

Reformulating the Law of 'Iddah in Indonesia: An Analysis of the Implementation of the Male 'Iddah Period under the Ministry of Religious Affairs Regulations in Banyumas Regency

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Abstract

This study seeks to examine the implementation of the male 'iddah period as stipulated in the Circular Letter of the Director General of Islamic Community Guidance of the Ministry of Religious Affairs of the Republic of Indonesia (Number P-005/DJ.III/HK.00.7/10/2021), and to evaluate its relevance to gender equality and the reform of Islamic law in Indonesia. Employing a qualitative methodology with a juridical-empirical approach, the research connects normative legal provisions with practical field applications, complemented by a theological perspective to integrate empirical findings within the framework of Islamic thought. The analysis is further informed by Faqihuddin Abdul Kodir's qirā'ah mubādalah theory and Nancy Fraser's critical feminist theory. The findings reveal that the regulation of male 'iddah constitutes a significant response to issues of gender equality and reflects efforts to modernize Islamic law in Indonesia. Field observations conducted at three Offices of Religious Affairs (KUA) – Gumelar, Lumbir, and Kembaran – in Banyumas Regency demonstrate that the regulation has been implemented, although variations in application, normative resistance, and socio-cultural challenges persist within the community. This study contributes to advancing the discourse on the reformulation of Islamic family law in Indonesia. The regulation concerning male 'iddah not only provides novel insights for legal practice but also enhances the understanding of gender equality within the context of contemporary Islamic law.

Abstrak

Penelitian ini bertujuan menganalisis penerapan masa iddah bagi laki-laki sebagaimana diatur dalam Surat Edaran Dirjen Bimas Islam Kementerian Agama Republik Indonesia Nomor P-005/DJ.III/HK.00.7/10/2021 serta menilai relevansinya terhadap kesetaraan gender dan pembaruan hukum Islam di Indonesia. Penelitian menggunakan metode kualitatif dengan pendekatan yuridis-empiris untuk menghubungkan antara ketentuan normatif dan praktik lapangan, serta pendekatan teologis untuk menjembatani temuan empiris dengan kerangka pemikiran Islam. Analisis diperkuat dengan teori qirā'ah mubādalah Faqihuddin Abdul Kodir dan feminisme kritis Nancy Fraser. Hasil penelitian menunjukkan bahwa pengaturan iddah bagi laki-laki merupakan bentuk respons kritis terhadap isu kesetaraan gender sekaligus upaya modernisasi hukum Islam di Indonesia. Temuan lapangan pada tiga kantor urusan agama (KUA) Gumelar, KUA Lumbir, dan KUA Kembaran di Kabupaten Banyumas menunjukkan bahwa regulasi tersebut telah diimplementasikan, meskipun masih terdapat variasi penerapan, resistensi normatif, dan tantangan sosial-kultural dalam masyarakat. Penelitian ini berimplikasi pada penguatan wacana reformulasi hukum keluarga Islam di Indonesia. Aturan tentang iddah laki-laki tidak hanya menawarkan wawasan baru dalam praksis hukum, tetapi juga berkontribusi pada perluasan pemahaman mengenai kesetaraan gender dalam konteks hukum Islam kontemporer.

Keywords:

Male 'iddah;
Islamic law;
Gender
equality;
Juridical-
empirical
approach;
Family law
reform

Kata kunci:

Iddah laki-
laki; Hukum
Islam;
Kesetaraan
gender;
Yuridis-
empiris;
Reformasi
hukum
keluarga

Article History: Received: 17-09-2025 | Revised: 26-09-2025, 23-11-2025 | Accepted: 26-11-2025

Introduction

The law of iddah constitutes a fundamental principle within Islamic family jurisprudence, designed to ensure lineage clarity, provide a period of psychological adjustment following divorce, and regulate social interactions between men and women. Traditionally, classical jurisprudence has imposed this obligation solely on women, exempting men from a comparable requirement.¹ However, contemporary social developments including transformations in family structures and heightened calls for gender equality² have prompted critical reassessment of legal provisions that may engender inequity. In Indonesia, this issue has garnered attention through regional regulations issued by the Ministry of Religious Affairs, notably in Banyumas, which mandate a waiting period for men to deter rapid remarriage after divorce. Such measures frequently provoke emotional tensions, complicate the safeguarding of women's rights, and hinder the administration of divorce proceedings.³ This policy has incited theoretical debates regarding its basis in shari'a law and its position within national legislation, especially within the framework of progressive Islamic legal thought informed by maqāṣid al-sharī'ah. Consequently, the reformulation of iddah law emerges as a pivotal matter intimately connected to the pursuit of substantive justice in Muslim family law.

The Ministry of Religious Affairs of the Republic of Indonesia, through the Directorate General of Islamic Guidance, has issued Circular Letter (SE) No. P-005/DJ.III/HK.00.7/10/2021 regarding the iddah period for husbands and wives. Although this circular provides guidelines concerning the male iddah period, its implementation across the Religious Affairs Offices (KUA) in Banyumas Regency exhibits considerable variation. For example, at KUA Gumelar, the iddah period is applied exclusively in cases of ṭalāq divorce, but not in court-initiated divorces (cerai gugat). Conversely, KUA Lumbir enforces the circular comprehensively, requiring husbands to observe the iddah period in all instances of divorce, analogous to their former wives. At KUA Kembaran, the practice aligns with that of KUA Gumelar: iddah is enforced solely in ṭalāq cases, while cerai gugat cases do not necessitate iddah. Furthermore, when iddah is observed in cerai gugat cases, it is regarded merely as a gesture of respect toward the former spouse rather than a formal adherence to the circular.

