a more dynamic social framework. A gender-just recontextualization of *iddah* can be a reference for developing a more inclusive and adaptive Islamic family law in Indonesia.

Keywords: Al-Kasani, *Iddah*, Islamic Family Law, Gender, Working Women.

Abstrak: Konsep *iddah* dalam Islam merupakan bagian penting dari hukum keluarga, yang berfungsi sebagai masa transisi bagi perempuan setelah perceraian atau wafatnya suami. Namun, perkembangan sosial dan ekonomi modern telah membuat semakin banyak perempuan menjalani kehidupan sebagai pekerja profesional, sehingga menimbulkan pertanyaan tentang relevansi aturan *iddah* dalam konteks masa kini. Penelitian ini bertujuan untuk menganalisis konsep *iddah* bagi perempuan bekerja berdasarkan pemikiran Imam Ala'uddin Al-Kasani, dengan meninjau dari sudut pandang gender dan dinamika hubungan pernikahan dalam konteks hukum keluarga Islam di Indonesia. Penelitian ini menggunakan pendekatan kualitatif melalui studi pustaka terhadap karya penting Al-Kasani '*Bada'i as-Sana'i fi Tartib as-Syarai'*'. Selain itu, pandangan Al-Kasani dibandingkan dengan pemikiran ulama kontemporer serta kebijakan hukum keluarga Islam di Indonesia. Hasil penelitian menunjukkan bahwa Al-Kasani memandang *iddah* sebagai mekanisme perlindungan hak-hak perempuan, terutama dalam hal nasab dan jaminan finansial. Namun, dalam konteks perempuan modern yang bekerja, penerapan *iddah* perlu dikaji ulang dengan mempertimbangkan peran ekonomi perempuan dan perubahan dalam relasi pernikahan. Penelitian ini menyimpulkan bahwa *iddah* perlu ditafsirkan ulang secara kontekstual dengan tetap menjaga tujuan utama syariah (*maqashid syariah*), khususnya dalam hukum keluarga. Oleh karena itu, diperlukan reinterpretasi hukum Islam yang lebih inklusif dan sesuai dengan realitas kehidupan perempuan Muslim modern di Indonesia. Studi ini memberikan kontribusi bagi wacana akademik dengan menawarkan perspektif baru mengenai konsep *iddah* dalam kerangka sosial yang lebih dinamis. Penafsiran ulang yang berkeadilan gender atas konsep *iddah* dapat menjadi rujukan dalam pengembangan hukum keluarga Islam yang lebih adaptif dan inklusif di Indonesia.

Kata kunci: Al-Kasani, Gender, Hukum Keluarga Islam, *Iddah*, Perempuan Bekerja.

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Introduction

Iddah is one of the essential concepts in Islamic family law that regulates the waiting period for women after divorce or the death of their husbands.¹ Classically, *iddah* has the primary purpose of ensuring the clarity of the *nasab* ², providing an opportunity for reconciliation in the case of *talaq raj'i*³, and as a form of respect for the marriage bond that has ended.⁴ However, with the development of modern society and the increasing role of women in the world of work, questions arise regarding how the rules of *iddah* can be interpreted more contextually without ignoring the *maqashid of Sharia* (the purpose of Islamic law). In the context of Working Women, *iddah* rules that require women to stay at home during the waiting period are often considered irrelevant, considering that many women have economic and social responsibilities that cannot be left behind.⁵

In the tradition of jurisprudence, Imam Ala'uddin Al-Kasani, in his work *Bada'i as-Sana'i fi Tartib as-Syarai'*, gave various views on *iddah* based on the social conditions of his time. Al-Kasani's thought is still an essential reference

in the study of Islamic law, especially in the Hanafi madhhab, which is known to have flexibility in legal *ijtihad*.⁶ However, with changes in the pattern of marital relations and the economic role of women, it is necessary to re-examine their thinking in the context of modern Muslim society, especially in Indonesia. Currently, Islamic family law in Indonesia is regulated in the Compilation of Islamic Law (KHI), which accommodates various classical jurisprudence rules. However, regulations related to *iddah* still do not fully consider the reality of Working Women with professional obligations.⁷ Therefore, this study is important to understand how the concept of *iddah* can be refactualized by considering gender aspects and patterns of more equal marital relationships.

Various studies on *iddah* and the renewal of Islamic family law have been carried out from various perspectives. Muh. Sholihuddin et al. (2024) researched the tradition of remarriage during the *iddah* period in Wedoro Waru, Sidoarjo, which was carried out with great care by the kyai based on the principle of *maqasid al-syari'ah*.⁸ Meanwhile, Muhammad Iqbal Juliansyahzen et al. (2024) revealed the dualism of ulema thought in Banyumas—between textualist and semi-textualist groups—which is still dialogical in accommodating science.⁹ Shofiatul Jannah et

¹ M. Sholihuddin, S. Jazil, dan S. Ni'am, "Remarriage in the 'Iddah Perspective of Maqāṣid Al-Uṣrah: Study in Wedoro Waru, Sidoarjo, Indonesia," *Samarah* 8, no. 2 (2024): 726–49, <https://doi.org/10.22373/sjkh.v8i2.15061>.

