

Analysis of the Director General of Islamic Bimas Circular Letter Concerning Husband's Marriage During the Wife's Iddah Period

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Abstract

Marriages are carried out with the aim of achieving peace, inner and outer happiness, but along the way the marriage does not turn out as expected. There are many breakdowns in marriages. Not a few marriages even occur among ex-husbands during the Iddah period. This is not permitted considering that the husband still has responsibilities towards his wife who is still in the Iddah period. Based on this, this research aims to analyze husbands' marriage problems during the wife's iddah period at the East Lampung Religious Affairs Office, and after studying the Circular Letter of the Director General of Islamic Community Guidance Number P-005/DJ.III/Hk.00.7/10/2021. The method used in this research is descriptive analytical qualitative with secondary data and primary data from documents from the East Lampung Religious Affairs office. Data collection techniques were carried out using interviews, documentation, literature documents. The research results stated that the Circular Letter of the Director General of Islamic Guidance Number P-005/DJ.III/HK.00.7/10/2021 concerning Husband's Marriage during the Wife's Iddah Period prohibits husbands from marrying. The aim of this circular is to create gender justice and benefit between couples in iddah arrangements.

Keywords: Marriage, husband and wife, Iddah period

INTRODUCTION

Marriage in the Islamic religion is a sacred agreement which means worshiping Allah, following the Sunnah of the Prophet, and is carried out with sincerity, responsibility and following the rules of the law. Marriage or marriage can be considered a bond because both parties have a bond with each other (Musyafah, 2020). As contained in the Koran which states that Allah created humans in pairs and gave love to each other, as He said in Surah ArRum verse 21:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: "And among His signs (of His greatness) is that He created mates for you from your own kind, so that you would be inclined and feel at ease with them, and He created between you feelings of love and affection. Indeed, in that there are truly signs (of Allah's greatness) for a people who think."

A marriage contract is carried out between a woman and a man to build a household and residence, show affection between the two, and keep their generation growing well. Therefore, the relationship between husband and wife is sacred and firm, which is mentioned in the word of Allah SWT as *mitsaqan ghalizha*, which means "firm agreement". According to Ibnu Kathir, this means an agreement between two or more parties who are responsible for each other both in this world and in the afterlife. Therefore, the use of *Mitsaqan Ghalizha* is intended only for this purpose (Katsir, 1997). In Islam, the main goal is a lasting life in marriage. The marriage contract is made forever and ever so that the couple can live together at home, enjoy love, and care for their children so that they grow well. Marriage is not just a biological relationship between a man and his partner or vice versa. Marriage and marriage are the same words in Indonesian (Saputera & Lamunte, 2020). Facts in human life show that there are many things that can cause a household to break down. However, there are also many hints and hints about situations that must be dealt with practically. Islam does not immediately reconcile separated household relationships when a disaster occurs (Abdul Aziz Muhammad Azzam and Abdul Wahhab Sayyed Hawwas, 2009).

Because marriages do not always go well, maintaining the integrity of a marriage is not as easy as turning the palm of your hand. Small disputes usually arise in the middle of a marriage, it just depends on the husband and wife. Basically, the husband has the power to impose divorce with anything that indicates that their relationship is ending, such as words, letters to the wife, signals (for mute people), or sending messengers. There are two types of *lafazh* in *talak*: clear ones (*sharih*) and those that are figurative or insinuating (*kinayah*) (Komalasari et al., 2022). Husband and wife have a sacred bond. Marriage is basically a contract that justifies the relationship between husband and wife, with many pillars, conditions and regulations that must be followed by the couple before marriage. However, married life has long been considered an inevitability because of the many challenges and dynamics that accompany it. Home life has many colors, including joy and sadness, as well as various choices and solutions. Husbands and wives sometimes separate after being united, sometimes fight after everything is fine, or even separate after making love. Disputes between them are caused by various factors, starting with small things and can eventually lead to divorce.

To resolve household problems that can no longer be maintained, Islamic law creates more comprehensive regulations. The outcome in question is divorce (*talaq*), (Amanda MO Manoppo, 2018), which can only be done in very forced situations (Dewani Romli, 2009). Such as a situation where a couple cannot find a peaceful way to reunite. Therefore, Islam recognizes that husband and wife disputes and disagreements can occur within the family environment. In this case, this religion offers solutions and explains the various factors that cause these problems to arise (Ali Yusuf As-Subki, 2012).

A woman may not marry or accept proposals from other people during the Iddah period because she has not completely separated from her husband except as stated in Article 152 KHI. The marriage relationship will only be terminated after the Iddah period ends. This is done to avoid mixing up the child's fate if the woman is pregnant and her husband dies. Apart from that, to determine the reconciliation period for her husband, if the Iddah period has expired and her ex-husband wants to do so, then he must remarry. This is because a woman who is divorced *raj'i* and whose Iddah period ends is someone else to her ex-wife. Two groups of *fuqoha* believe that marrying a woman during the iddah period is haram. According to Imam Malik's first opinion, a woman who marries during the iddah period may not remarry the husband who married her during the iddah period. According to the second opinion, Imam Hanafi, Syafi'i, and Hanbali, a woman who is married during the iddah period can be remarried after undergoing two iddah periods: the iddah of the husband who has rejected her and the iddah of the husband who marries her during the iddah period. (Syuhud, 2020).