¹ Sam'un Sam'un and Mukhammad Nur Hadi, "Husband's 'Iddah in Indonesian Islamic Law Context: Insights from the Fatwa Approach of the Indonesian Women's Ulema Congress," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 13, no. 2 (December 2023): 297-323, <https://doi.org/10.15642/alhukama.2023.13.2.297-323>.

² Wahyu Abdul Jafar et al., "Gender Justice in the Concept of Iddah: A Contextual Reading of Al-Kasani's Thought for Working Women in Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 2 (June 2025): 15, <https://doi.org/10.29300/mzn.v12i2.7683>.

³ Khairuddin Khairuddin, "Iddah for Men: A Comparative Study of Wahbah Zuhaili and Faqihudin Abdul Kodir," *Abdurrauf Journal of Islamic Studies* 3, no. 1 (June 2024): 55-67, <https://doi.org/10.58824/arjis.v3i1.85>; Ruby Isla, Asep Kurniawan, and Lita Amelia, "Islamic Family Law Reform: Iddah for Husbands as an Effort for Gender Equality," *Indonesian Journal of Islamic Law* 6, no. 1 (June 2023): 1-16, <https://doi.org/10.35719/ijil.v6i1.2021>.

This study investigates the implementation of Circular Letter No. P-005/DJ.III/HK.00.7/10/2021 concerning male iddah in Banyumas Regency and analyzes its normative implications through the theoretical frameworks of Mubadalah and Nancy Fraser's critical feminism. The findings indicate inconsistencies in the application of the circular across different Religious Affairs Offices (KUAs) and reveal resistance stemming from the equality-oriented approach promoted within a regulatory context that remains suboptimal. These results correspond with Nancy Fraser's assertion regarding the necessity of integrating both redistribution and recognition to achieve social justice. Gender equality in legal practice, particularly at the community level, is frequently impeded by restrictive interpretations of traditional texts. To address this legal gap, the Directorate General of Islamic Community Guidance issued the circular mandating that a man who has divorced his wife must not remarry before the completion of his former wife's iddah period. This policy aims to prevent covert polygamy and uphold the principles of marital equality.⁴

This study examines the implementation of the circular in Banyumas Regency and explores its philosophical dimensions through two primary theoretical frameworks: the Mubadalah theory, as developed by Faqihuddin Abdul Kodir, and Nancy Fraser's critical feminist theory. The Mubadalah theory underscores the significance of reciprocal and egalitarian relationships between men and women within the family, highlighting their collaborative potential to achieve justice and well-being.⁵ In contrast, Fraser's critical feminist theory emphasizes the necessity of scrutinizing existing power structures and interactions embedded within contemporary religious regulations, which frequently subordinate women.⁶ Collectively, these perspectives provide a comprehensive framework for analyzing gendered power relations within religious regulatory systems.

Numerous prior studies have investigated the issue of male iddah from various perspectives. For example, research conducted by Fahrul and Gunadi⁷ demonstrates that the implementation of the circular in KUA Tasikmalaya has been carried out through socialization and administrative supervision. However, divergent public interpretations have resulted in variations in practice, revealing a discrepancy between

⁴ Nur Kholis, Jumaiyah Jumaiyah, and Wahidullah Wahidullah, "Poligami Dan Ketidakadilan Gender Dalam Undang-Undang Perkawinan Di Indonesia," *Al-Ahkam* 27, no. 2 (2017): 195, <https://doi.org/10.21580/ahkam.2017.27.2.1971>.

⁵ Nuzulia Febri Hidayati, "Rekonstruksi Hukum 'Iddah Dan Ihdad Dalam Kompilasi Hukum Islam (KHI)," *Mazahibuna*, 2019, 56–72, <https://doi.org/10.24252/mh.v1i1.9663>.

⁶ Muhammad Fadhly Akbar and Heriansyah, "Penerapan Sistem Demokrasi Dalam Keluarga Sebagai Langkah Awal Penyetaraan Gender," *Al-Qadlāya: Jurnal Hukum Keluarga Islam* 1, no. 1 (2021): 1–10, <https://doi.org/10.55120/qadlāya.v1i1.402>.

⁷ Fahrul Gunadi, "Implementasi Surat Edaran Dirjen Bimas Islam Nomor P-005 / Dj . Iii / Hk . 00 . 7 / 10 / 2021 Tentang Masa ' Iddah Istri Dan Suami Di Kua Se Kota Tasikmalaya TAHUN 2022-2023 Fahrul Institut Agama Islam Tasikmalaya Gunadi Institu," *AHWALUNA Jurnal Hukum Keluarga Islam* 5, no. 1 (2024): 349–69.

regulatory norms and cultural understanding. Jayusman and Efrinaldi,⁸ employing a *maṣlaḥah* approach, evaluate the circular's relevance in preventing harm that may arise from remarriage during the wife's *iddah* period. Their findings suggest that implementation remains suboptimal, despite its potential to avert practices detrimental to women. Comparable conclusions are drawn by Mustakim and Maarif,⁹ who consider the circular a progressive measure in family law, although it remains advisory and lacks binding sanctions.