² R.M. Romadoni, "The Iddah Period as a Reason for Cancellation of Marriage," *Lentera Hukum* 6, no. 2 (2019): 235–52, <https://doi.org/10.19184/eljh.v6i2.11253>.

³ K.N. Asari dkk., "Iddah maintenance: Concept, issues and methods of enforcement," *Pertanika Journal of Social Sciences and Humanities* 25, no. October (2017): 145–52.

⁴ Ahmad Zamzam Saefi, "Iddah Dalam Mazhab Fiqih Dan Perundangan Indonesia," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 9, no. 1 (15 Juli 2023): 126–41, <https://doi.org/10.58401/faqih.v9i1.963>.

⁵ A. Khoiri dan A. Muala, "Iddah and Ihdād for Career Women from Islamic Law Perspective," *Journal of Islamic Law* 1, no. 2 (2020): 256–73, <https://doi.org/10.24260/jil.v1i2.71>.

⁶ Imam Ala'uddin Abi Bakar Mas'ud Al Kasani Al Hanafi, *Bada'i us-Sona'i fi Tartibis-Syara'i*, vol. 4 (Libanon: Darut kutub Al-Ilmiah, 2003).

⁷ Nuzulia Febri Hidayati, "Rekonstruksi Hukum 'Iddah dan Ihdad dalam Kompilasi Hukum Islam (KHI)," *Mazahibuna: Jurnal Perbandingan Mazhab*, 23 Juli 2019, <https://doi.org/10.24252/mh.v1i1.9663>.

⁸ Muh Sholihuddin, Saiful Jazil, dan Syamsun Ni'am, "Remarriage in The 'Iddah Perspective of Maqāṣid Al-Uṣrah: Study in Wedoro Waru, Sidoarjo, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (11 Mei 2024): 726–49, <https://doi.org/10.22373/sjkh.v8i2.15061>.

⁹ M.I. Juliansyahzen dkk., "Sharia, Gender, and Science in

al. (2023) recommend reforming the Compilation of Islamic Law (KHI) by affirming joint responsibility during the *iddah* period, including the obligation of maintenance by the husband and sanctions for those who neglect it.

On the other hand, Yusna Zaidah and Raihanah Abdullah (2024) discuss *ihdad* as an obligation to mourn, which is considered discriminatory because it does not apply to husbands, although it is still relevant in human rights and Islamic law.¹⁰ Ahmad Khoiri and Asyharul Muala (2020) highlighted the challenges women face in undergoing *iddah* and *ihdad*, emphasizing that they can still work as long as they comply with the main rules of Islam.¹¹ Meanwhile, Nurhadi (2020) examines Imam' Alauddin Al-Kasani's views regarding *fasiq* witnesses in marriage, which, according to him, remains valid as long as it functions as a marriage announcement.¹² Meanwhile, Choerudin (2008) examines the opinion of Imam Alauddin al Kasani on the concept of *Kafa'ah*, which is based on *kafa'ah* (equality) in choosing a life partner, including five main criteria. These criteria are *nasab* (descent), *al-hurriyah* (independent status), *al-mal* (property), *ad-din* (religion), and *al-khurfah*

(work).¹³ These studies reflect the dynamics of Islamic law in adapting the concepts of *iddah* and *ihdad* to social development and gender justice.

Novelty in the research "Reactualization of the Concept of *Iddah* for Working Women: Al-Kasani's Thought in the Perspective of Gender and Patterns of Husband-and-Wife Relations" lies in a new approach to understanding *iddah* by highlighting Al-Kasani's thinking in the context of working women. Unlike previous research that focused more on implementing classical *fiqh*, this study offers a more inclusive and adaptive reinterpretation of Islamic law to the needs of Working Women by considering the benefits and gender justice. In addition, this study also examines the pattern of marital relations during *iddah*, emphasizing that *iddah* is not only a woman's obligation but also involves the husband's responsibility, especially in fulfilling alimony. With a gender approach, this study highlights how *iddah* and *ihdad* can be adjusted not to limit women's social and economic rights. Furthermore, this study proposes the integration between Islamic law and social reality by presenting a re-reading of the concept of *iddah* that adheres to *maqasid al-shari'ah* but is relevant to the dynamics of modern society. Thus, this research contributes to developing contemporary Islamic family law discourse by offering a new perspective more responsive to gender issues and equality in the household.

Based on these problems, this study focuses on several main questions: what is the concept of *iddah* for Working Women in Imam Ala'uddin Al-Kasani's thought? How do the

the Construction of 'Iddah: The Response of Banyumas' Ulama," *El-Mashlahah* 14, no. 1 (2024): 189–210, <https://doi.org/10.23971/el-mashlahah.v14i1.7917>.