Sabila provides a normative perspective by employing a *maqāsidī* hermeneutic approach to justify the institution of male *iddah*.¹⁰ She contends that the circular aligns with the objectives of Sharia in preserving household dignity, despite the absence of explicit textual support in classical jurisprudence. This position is further substantiated by the study of Hasri and Turnip,¹¹ which examines the stance of the Indonesian Ulema Council (MUI) in North Sumatra; the council endorses the circular on the grounds of *maṣlaḥah*, notwithstanding the traditional *fiqh*'s non-recognition of male *iddah*. From an implementation standpoint, Miftahudin¹² emphasizes the role of the Religious Affairs Offices (KUAs) in Lampung in overseeing the enforcement of the circular, highlighting its effectiveness in preventing remarriage during the wife's *iddah* period, although administrative and social challenges persist. Additionally, Hamdan and colleagues regard the circular as a pertinent contemporary instrument for addressing covert polygamy and promoting household stability in modern contexts.¹³

The primary distinction of the present study from prior literature resides in its regional focus and analytical methodology. This research, conducted in Banyumas, emphasizes the local-level implementation of the 2021 circular, elucidating the practical dynamics within the KUAs, the inhibiting factors, and the responses of the community and relevant stakeholders. Furthermore, the study employs *Mubadalah* theory

⁸ Jayusman Jayusman et al., "Perspektif Masalah Mursalah Terhadap Pernikahan Suami Pada Masa Iddah Istri Pasca Surat Edaran Dirjen Bimas Islam Nomor: P-005/DJ.III/Hk.00.7/10/2021 Tentang Pernikahan Dalam Masa Iddah Istri," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 3, no. 2 (2022): 39–55, <https://doi.org/10.24042/el-izdiwaj.v3i2.14525>.

⁹ Ahmad Mustakim and Afiful Huda, "Urgensi Iddah Bagi Suami (Studi SE DIRJEN NO:P-005/DJ.III/HK.00.7/10/2021. Tentang Pernikahan Dalam Masa Iddah Istri)," *Jas Merah: Jurnal Hukum Dan Ahwal al-Syakhsyah* 1, no. 3 (2023): 18–45.

¹⁰ Ahmad Ahda Sabila, "Idah Bagi Suami Dalam Konsep Hermeneutika Maqāsidī Dan Relevansinya Dengan Pembaruan Hukum Keluarga (Studi Atas Surat Edaran Dirjen Bimas Islam Nomor P-005/Dj.Iii/Hk.007/10/2021)," *QISTHOSIA: Jurnal Syariah Dan Hukum* 5, no. 1 (2024): 54–67, <https://doi.org/10.46870/jhki.v5i1.954>.

¹¹ Ibnu Radwan Siddik Turnip Fauziah Nur Hasri, "Pandangan Anggota MUI Sumatera Utara Terhadap Surat Edaran Direktur Jendral Bimas Islam Nomor P-005/DJ.III/Hk.007/10/2021 Tentang Pernikahan Dalam Masa Iddah Istri," *Kertha Semaya* 13, no. 1 (2024), <https://doi.org/10.24843/KS.2024.v13.i01.p11>.

¹² M Miftahudin, "Regulation of the Director General of Islamic Guidance on Marriage of Husband during Wife's Iddah Period: An Effort to Develop Family Law in Indonesia," *SMART: Journal of Sharia, Traditon, and Modernity* 3, no. 2 (2023): 71–82, <https://doi.org/10.24042/smart.v3i2.20509>.

¹³ Ali hamdan, Burhanatutdyana, and Refangga, "Tinjaun Pernikahan Dalam Masa Iddah Istri Terhadap Surat Edaran Dirjen Bimas Islam," *Al Maqashidi: Jurnal Hukum Islam Nusantara* 6, no. 2 (2023): 74–83, <https://doi.org/10.32665/almaqashidi.v6i2.2368>.

alongside Nancy Fraser's feminist framework as its analytical lenses. In contrast, previous studies exhibit considerable variation, with some concentrating on normative-theoretical analyses such as *maqāṣid* and *maṣlaḥah*, others examining institutional religious support, and still others investigating implementation in different regions, including Tasikmalaya and Lampung. Accordingly, this study contributes to the existing body of knowledge by providing a more specific and contextually grounded field investigation in Banyumas, thereby serving as a valuable comparative reference for understanding regional variations in circular implementation within broader theoretical contexts.

This study utilizes a qualitative research methodology with an empirical juridical approach, complemented by field research, to examine the implementation of Circular Letter No. P-005/DJ.III/HK.00.7/10/2021 concerning *iddah* for husbands and wives in Banyumas Regency. The research participants comprise Heads of KUA, marriage registrars (*penghulu*), and individuals directly involved in marriage registration services. Data sources include primary data collected through in-depth interviews with KUA officials and direct observations of marriage registration practices, as well as secondary data obtained from official documents, statutory regulations, KUA archives, and scholarly literature on Islamic family law. Data collection methods encompass semi-structured interviews, participatory observation, and document analysis to substantiate the field findings.

The data analysis in this study adheres to the Miles and Huberman model, encompassing three stages: data reduction, which involves selecting, focusing, and simplifying field data to align with the research objectives; data display, which organizes the information into descriptive narratives to discern patterns in the implementation of the circular across KUAs; and conclusion drawing/verification, which interprets the collected data to address research questions related to the implementation of the circular in Banyumas, the challenges encountered, and the solutions employed. The objectives of this study are as follows: (1) to describe the implementation of the circular in KUAs throughout Banyumas Regency; (2) to identify the factors inhibiting its implementation; and (3) to analyze the policy's relevance through the lenses of *Mubadalah* theory and Nancy Fraser's critical feminism. This study aims not only to portray field practices but also to contribute theoretically to the advancement of a more gender-just Islamic family law.