¹⁰ Yusna Zaidah dan Raihanah Abdullah, "The Relevance of *Ihdad* Regulations as a Sign of Mourning and Human Rights Restriction," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (20 Juni 2024): 422–48, <https://doi.org/10.53955/jhcls.v4i2.229>.

¹¹ A. Khoiri dan A. Muala, "'Iddah and *Ihdad* for Career Women from Islamic Law Perspective," *Journal of Islamic Law* 1, no. 2 (2020): 256–73, <https://doi.org/10.24260/jil.v1i2.71>.

¹² Nurhadi Nurhadi, "Istinbath Hukum Alauddin Al-Kasani Al-Hanafi Tentang Saksi *Fasiq* Dalam Pernikahan," *Istinbath: Jurnal Hukum* 17, no. 1 (2020): 133–56, <https://doi.org/10.32332/istinbath.v17i1.2119>.

¹³ Choerudin Choerudin, "Studi analisis terhadap pendapat Imam Alauddin al Kasani tentang konsep *kafa'ah*," Walisongo Repository, 2008, <https://eprints.walisongo.ac.id/id/eprint/11762/>.

gender perspective and the pattern of marital relations affect the interpretation of the concept of *iddah*? Moreover, what is the relevance of Al-Kasani's thought to the development of Islamic family law in Indonesia in the modern context? To answer this question, the study aims to analyze Al-Kasani's thinking on *iddah* for Working Women, examine the concept of *iddah* from the perspective of gender and the pattern of marital relations in Islamic family law, and offer an actualization of the concept of *iddah* that is more relevant to the socio-economic conditions of modern Muslim women in Indonesia. The results of this study are expected to contribute to several aspects. Theoretically, this research can add scientific treasures to the study of Islamic law, especially in understanding *iddah* from the perspective of gender and social change. In practical terms, this research can be a consideration for policymakers and academics in formulating more inclusive and contextual Islamic family law rules. Meanwhile, from the social aspect, this research is expected to increase public understanding of the flexibility of Islamic law in responding to the dynamics of modern Muslim women's lives. Thus, this study contributes to developing a fairer and more relevant understanding of the concept of *iddah* in Islamic family law in Indonesia.

Method

This study uses a qualitative method with a library research approach¹⁴. This approach was chosen because the research focuses on a conceptual analysis of Imam Ala'uddin Al-Kasani's thoughts on *iddah*, especially for Working Women, and how relevant it is in the

context of Islamic family law in Indonesia. The study examined literature on *iddah*, Al-Kasani thought, gender studies, and the pattern of husband-and-wife relations in Islamic law. The main source of data in this study is Al-Kasani's classic work, *Bada'i as-Sana'i fi Tartib as-Syarai'*, which is a reference in understanding the concept of *iddah* from the perspective of the Hanafi madhhab. In addition, this study also uses various other books of jurisprudence, both from the Hanafi school and other schools, to obtain comparisons in the interpretation of Islamic law regarding *iddah*. Secondary data sources include books, scientific journals, research articles, and Islamic family law regulations in Indonesia, such as the Compilation of Islamic Law (KHI) and related laws and regulations. The data collection technique uses the documentation method, namely searching, identifying, and analyzing texts relevant to the research object. The data obtained were then analyzed using a descriptive-analytical method¹⁵, namely by describing the concept of *iddah* based on Al-Kasani's thought and then studying it from the perspective of gender and the pattern of husband-and-wife relationships.

Furthermore, a comparative analysis of the thinking of contemporary scholars and Islamic family law rules in Indonesia was carried out to assess the relevance of the concept of *iddah* for Working Women in the modern context. To ensure the validity of the data, this study applies a source triangulation technique, which is to compare various literature from various sources to ensure the accuracy of interpretation. With this method, the research is expected to provide a more comprehensive understanding of the concept

¹⁴ Matthew B Miles dan A. Michael Huberman, *Analisis data kualitatif: buku sumber tentang metode-metode baru* (Jakarta: Universitas Indonesia Press, 2014).

¹⁵ Helaluddin dan Hengki Wijaya, *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik* (Sekolah Tinggi Theologia Jaffray, 2019).

of *iddah* from Al-Kasani's perspective and its implications for Islamic family law in Indonesia.