Results and Discussion

An Analysis of the Implementation of the Circular Letter on Male Iddah in Banyumas Regency

The Circular Letter (SE) of the Directorate General of Islamic Guidance No. P-005/DJ.III/HK.00.7/10/2021, which explicitly prohibits a man from remarrying while his former wife remains in her *iddah* period, constitutes an innovation within

Indonesia's Islamic family law framework.¹⁴ Nevertheless, the issuance of this SE raises critical questions concerning its enforceability at the grassroots level, particularly within the Religious Affairs Offices (KUA), which function as the primary institutions responsible for marriage registration. Empirical research conducted in Banyumas Regency reveals that the implementation of the SE is inconsistent across local KUA. Firstly, At KUA Gumelar, the application of the SE is confined exclusively to cases of *ṭalāq* divorce, which refers to divorce initiated by the husband. In such instances, if a man who has divorced his wife through *ṭalāq* intends to enter into a subsequent marriage, KUA officials will refuse to register the new marriage if the former wife's *iddah* period has not yet concluded. Conversely, in cases of *ceraai gugat* (divorce initiated by the wife), the requirement for the husband to observe an *iddah* period is considered inapplicable and is therefore not enforced. This practice is grounded in both sociological and juridical interpretations that view *ceraai gugat* as a termination of marriage fully initiated by the wife, thereby absolving the husband of any moral or legal obligations related to the *iddah* period.¹⁵

Secondly, at KUA Lumbir, the enforcement of the stipulation restricting remarriage following divorce demonstrates a pronounced commitment to safeguarding women's rights and well-being. This office mandates that husbands observe the completion of the former wife's *iddah* period in cases of both *ṭalāq* and *ceraai gugat*.¹⁶ Such a policy reflects a significant normative awareness concerning gender equality, emphasizing the emotional protection of women post-divorce.¹⁷ This regulation is perceived not merely as an administrative procedure but as an embodiment of a broader ethical framework of justice within marital and social relations.¹⁸

Thirdly, the KUA Kembaran exhibits ambivalence in the application of the SE. Specifically, the SE is enforced exclusively in cases of *ṭalāq* divorces, whereas *ceraai gugat* cases are excluded.¹⁹ Although male applicants are informally encouraged to observe the *iddah* period of their former wives, such recommendations are nonbinding and indicate that the SE is perceived more as a negotiable moral guideline than a compulsory regulation. This phenomenon demonstrates that the effectiveness of the SE's implementation is significantly shaped by the personal interpretations of KUA officers, which are influenced by local Islamic legal understandings and the entrenched patriarchal culture within the community.

¹⁴Kementerian Agama RI. "Surat Edaran Dirjen Bimas Islam Nomor: P-005/DJ.III/HK.00.7/10/2021.Jakarta."; diambil dari <https://share.google/TzlUZzhmRULvA7PMz>; Internet; diakses pada 1 September 2025

¹⁵ Interview with Hajid, Head of the KUA Gumelar, conducted on 12 August 2025.

¹⁶ Interview with Azizah, staff member of the KUA Lumbir, conducted on 21 March 2025.

¹⁷ R. Amiri, K. and Paputungan, *Upaya Kantor Urusan Agama Dalam Mencegah Perkawinan Dini*, 3, no. 2 (2023): 141–51.

¹⁸ Ariesthina Lelah, "Memahami Kedudukan Nikahul Fasid Dalam Hukum Islam," *Al-Tafaqquh: Journal of Islamic Law* 2, no. 1 (2021): 1, <https://doi.org/10.33096/altafaqquh.v2i1.76>.

¹⁹ Interview with Idi, staff member of the KUA Kembaran, conducted on 24 March 2025.

The findings reveal a discrepancy between national legal frameworks and local practices.²⁰ Although the Ministry of Religious Affairs has articulated a commitment to advancing gender equality and safeguarding women through this SE, its implementation at the KUA level remains incomplete. Strategic interventions—including gender-responsive socialization, targeted training for KUA officers, and regulatory amendments to enhance the clarity and enforceability of the SE—are imperative.²¹ Consequently, the application of the SE in Banyumas represents a transitional phase wherein normative regulations start to endorse gender equality but continue to be limited by social practices influenced by patriarchal traditions and conservative normative interpretations.

Mubadalah Theory in Realizing Inclusive Justice from the Perspective of Islamic Law

The Mubadalah theory developed by Faqihuddin Abdul Kodir is an interpretive approach to Islamic teachings that emphasizes reciprocity, partnership, and justice in the relationship between men and women.²² In the context of marriage, this theory rejects domination or hierarchical structures that often position one party—typically women—as subordinated subjects. Within the Mubadalah framework, both husband and wife are regarded as equal subjects who possess corresponding rights and roles in every relational aspect, including social and religious dimensions. The further application of the Mubadalah theory in the context of the iddah period, as reflected in the Circular Letter of the Directorate General of Islamic Guidance, offers a new perspective on legal norms that tend to exhibit gender bias. Traditionally, Islamic law requires only women to observe iddah after divorce, while men are not subjected to a comparable obligation. Mubadalah theory maintains that such an arrangement creates structural inequalities that not only disadvantage women but also contradict the objectives of the Sharia, which ideally uphold justice and well-being for all parties involved.²³

Applying the Mubadalah theory demonstrates that revising legal norms to include men as part of the iddah responsibility is an important step toward achieving gender equality.²⁴ This aligns with the notion that substantive justice within the law should not merely follow discriminatory traditions but should instead strive to

²⁰ Rozi Andrini, Mawardi Muhammad Saleh, and Indra Hadi, “Dasar Wajib Patuh Pada Undang-Undang Perkawinan Ditinjau Menurut Hukum Islam,” *An-Nida’* 45, no. 1 (June 2021): 90–108, <https://doi.org/10.24014/an-nida.v45i1.16533>.