Result and Discussion

The Concept of Iddah in the Thought of Imam Ala'uddin Al-Kasani

Imam Ala'uddin Al-Kasani, in his work *Bada'i as-Sana'i fi Tartib as-Syarai'*, explained that *iddah* is an obligation that women must have after divorce or the death of their husbands. Al-Kasani emphasized that *iddah* aims to ensure the clarity of the *nasab*, provide an opportunity for reference in the case of *talaq raj'i*, and as a form of respect for the marriage bond that has ended.¹⁶ In the Hanafi madhhab, which Al-Kasani embraces, several conditions affect the *iddah* period, such as the type of divorce, pregnancy status, and the age of the woman. However, Al-Kasani also acknowledged the flexibility in applying *iddah*, especially in exceptional cases that consider the benefits of women. She mentioned that women with urgent needs, such as earning a living, can be relieved by carrying out *iddah* in the house. This shows that although the *iddah* rules are fixed, there is room for adjustment under certain conditions.

The following is a table that summarizes the ruling on leaving the house for women during the *iddah* period according to Imam Alaudin Al Kasani:

Table 1. *iddah* period according to Imam Alaudin Al Kasani

Category	Types of Iddah	Legal Status	Exit Time	Explanation	Evidence	Wisdom
Women in the Iddah Talak	Talak that can still be	No leavin g the house	Day and night	The marriage bond is still valid,	QS. At-Talaq: 1	Providi ng an opport unity

¹⁶ Al Hanafi, *Bada'i us-Sona'i fi Tartibis-Syara'i*.

Category	Types of Iddah	Legal Status	Exit Time	Explanation	Evidence	Wisdom
Raj'i Period	referre d to			so the law remains the same as before talaq.		for the husban d to refer to and maintai n clarity of the nasab.
Women in the Period of Iddah Talak Bain Kubra or Sughra	Talak that cannot be referre d to	No leavin g the house	Day and night	Even though the marriage bond has been broken, the <i>iddah</i> period must still be lived at home.	QS. At-Talaq: 6	Maintai n honor and prevent slander related to nasab if the woman is pregna nt.
The Woman Left Behind by Her Husband	Iddah died	It is allowe d to go out during the day, it is forbid den at night	Daytim e: Allowe d, Night: Prohibi ted	This woman needs to meet her needs because she no longer gets a living from her husband.	Hadith of Fura'i bint Malik	It allows women to make a living but still maintai n <i>iddah</i> manner s.
Women in Emergencies	Iddah, in an emerg ency	Can leave the house	Anytim e if urgent	Women in <i>iddah</i> can go out in emergen cies such as urgent needs or danger.	Emergen cy Rules in Islamic Sharia	Maintai n safety and meet urgent needs.
Women in Iddah because of Khulu'	Divorce with ransom	Dissen t	Some schola rs allow them to go out during the day	Some scholars forbid it, while others allow it to go out during the day.	Opinion of jurisprudence scholars	Be caus e the right of <i>iddah</i> is the right of Allah, it cannot be canceled like alimony

Category	Types of Iddah	Legal Status	Exit Time	Explanation	Evidence	Wisdom
Women or enslaved people in the Period of Iddah	Iddah for non-Muslim women or enslaved people	Vary	Depends on the law of the guardian or ruler	Its legal status follows its specific circumstances and applicable trust laws.	Opinion of Madhhab Scholars	Adjusting to the applicable social conditions and Islamic law.
Women Who Do Not Have Permanent Residences	Iddah is in a housing emergency	Can find a place to live	Anytime if needed	If a woman does not have a permanent residence after talaq or the death of her husband, she may seek a place to live.	Maslahah Rules	Meet the basic needs of housing
Women Who Move Cities during the Iddah Period	Iddah, condition of changing domicile	Dissent	Only if there is an urgent need	Some scholars allow it for emergencies, while others prohibit it unless needed.	Opinion of Madhhab Scholars	Maintaining the stability of the iddah period while paying attention to the woman's needs.

Source: Kitab *Bada'i as-Sana'i fi Tartib as-Syarai'*

This table is more detailed and covers various conditions of women during *iddah* and laws related to leaving the house according to the postulates and wisdom behind it. The *iddah* period for women who have experienced divorce or been left behind by their husbands has different provisions

depending on the type of *iddah*. Women in *iddah talaq raj'i* and *talaq bain* are prohibited from going out of the house day and night to maintain the possibility of referring or avoiding slander of nasab, as mentioned in QS. At-Talaq. A woman whose husband died is allowed to go out during the day to meet her needs, according to the hadith of Fura'i bint Malik.¹⁷ Women in *iddah* can go out anytime in an emergency for safety and urgent needs. For *iddah*, because of *khulu'*, book experts, enslaved people, or special conditions such as not having a permanent place of residence and changing cities, scholars differ based on the rules of fiqh and *maslahat*. Each of these provisions aims to maintain the honor, clarity of nasab, and the welfare of women during the *iddah* period following Islamic law principles.

Iddah for Working Women in the Perspective of Gender and Husband and Wife Relations

Imam Alaudin Al-Kasani's thoughts on *iddah* for Working Women can be analyzed more deeply from the perspective of gender and marital relations. In Islamic law, *iddah* is an obligation that a woman must have after the divorce or death of her husband.¹⁸ However, if studied further, this rule is not only limited to a ban on leaving the house but also has implications for the position of women in the household and society.¹⁹ From a gender

¹⁷ Abdul Rahim Hakimi dkk., "Legal Policy for Women Workers in Indonesia: A Review of Contemporary Islamic Law," *MILRev: Metro Islamic Law Review* 3, no. 1 (4 April 2024): 66–94, <https://doi.org/10.32332/milrev.v3i1.9023>.

¹⁸ A. Aykul, "Iddah of Man in Islamic Family Law," *Mutefekkir* 9, no. 18 (2022): 431–53, <https://doi.org/10.30523/mutefekkir.1219572>.

¹⁹ M.A. Kamaruddin, A. Amir, dan A.R. Razaq, "The 'Iddah in Artificial Insemination: A study between Medical and Shariah Point of View," *Malaysian Journal of Syariah and Law* 8, no. 1 (2020): 34–49,

perspective, *iddah* is often seen as a form of restriction on women's freedom, but Al-Kasani asserts that this rule aims to safeguard women's rights and not merely as a social control that oppresses women. One of the main aspects in this discussion is the relationship between *iddah* and the relationship between husband and wife. In the case of *talaq raj'i*, where the husband still has the right to refer to his wife, the *iddah* period serves as an opportunity to improve the relationship and consider the continuation of the household.²⁰ In this case, women have a passive role because the decision to refer is in the hands of the husband. From a gender perspective, this condition shows inequality in the relationship between husband and wife because women do not have the right to cancel *iddah* or refuse to refer if their husbands still have this right.

However, Al-Kasani also acknowledged that under certain conditions, women have the right to determine their fate, such as in the case of *talaq bain* or *iddah* due to the death of her husband. In this condition, a woman cannot be referred by her ex-husband, so she is more complimentary to determine her life after the *iddah* period. From a gender perspective, this indicates the existence of two forms of treatment in Islamic law: one that controls more women's mobility in the case of *talaq raj'i*, and one that gives greater freedom in the case of *talaq bain* or the death of the husband. In the context of Working Women, Al-Kasani provides leniency by allowing women to leave the house during the

day if there is an urgent need, such as earning a living. This is a form of Islamic law's response to social reality, where not all women can depend on their husbands or families for their livelihoods.²¹ From a gender perspective, this reflects that although Islamic law has strict rules regarding *iddah*, there is flexibility that allows women to remain in society.²²

In Islam, the relationship between husband and wife is closely related to economic responsibility. Al-Kasani explained that during the *iddah* period, women who are *talaq raj'i* are still entitled to alimony from their husbands, while women who experience *talaq bain* or are left behind no longer receive alimony. This shows that in Islam, the economic relationship between husband and wife ends after *talaq bain* or death, but it continues in the case of *talaq raj'i*.²³ From a gender perspective, this can be seen as a form of protection for women who suddenly lose their source of livelihood, but it also shows the economic dependence that is still part of the marriage structure in Islam.

In modern society, where many women have jobs and do not depend on their husbands' livelihoods, the rule of *iddah* is often questioned. Al-Kasani, with a more flexible approach to Hanafi jurisprudence, acknowledges that in certain situations, a woman can continue to work during the *iddah* period if it is an urgent need. This suggests that Islamic law, within certain limits, can adapt to social developments without eliminating the basic principles that have been

<https://doi.org/10.33102/mjisl.v8i1.177>.

²⁰ M. Nurohim, Y.H. Pasaribu, dan Asmaiyan, "The Relationship Between A Wife's Satisfaction In The Iddah Period With Marriage And Divorce," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 21, no. 2 (2021): 208–18, <https://doi.org/10.30631/alrisalah.v21i2.778>.

²¹ Al Hanafi, *Bada'i us-Sona'i fi Tartibis-Syara'i*.

²² F. Abdullah, N.A. Putri, dan Y. Salhein, "Revisiting 'Iddah: A Critical Analysis of Gender Equality in Indonesian Feminist Islamic Legal Discourse," *Juris: Jurnal Ilmiah Syariah* 22, no. 2 (2023): 275–90, <https://doi.org/10.31958/juris.v22i2.10320>.

²³ Khoiri dan Mualla, "Iddah dan Ihdād bagi Wanita Karir Perspektif Hukum Islam," 2020.

established. In the relationship between husband and wife, the *iddah* rule can also be seen as a form of respect for the institution of marriage. Islam does not consider divorce as something light, so the *iddah* period is a moment to reflect on the relationship between husband and wife. From a gender perspective, this can be seen as a mechanism that aims to give both parties time to think about their decisions, although women often have a more passive role than their husbands.