²¹ Zainul Fitriyyah and Achmad Mujab Masykur, “(Studi Kualitatif Fenomenologi Kepuasan Pernikahan Pada Perempuan Yang Menjadi Istri Kedua Dalam Pernikahan Poligami) Hukum Perkawinan Islam CLD-KHI (Counter Legal Draft – Kompilasi Hukum Islam) , Yaitu Asas Poligami Karena Faktor Keadaan , Khususnya,” *Jurnal Empati* 9, no. 3 (n.d.): 249–55.

²² Faqihuddin Abdul Kodir, *Qira’ah Mubadalah* (Yogyakarta: IRCiSoD, 2019).

²³ Padjrin Padjrin, “Pola Asuh Anak Dalam Perspektif Pendidikan Islam,” *Intelektualita* 5, no. 1 (2016): 1, <https://doi.org/10.19109/intelektualita.v5i1.720>.

²⁴ Siti Alfi Aliyah and Raihan Safira Aulia, “Metode Qira’ah Mubadalah Pada Kasus Kepemimpinan Perempuan,” *An-Nida’* 46, no. 2 (December 2022): 174, <https://doi.org/10.24014/an-nida.v46i2.20860>.

embody fairness.²⁵ The theory supports the creation of harmonious marital relations in which both parties are expected to respect and support one another, ultimately strengthening the institution of the family in a broader social context.

More broadly, the application of Mubadalah theory provides legitimacy to gender roles within social structures that promote justice between husbands and wives. This shows that in any relationship—particularly within family life—mutual understanding and collaboration are essential, forming the core principle of reciprocity that underpins the theory. Within the Mubadalah perspective, iddah should not be understood solely as a biological obligation imposed on women to prevent confusion regarding pregnancy from a previous marriage, but also as a period of reflection and reconciliation for both parties. Therefore, the requirement for men to “wait” during the former wife’s iddah should not be viewed as excessive; rather, it constitutes an implementation of relational justice, enabling both parties to reflect upon the continuity of their relationship and the emotional implications of their separation.²⁶

The 2021 Circular Letter issued by the Directorate General of Islamic Guidance embodies the values of the Mubadalah theory, even though it does not explicitly reference the term. By stipulating that a husband may not remarry until his former wife completes her iddah, the SE aims to establish a more reciprocal and egalitarian legal structure while reducing male dominance in post-divorce decision-making. This approach aligns with Qur’anic principles of living together in kindness (*mu’āsharah bil ma’rūf*) as the foundation of marital relationships. However, the main challenge in implementing Mubadalah theory lies in the low level of progressive interpretive literacy among practitioners of Islamic law. Many KUA officers and religious leaders remain rooted in classical fiqh interpretations that tend to be literalist, leading them to reject or question the legitimacy of rules requiring men to observe a waiting period. In line with the higher objectives of Islamic law (*maqāṣid al-sharī’ah*), the Mubadalah theory is designed to respond to contemporary social dynamics and the complexities of gender relations in modern society.

Based on the Mubadalah framework, the implementation of the Circular Letter of the Directorate General of Islamic Guidance has the potential to reconstruct Islamic law in a more just manner and to encourage social transformation grounded in inclusive and egalitarian Islamic values. Mubadalah theory is not merely a critical tool; it can also serve as a guideline for formulating policies that balance textual legal sources with social contexts, as well as harmonizing legal provisions with principles of social justice.²⁷

²⁵ Maidin Gultom, “Indikator Kesetaraan Gender Dan Isu-Isu Gender Di Bidang Pendidikan,” *Fiat Iustitia : Jurnal Hukum* 2, no. 1 (2021): 1–8, <https://doi.org/10.54367/fiat.v1i2.1149>.

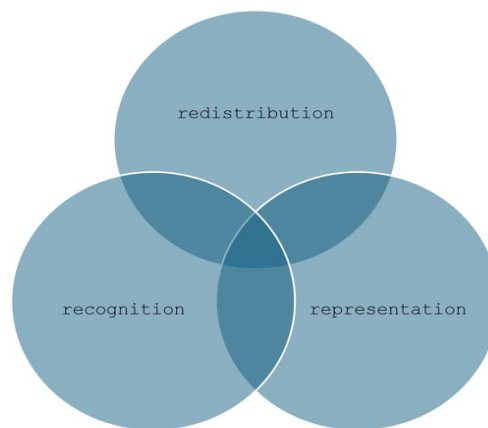
²⁶ Imam Mustofa, “Ijtihad Kontemporer Sebagai Upaya Pembaruan Hukum Keluarga Di Indonesia,” *Al-Manahij: Jurnal Kajian Hukum Islam* 7, no. 2 (2013), <https://doi.org/10.24090/mnh.v7i2.565>.

²⁷ Absori and Fatkhul Muin, “Pembangunan Hukum Islam Di Indonesia (Studi Politik Hukum Islam Di Indonesia Dalam Kerangka Al-Masalih),” *Al-Risalah* 15, no. 2 (2015): 285–95.