Some feminist criticisms of the *iddah* rule focus on the inequality between men and women in marriage and divorce. In the classical Islamic legal system, men have more rights to *talaq* than women, while women only have the option to apply for *khulu'* by paying compensation to their husbands.²⁴ Al-Kasani does not explicitly address this criticism, but his views on the flexibility of *iddah* show that Islamic law has room for adaptation according to the needs of the times. From a gender perspective, *iddah* can also be seen as a form of social protection for women who have recently divorced or lost their husbands. In patriarchal societies, recently divorced women often face social stigma, so the *iddah* period can be a time to adapt to their new status before returning to everyday life. In this case, the *iddah* rule has aspects that can protect women, but it can also restrict their freedom if applied rigidly.

Thus, Imam Alaudin Al-Kasani's thoughts on *iddah* for Working Women from the perspective of gender and marital relations show a balance between Sharia law and flexibility under certain conditions. *Iddah* is

not just a form of control over women but also has a dimension of protection and justice that aims to maintain a balance in marriage and social relations. The flexibility in Islamic law, as explained by Al-Kasani, shows that the role of women in society can continue to develop without having to abandon the basic principles that the Sharia has established.

The Relevance of Al-Kasani's Thought to the Development of Islamic Family Law in Indonesia

Imam Alaudin Al-Kasani's thoughts are relevant to developing Islamic family law in Indonesia, especially in evolving social dynamics. Al-Kasani, one of the great scholars of the Hanafi madhhab, is known for his systematic and argumentative approach to fiqh in understanding Islamic law. His thinking in family law, especially related to *iddah*, marriage, and *talaq*, provides a foundation for adapting Islamic law in the modern context, including Indonesia, which has a legal system based on legal pluralism. One of the main aspects of Al-Kasani's thought relevant to Islamic family law in Indonesia is the flexibility in understanding the rules of *iddah*. In Islamic law, *iddah* is a waiting period that a woman must undergo after a divorce or the death of her husband. Al-Kasani explained that the prohibition of leaving the house during the *iddah* period is not an absolute provision but can be adjusted to social circumstances and individual needs. In the Indonesian context, this is relevant for women who work or have economic responsibilities in the family.

In the Marriage Law in Indonesia, Islamic family law has been accommodated by considering the principles of justice and protection for women.²⁵ Al-Kasani's thought

²⁴ M. Ali, S. Sariroh, dan Rumawi, "Social Construction of Widow's Marital Rights without Finishing Waiting Period (Idah) in Indonesia," *Studia Iuridica Lublinensia* 30, no. 5 (2021): 13–28, <https://doi.org/10.17951/sil.2021.30.5.13-28>.

²⁵ Sifa Mulya Nurani, "Perspektif Keadilan Dalam Rumah

emphasizes the balance between law and social reality, which provides a basis for developing legal policies that are not only normative but also adaptive. For example, in the case of divorce, women who undergo *iddah* can still work or carry out activities outside the home if they do not violate the basic principles of Islamic law.²⁶ In addition, in the concept of husband-and-wife relations, Al-Kasani's thinking provides a broader perspective in understanding the rights and obligations between couples. Al-Kasani emphasizes that although the husband has the right to refer to his wife during the *iddah talaq raj'i*, this should not be used as a tool to curb women's freedom or delay divorce for unfair purposes. In Islamic family law in Indonesia, this is in line with the principle of justice in marriage guaranteed by the Compilation of Islamic Law (KHI).

Al-Kasani's thoughts also contribute to the discourse on livelihood during *iddah*. In the Hanafi madhhab, a woman who is *talaq raj'i* is still entitled to receive alimony from her husband, while in *talaq bain* or the death of her husband, this right does not apply unless there is a prior agreement. In the Islamic family law system in Indonesia, alimony for women after divorce has been regulated in the Compilation of Islamic Law and Supreme Court Decisions, which emphasize that women are still entitled to *iddah alimony*²⁷,

especially if they are still in an economically weak condition.²⁸ Regarding the protection of women, Al-Kasani's thinking emphasizes legal flexibility and provides a basis for protecting women's rights after divorce. In the Indonesian context, where divorce often has a significant impact on women's economic and social lives, legal policies that accommodate alimony, child custody, and the division of joint property are of great importance. The principles developed by Al-Kasani in Hanafi fiqh can be a reference in preparing more progressive regulations.

In addition, the relevance of Al-Kasani's thought can also be seen in efforts to modernize Islamic family law in Indonesia, which is still based on *maqashid* Sharia (the purpose of Islamic law). Al-Kasani emphasized that Islamic law must be able to answer the times' challenges without ignoring Sharia's principles. This is in line with the approach used by legislators in Indonesia in designing Islamic family laws that are not only based on normative texts but also consider the social needs of Indonesia's diverse Muslim community. Concerning the role of women in society, Al-Kasani's thinking can provide a broader perspective in understanding the role of women in the family and public space. In the context of Islamic family law in Indonesia, the role of women as the head of the family under certain conditions has begun to be recognized, especially in cases where the husband is unable to provide maintenance or dies.²⁹ The principle of flexibility in Hanafi fiqh,

Tangga : Telaah Konsep Adil Dalam Poligami Menurut Undang-Undang Dan Kompilasi Hukum Islam," *Ascarya: Journal of Islamic Science, Culture, and Social Studies* 1, no. 1 (25 Januari 2021): 1-14, <https://doi.org/10.53754/iscs.v1i1.1>.

²⁶ S. Devy dan Maryam, "Persepsi Masyarakat tentang Pelaksanaan Iddah Wanita Karier karena Cerai Mati di Kec. Blangkejeren Kab. Gayo Lues, Aceh," *El-Usrah* 3, no. 1 (2020): 53-83, <https://doi.org/10.22373/ujhk.v2i2.7659>.

²⁷ S. Turatmiyah dkk., "Does judge has ex officio rights in determining Mut'ah and Iddah?," *Sriwijaya Law Review*

3, no. 2 (2019): 187-98, <https://doi.org/10.28946/slrev.vol3.iss2.249.pp187-198>.

²⁸ S. Jannah dan D.H. Firdaus, "Reformulation of the Concept of Iddah in The Compilation of Islamic Law Perspective of Negotiative Hermeneutics," *De Jure: Jurnal Hukum dan Syar'iah* 15, no. 2 (2023): 286-300, <https://doi.org/10.18860/j-fsh.v15i2.21065>.

²⁹ A.R.A. Saputera dan N. Lamunte, "Indikator Terjadinya

as explained by Al-Kasani, can be the basis for strengthening more inclusive regulations on women's rights.

Al-Kasani also highlighted the importance of balance in marital relationships, especially in decision-making in the family. In Islamic family law in Indonesia, this is reflected in the concept of deliberation between husband and wife in regulating household affairs. For example, in the settlement of marriage disputes, the mediation and reconciliation approach regulated in Indonesian family law has a basis in the principle of deliberation, which is also emphasized in Al-Kasani's thought. In addition, in the context of inheritance law, Al-Kasani's thinking can also be a reference in the development of Islamic family law in Indonesia. Although Islamic inheritance law has standard rules regarding the division of property, in practice, the legal system in Indonesia allows for agreements between heirs that are adjusted to socio-economic conditions. The principles of flexibility in Hanafi fiqh developed by Al-Kasani provide room for *ijtihad* to draft more contextual regulations.

In the development of Islamic family law in Indonesia, Al-Kasani's thinking is also relevant in marriage law, especially regarding the age limit of marriage and guardianship. In the classical Islamic legal system, absolute guardianship is in the hands of the guardian of the *nasab*, but in family law in Indonesia, the guardian of the judge can play a role in certain conditions, such as if the guardian of the *nasab* does not meet the requirements. The flexible approach embraced by Al-Kasani in understanding Islamic law can provide a basis for formulating legal policies that are more

responsive to social changes.

The relevance of Al-Kasani's thinking can also be seen in post-divorce child protection. In Islamic law, child custody (*hadhanah*) is generally given to the mother if the child is still young.³⁰ However, Al-Kasani also emphasized the importance of considering the welfare of children in determining custody. In Islamic family law in Indonesia, this principle is reflected in the rule that custody is given to a party who is better able to ensure the welfare of the child, not solely based on the gender of the parents. In addition, in the context of the state's role in managing family law, Al-Kasani's thinking provides a perspective that Islamic law must be able to adapt to public policy. In Indonesia, Islamic family law has been institutionalized through religious courts that have the authority to handle marriage, divorce, inheritance, and other cases. Al-Kasani's approach is based on *madhhab* fiqh but still considers social reality a model for developing more contextual Islamic law in Indonesia.

Al-Kasani's thinking can also contribute to preparing regulations related to polygamy. In Islamic family law in Indonesia, polygamy is allowed but with strict requirements, including permission from the first wife and court permission. The principle of justice emphasized in Hanafi fiqh, as developed by Al-Kasani, can be the basis for strengthening legal policies that ensure that polygamy is not abused and remains within the corridor of true justice. Overall, Al-Kasani's thinking has contributed greatly to developing Islamic family law in Indonesia, marriage, divorce,

Pernikahan dalam Masa Iddah di Kecamatan Bolangitang Barat," *El-Usrah* 3, no. 1 (2020): 17–35, <https://doi.org/10.22373/ujhk.v3i1.7651>.

³⁰ Ahmad Fauzan dan Ilma Silmi Nufus, "The Problems of Neuroparenting Based on Contemporary Islamic Family Law," *MILRev: Metro Islamic Law Review* 3, no. 2 (11 Desember 2024): 198–216, <https://doi.org/10.32332/milrev.v3i2.9791>.

iddah, child custody, and women’s societal role. The flexibility of *fiqh*’s Hanafi allows Islamic family law in Indonesia to continue to develop following social needs without abandoning the basic principles of Sharia. Thus, Al-Kasani’s thinking can be an important reference in strengthening Indonesia’s Islamic family law system to be fairer and more inclusive.