The Regulation of Male Iddah in the Ministry of Religious Affairs from the Perspective of Nancy Fraser's Critical Feminism

Nancy Fraser offers substantial critique of liberal and radical feminist frameworks that remain trapped within a singular narrative and therefore fail to fully capture the complexity of gender inequality in modern capitalist societies.²⁸ In her view, social justice must be understood through the dual dimensions of redistribution and recognition, which complement one another in achieving comprehensive justice.²⁹ Redistribution focuses on economic injustices—such as disparities in access to employment, income, and resources—while recognition addresses the cultural and social affirmation of women's identities as autonomous subjects equal to men.³⁰

Figure 1.1 Fraser's Framework on Three Dimensions of Justice



Nancy Fraser contends that the pursuit of economic justice in isolation is inadequate. She illustrates that, while distributive inequalities impede women's progress, cultural subordination that devalues women's identities also plays a critical role in perpetuating the injustices they face.³¹ For example, semantic conflicts within the public sphere regarding women and their social roles—as evidenced in analyses of the Women's March movement—demonstrate how women's identities are often represented in unjust and dismissive ways. Consequently, the struggle for recognition

²⁸ Nancy Fraser and Linda Nicholson, "Social Criticism without Philosophy: An Encounter between Feminism and Postmodernism," *Theory, Culture & Society* 5, nos. 2–3 (June 1988): 373–94, <https://doi.org/10.1177/0263276488005002009>.

²⁹ Karen Lok Yi Wong, Diane Pan, and Lillian Hung, "Applying Nancy Fraser's Framework on Three Dimensions of Justice in the Understanding of Justice in the Use of Technology with Older Adults with Moderate to Severe Dementia in Care Settings: Closing the Digital Divide," *Journal of Technology in Human Services* 42, no. 3 (July 2024): 215–35, <https://doi.org/10.1080/15228835.2024.2376552>.

³⁰ amin mudzakir, "Feminisme Sebagai Kritik Kapitalisme: Memperkenalkan Teori Kritis Nancy Fraser," *Jurnal Ledalero* 20, no. 1 (2021): 101–15.

³¹ Nancy Fraser, "Women, Welfare and The Politics of Need Interpretation," *Hypatia* 2, no. 1 (March 1987): 103–21, <https://doi.org/10.1111/j.1527-2001.1987.tb00855.x>.

must advance concurrently with efforts toward economic redistribution, as these two dimensions are mutually dependent and inseparable.

Fraser's analysis underscores that injustice within capitalist systems is shaped not only by economic conditions but also by the prevailing ideologies that sustain them. Consequently, feminist advocacy must address the intrinsic connection between critiques of capitalism and the acknowledgment of women's lived experiences.³² Research on organizational justice in workplace settings indicates that equitable policies can foster innovative behavior and enhance the work environment; however, this effect is contingent upon the integration of both redistributive and recognition-based principles. This dual emphasis renders Fraser's framework pertinent to a range of contemporary social issues, including justice in digital practices and urban environments. Achieving comprehensive justice necessitates that feminist movements avoid exclusive focus on a single dimension, instead incorporating both aspects concurrently in advocacy and policy development. Accordingly, women's autonomy and the recognition of their social value are essential components in the broader pursuit of genuine justice. Without sufficient recognition, resource redistribution alone is insufficient to disrupt the persistent cycles of injustice embedded within society.³³

An analysis of Circular Letter No. P-005/DJ.III/HK.00.7/10/2021 issued by the Directorate General of Islamic Guidance, through the framework of Nancy Fraser's critical feminist theory, offers valuable insights into the structural and ideological underpinnings of Islamic law concerning marriage and divorce. Traditionally, Islamic law has perpetuated gender inequality, exemplified by the imposition of the iddah period exclusively on women, without an equivalent obligation for men. The introduction of a waiting period for men during their former wives' iddah, albeit currently administrative in nature, constitutes a preliminary measure aimed at addressing this disparity and promoting a more equitable social and legal status for women.

Applying Fraser's concept of the redistributive dimension to the circular letter can be interpreted as a structural intervention by the state aimed at more equitably redistributing moral and legal responsibilities in divorce proceedings.³⁴ This approach recognizes that the emotional and legal burdens associated with divorce are unevenly distributed, often disproportionately affecting women. By mandating that men observe the iddah period, the state seeks to reestablish women as equal legal subjects, thereby addressing and mitigating the unequal power dynamics inherent in the marital legal framework.

³² Nancy Fraser, "Clintonism, Welfare, and the Antisocial Wage: The Emergence of a Neoliberal Political Imaginary," *Rethinking Marxism* 6, no. 1 (March 1993): 9–23, <https://doi.org/10.1080/08935699308658040>.

³³ Muhammad Nur Hasan Latief, "Pembaharuan Hukum Keluarga Serta Dampaknya Terhadap Pembatasan Usia Minimal Kawin Dan Peningkatan Status Wanita," *Jurnal Hukum Novelty* 7, no. 2 (2016): 196, <https://doi.org/10.26555/novelty.v7i2.a5467>.

³⁴ Mahmud Ikhwanudin, *Penerapan Kesetaraan Gender Dalam Sistem Pembagian Waris berdasarkan Hukum Islam Di Indonesia*, 5, no. 10 (2016): 1–23.

The reforms proposed by the SE correspond with broader initiatives aimed at modernizing Islamic family law, particularly by enhancing women's rights and elevating their social status.³⁵ Empirical studies underscore the legal, social, and cultural significance of protecting women's rights in matters of marriage and divorce. Consequently, this policy represents not merely an administrative measure but serves as a catalyst for promoting widely accepted changes to address deeply rooted gender discrimination.³⁶ To strengthen women's legal standing, future policies must embed human rights and gender equality as fundamental principles in legal development.³⁷ By fostering a comprehensive understanding of legal content and its implementation, coupled with the active involvement of women in all stages of policymaking, a more just and egalitarian religious and civic society can be realized.