Table 2. The Relevance of Al-Kasani’s Thought in the Indonesian Context

Al-Kasani’s Thought	Relevance in the Indonesian Context
Al-Kasani emphasized that family law must not be rigid but should respond to social and cultural changes.	Aligns with the application of the Compilation of Islamic Law (KHI), which adapts to local values and social justice.
Permitted women to leave the house during the <i>‘iddah</i> period for legitimate reasons such as work.	Supports policies allowing women to work during the <i>‘iddah</i> period.
In cases of irrevocable divorce or a husband’s death, maintenance during <i>‘iddah</i> is not obligatory unless agreed upon.	Provides legal basis for maintenance arrangements to be decided by judges or mutual agreement.
Opposed the practice of unfair reconciliation and emphasized justice as a condition for polygamy.	Reinforces court-based permission systems and protection of women’s rights in reconciliation and polygamy.
Allowed women to be heads of families if their husbands were incapable.	Supports regulations recognizing women as heads of households in specific situations.
Custody (<i>hadhanah</i>) should prioritize the welfare of the child, not rigid norms.	Underpins the KHI principle that custody is granted to the party who best ensures the child’s well-being.
Permitted inheritance agreements among heirs as long as they do not contradict sharia principles.	Reflects the practice in Indonesian religious courts that allow consensus in inheritance distribution.
Emphasized that fatwas must be contextual and consider public policy.	Manifested through state authorities (religious courts and Ministry of Religious Affairs) engaging in collective <i>ijtihad</i> and public interest.
Justice is the core spirit of law according to Al-Kasani.	Resonates with the Indonesian legal system, which upholds justice as a central principle in Islamic family law.

This table illustrates how Al-Kasani’s classical legal reasoning retains practical relevance within the Indonesian legal framework. His progressive and contextual

approach to issues such as gender roles, family leadership, custody, and legal adaptability aligns closely with the spirit of Indonesia’s Islamic legal system, particularly as codified in the Compilation of Islamic Law (KHI). This alignment highlights the continuing value of classical jurisprudence in informing contemporary legal reforms.

Conclusion

This study highlights the relevance of the concept of *iddah* in the context of Working Women by referring to Al-Kasani’s thinking and considering it from the perspective of gender and the pattern of marital relationships. The study results show that although *iddah* is a Sharia obligation that aims to maintain clarity of *nasab* and provide opportunities for husbands to refer to it, its application must consider women’s social and economic conditions, especially in the modern context. From a gender perspective, *iddah* should not be a restraint tool for women, especially if they have economic or social responsibilities that cannot be left behind. Al-Kasani’s thought, which opens space for flexibility in Islamic law, provides a basis for a more contextual reinterpretation of the *iddah* rule, especially in allowing women to leave the house to meet their needs while maintaining the principle of prudence. Regarding marital relations, the concept of *iddah* reflects the rights of husbands and women’s rights in obtaining protection and justice during the post-divorce transition period. Therefore, Islamic legal regulations in Indonesia can adopt *fiqh* principles that accommodate Working Women’s needs without ignoring Sharia’s provisions. The actualization of the concept of *iddah* for Working Women needs to be directed to the understanding that Islamic law is dynamic and must be in harmony

with justice and social change.

In Islamic family law in Indonesia, the rules regarding iddah adopted from classical jurisprudence have not fully considered the socio-economic conditions of modern women. Therefore, Al-Kasani's thinking, which provides flexibility in applying *iddah*, can be an important reference in developing Islamic family law in Indonesia. The concept of *iddah* can be realized by adjusting the rules for working women, applying the benefit principle, and increasing gender awareness in Islamic family law. Thus, Islamic law can remain relevant in responding to evolving social challenges without abandoning the Sharia principles on which it is based. This research contributes to the development of Islamic law studies by offering a new perspective on understanding *iddah* in a more dynamic social context. It is hoped that academics, scholars, and policymakers can consider these findings in formulating rules that are fairer, inclusive, and relevant to the lives of modern Muslim women.

Credit Authorship Contribution

Wahyu Abdul Jafar led the research design, formulated the core argument on gender justice in Islamic law, and authored the theoretical and contextual analysis of al-Kasani's thought. Alamsyah contributed to the literature review and contextualized the classical fiqh discourse with the realities of working women in Indonesia. Maimun provided critical insights into the hermeneutical approach and helped refine the methodology. Muhammad Zaki was responsible for data synthesis, manuscript editing, and ensuring scholarly coherence. Siti Mahmudah reviewed legal and socio-cultural implications, contributed to the final discussion, and coordinated the submission

process. All authors contributed to and approved the final manuscript.

Declaration of Competing Interest

The authors declare no competing interests related to this study. No financial or personal relationships could have appeared to influence the work reported in this paper.

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