An analysis of the SE reveals deficiencies in articulating gender equality and in recognizing the dignity of women. The policy fails to explicitly acknowledge the historically entrenched legal subordination of women in divorce proceedings, despite the importance of such recognition. This critique aligns with Nancy Fraser's argument that ostensibly neutral legal systems frequently neglect to address the underlying causes of structural gender inequality. When laws are formulated under the assumption of universality, embedded injustices persist unchallenged. Consequently, Fraser underscores the necessity of affirmative policies that explicitly support marginalized groups, particularly women in this context.

Within the domain of Islamic family law, Fraser's critique highlights the imperative of reconciling traditional frameworks with gender-sensitive modern principles. Empirical research indicates that legal interpretations and practices that overlook women's historical experiences of discrimination often serve to perpetuate systemic injustice. For instance, studies aimed at enhancing gender equality in the workplace emphasize the importance of robust legal enforcement and heightened awareness of women's rights.³⁸ Consequently, the current SE may be critiqued for its insufficient incorporation of language prioritizing gender justice and for its failure to contest social norms that disadvantage women.

A more comprehensive approach is required to articulate principles of gender equality within policy frameworks, taking into account women's lived experiences in both legal and social contexts. This approach should include the active participation of

³⁵ Johari Johari et al., "Istihsān Method and Its Relevance to Islamic Law Reform: Content Analysis of Fatwa of Majelis Ulama Indonesia on Corneal Transplant," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (July 2023): 1–20, <https://doi.org/10.18860/j-fsh.v15i1.18442>.

³⁶ Wildani Hefni, "Pemikiran Hukum Nasional A. Qodri Azizy: Eklektisisme Hukum Islam Dan Hukum Umum," *Undang: Jurnal Hukum* 5, no. 2 (2022): 481–511, <https://doi.org/10.22437/ujh.5.2.481-511>.

³⁷ Afriadi Putra, Khairunnas Jamal, and Nasrul Fatah, "Offside Kesetaraan Gender (Kritik Terhadap Liberasi Kesetaraan Gender Perspektif Al-Qur'an)," *An-Nida'* 43, no. 1 (June 2019): 35, <https://doi.org/10.24014/an-nida.v43i1.12313>.

³⁸ Yeni Nuraeni and Ivan Lilin Suryono, "Analisis Kesetaraan Gender Dalam Bidang Ketenagakerjaan Di Indonesia," *Nakhoda: Jurnal Ilmu Pemerintahan* 20, no. 1 (2021): 68–79, <https://doi.org/10.35967/njip.v20i1.134>.

women in relevant policy-making processes to ensure their perspectives are represented at every stage of legislation.³⁹ Systemic injustice cannot be eliminated solely through declarations of equality without substantive legal and social support. Consequently, affirmative policies are essential to transform gender equality from a rhetorical ideal into a tangible reality.

A central conclusion of the gender recognition analysis is that public policy must prioritize women's experiences of injustice. Current policies warrant comprehensive review and reform to more effectively address women's needs, particularly within the realms of family law and divorce, where systemic disadvantages persist. The implementation of the SE at the KUA level exposes enduring cultural inequalities that affect legal enforcement. Certain KUA offices refuse to apply the SE, citing conflicts with classical fiqh or the assumption that husbands bear no responsibilities post-divorce. These attitudes underscore the ongoing failure to acknowledge women as full legal subjects in society, especially concerning Islamic family law in Indonesia.

Research indicates that the legal recognition of women's rights is frequently impeded by entrenched local patriarchal norms that influence societal perceptions of the roles of husbands and wives in divorce proceedings. Fraser's concept of intersectionality is particularly pertinent in this context, as gender inequality intersects with factors such as class, ethnicity, religion, and geography. In Banyumas, Javanese patriarchal cultural values serve as a restrictive framework that hinders the equitable application of progressive legal statutes, including the SE. When local cultural practices continue to marginalize women and assign them subordinate social positions, the enforcement of gender-equal laws becomes significantly more difficult. This analysis highlights the critical role of cultural contextualization in legal practice, particularly in the realm of gender justice. Societies characterized by deeply rooted patriarchal norms often perpetuate traditional gender roles, which hinder progress in the recognition of women's legal rights. In the absence of cultural transformation, the implementation of progressive legislation is likely to face persistent challenges.⁴⁰

Nancy Fraser articulates the concept of "political representation" as a crucial third dimension of justice that complements the principles of redistribution and recognition. This concept underscores the significance of women's active participation in decision-making processes and policy formulation, thereby ensuring that their perspectives and experiences are adequately incorporated into legislative outcomes. Within the context of iddah policy, a pertinent inquiry emerges: To what degree were women engaged in the drafting of the regulation? If women are treated solely as subjects of regulation

³⁹ Tania Ellena Dharmanto and Victor Immanuel Williamson Nalle, "Kebijakan Afirmatif Dan Partisipasi Perempuan Dalam Pembentukan Undang-Undang," *Legalitas: Jurnal Hukum* 14, no. 2 (2023): 369, <https://doi.org/10.33087/legalitas.v14i2.358>.

⁴⁰ Abdullah Taufik, "Analisis Yuridis Tentang Peraturan Perceraian Bagi Aparatur Sipil Negara Di Instansi Polisi Republik Indonesia," *Adhki: Journal of Islamic Family Law* 4, no. 1 (2023): 59–69, <https://doi.org/10.37876/adhki.v4i1.111>.

rather than as contributors to its development, the resulting policy may inadequately represent the realities they encounter.⁴¹

Fraser's critical feminist framework provides a robust analytical tool for examining the injustices inherent in the male-iddah policy. Although the SE possesses structural potential to redistribute responsibility, it continues to exhibit limited recognition and representation of women's interests at both cultural and political levels. Research on women's roles within legislative bodies indicates that female participation is frequently constrained by patriarchal norms and restricted access to resources and networks. As a result, policies often fail to adequately address women's aspirations. Therefore, active female participation is crucial to ensure that women are not merely passive recipients of legislation but also active architects of inclusive and equitable legal frameworks. Enhancing women's political representation necessitates transformative initiatives. This transformation should commence with public education and increased awareness of women's roles in politics and law, alongside the establishment of mechanisms that actively support women's participation in policy development.⁴² These collective efforts are essential to fostering an environment in which women can act as agents of change, collaboratively formulating policies that effectively address the societal challenges they encounter.

Applying Fraser's theoretical framework to the context of gender justice in Indonesia highlights the imperative of integrating both formal and substantive justice. It is essential for the state not only to enact regulations but also to ensure that these regulations effectively address the underlying causes of inequality and promote transformative changes in societal values. Strategic measures such as gender education, training programs for KUA officers, and the active participation of female religious scholars are crucial for bridging the gap between legal provisions and social realities. Empirical studies, including those conducted by Ikhwanudin and Hardiyatullah, demonstrate that gender education can positively influence community attitudes toward Islamic inheritance law.

The initiative undertaken by the Directorate General of Islamic Guidance through the SE represents a promising advancement toward achieving gender justice within Islamic family law. Nevertheless, in the absence of a comprehensive framework that integrates redistribution, recognition, and representation—as conceptualized by Fraser—such efforts may be impeded by entrenched patriarchal structures prevalent in Indonesian society and religious institutions. Empirical research conducted by Anggreani and Tahali indicates that deeply embedded socio-cultural barriers continue

⁴¹ Hardiman Wirahman and Nur Alfiyani, "Eksistensi Politik Perempuan Pasca Kemerdekaan Indonesia," *SPECTRUM: Journal of Gender and Children Studies* 2, no. 2 (2022): 114–31, <https://doi.org/10.30984/spectrum.v2i2.463>.

⁴² Ahmad Rosandi, Juwita Pratiwi Lukman, and Arni Arni, "Peran Perempuan Dalam Politik: Eksistensi Calon Legislatif Perempuan Di Kabupaten Bone," *PARAPOLITIKA: Journal of Politics and Democracy Studies* 5, no. 1 (2024): 14–27, <https://doi.org/10.33822/jpds.v5i1.7446>.

to sustain gender inequality, thereby necessitating more coordinated and multifaceted strategies to effectively address and dismantle these obstacles.⁴³

An inclusive and proactive approach that empowers women through education and community engagement is essential. Such initiatives aim to establish conditions in which women are not only legally recognized but also actively participate in decision-making processes. Recommendations to integrate gender education into KUA training programs are further substantiated by research highlighting the significance of awareness of women's rights within the framework of Islamic family law. Ultimately, enhancing awareness and reinforcing communities through the involvement of societal and religious leaders will contribute to the development of a more just and gender-equitable legal environment.⁴⁴

Conclusion

This study reveals that the implementation of the Ministry of Religious Affairs' Regulation concerning the Enforcement of the Male Iddah Period, as specified in the Circular Letter of the Director General of Islamic Guidance No. P-005/DJ.III/HK.00.7/10/2021, is inconsistent across Banyumas Regency. This inconsistency is attributed to insufficient normative clarity and limited institutional capacity at the KUA level. The observed variations in the practices of KUA Gumelar, Kembaran, and Lumbir highlight the lack of standardized operational guidelines and an effective monitoring mechanism. These findings contribute to contemporary Islamic legal studies in Indonesia by emphasizing that regulatory innovations aimed at promoting gender equality necessitate a robust juridical foundation and clearly defined implementation strategies. Theoretically, the study suggests that without alignment among regulations, implementing authorities, and public perceptions, reforms in family law are unlikely to be effective. However, the study is limited by its narrow geographical focus and the absence of an analysis of socio-economic factors that may affect broader societal acceptance.

The analysis of social and cultural resistance indicates that the implementation of male iddah continues to be challenged by the predominance of classical fiqh and patriarchal structures that govern legal authority at the community level. Utilizing the frameworks of qirā'ah mubādalāh and critical feminism, this study offers a theoretical contribution by illustrating that the policy has the potential to serve as a mechanism for redistributing responsibility and acknowledging women's lived experiences within Islamic family law. The practical implications underscore the necessity of enhancing regulatory frameworks, providing gender-sensitive training for KUA officials, and developing systematic public education programs. A further limitation of this study is the absence of comparative analyses with other regions and the lack of longitudinal

⁴³ Ahmad Tahali, *Sistem Kewarisan Wanita, Sosiologi Hukum Islam*, 31 (n.d.).

⁴⁴ Naskur Naskur, Effendy Tubagus, and Fahri Fijrin Kamaru, "Pembagian Harta Warisan Secara Adat Pada Masyarakat Bolaang Mongondow," *Al-Mujtahid: Journal of Islamic Family Law* 2, no. 1 (2022): 1, <https://doi.org/10.30984/ajifl.v2i1.1886>.

evaluation of the policy's effectiveness. Future research should aim to broaden the geographical scope, incorporate quantitative assessments of public perception, and investigate alternative implementation models that are more responsive to local contexts.

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