The iddah period is irrelevant when it comes to the method of knowing whether a woman is pregnant; However, if viewed using technology and science, the iddah period has different legal consequences. Cleansing the uterus is not an *illat* of iddah. *Illat* is something that has the ability to change the situation. Until now, iddah is considered as discrimination against women, which has led to the opinion that iddah is a form of social injustice (Azzulfa, FA, & Cahya A., 2021). The principle of *maslahah murrasa* stipulates that marriage during the wife's iddah period requires men not to marry during the wife's iddah period. This principle considers marriage as something good or beneficial and maintains the objectives of the *Shari'a*, but this does not apply to things that are caused by human desires or desires alone. (Sampurna Siregar, 2023; Jayusman, Efrinaldi, Andi Eka Putra, Mahmudin Bunyamin, 2022)

Currently, the Circular Letter of the Directorate General of Islamic Guidance Number P.005/DJ.III/Hk.007/10/2021 concerning Marriage During the Wife's Iddah Period provides technical instructions to the Office of Religious Affairs to prevent the marriage of men whose wives are still in the iddah *talak* period. Regulations were created to ensure that marriage is a sacred matter and should not contain gaming elements that allow easy divorce and marriage. This is based on case findings in the field that four people in East Lampung Regency married other women while their former partners were still in the iddah period. Apart from that, many people do not know about the Circular Letter of the Director General of Islamic Community Guidance Number P-005/ DJ.III/HK.00.7/10/2021 concerning Marriage during the Wife's Iddah Period. This is due to the fact that the majority of the public has not been informed by the competent authorities. In this case, this circular was issued to help ex-husbands who will marry other women during their iddah. The purpose of this circular is to determine the methods and procedures for registering marriages for ex-husbands who will marry another woman during their iddah.

Based on this, there are still marriages carried out by the husband during the wife's iddah period. This research wants to dig deeper into marriage during the wife's iddah period by her husband. What is the role of the religious affairs office in socializing the community with the circular letter of the Director General of Islamic Guidance Number P-005/ DJ.III/HK.00.7/10/2021 concerning Marriage during the Wife's Iddah Period.

RESEARCH METHODS

This research is a type of field research, qualitative descriptive research. Interview with Walid, headman at the KUA Religious Affairs Office in East Lampung. Grooms who marry when their wife's iddah period has not yet finished are the main data source for this research. then added secondary data. Interviews and documentation were used to collect data (Muri Yusuf, 2016; S. Nasution, 2014). This study uses descriptive analytical methods. According to (Sugiyono, 2010), analytical descriptive method is a technique used to describe

or provide an overview of the subject under study through data or samples collected as they are without carrying out analysis and making conclusions that can be generally accepted. In other words, analytical descriptive research takes a problem or focuses on the problem when the research is carried out. The research results are then processed and analyzed to produce conclusions.

Credibility criteria are used to ensure the validity of this research data. To obtain relevant data, researchers check the validity of research data in the following way: triangulation in credibility testing means testing data from various sources in different ways and at different times. Thus, triangulation occurs between sources, data collection methods, and time. Next, the data is checked (edited) and systematized. The data used in this research are primary and secondary. In this study, the population from KUA East Lampung (Purbolinggo, Batang Hari Nuban, Way Bungur), is the population. Interviews and documentation are data collection methods in this research. Mashlahah theory and qualitative methods were used to analyze this research data

DISCUSSION

The basis for issuing an SE letter. Director General of Islamic Community Guidance Number: P.005/DJ.III/Hk.007/10/2021 Regarding Marriage During the Wife's Iddah Period?

The issuance of this regulation or Circular Letter Number: P005/DJ.III/Hk.00.7/10/2021 concerning Marriage During the Wife's Iddah Period is due to the ineffectiveness of the Circular Letter of the Director General of Islamic Religious Institutional Development Number: DIV/Ed/17/1979 concerning the issue polygamy in Iddah, which shows that many husbands commit polygamy during the Iddah period and there are still many marriage practices that occur during their Iddah period(Izzah & Basri, 2024;(Malik & Malik, 2023). On the other hand, many cases of illegal polygamy occur because the husband remarries another woman. Due to the KUA's indecisiveness in implementing this circular rule, many illegal polygamies occur(Indrawati, 2023).

Circular Letter of the Director General of Islamic Institutional Development Number DIV/Ed/17/1979 concerning the Problem of Polygamy in Iddah is not effective. It was decided to conduct an investigation and issue a Circular Letter from the Directorate General of Islamic Community Guidance Number: P-005/DJ.III/Hk.00.7/10/2021 concerning Marriage during the Wife's Iddah period as the right decision due to the fact that the incident occurred at the KUA and PA . It is hoped that this new circular will strengthen the rules for marriage during the wife's Iddah period.

Regarding the old circular, the Circular Letter of the Director General of Islamic Religious Institutional Development Number: DIV/Ed/17/1979 concerning the Problem of Polygamy in Iddah, which was issued in Jakarta on 10 February 1979. The circular discusses the issue of polygamy in Iddah. This letter is addressed to the Chair of the Level I Religious Courts and the Chair of High Courts throughout Indonesia. Because there are no written rules governing polygamy during Iddah, this circular was issued. To fulfill this legal deficiency, the Director General of Islamic Institutional Development of the Ministry of Religion of the Republic of Indonesia issued a circular stating that women's marriages during the Iddah period may only be carried out with prior approval from the PA.(Ach. Rosidi Jamil, 2017).

According to discussions in the discussion forum on September 30 2021 between the Directorate General of Islamic Community Guidance of the Ministry of Religion of the Republic of Indonesia and the Directorate General of the Religious Courts of the Supreme Court of the Republic of Indonesia, Circular Letter of the Director General of Islamic Religious Institutional Development Number: DIV/ Ed/ 17/ 1979 dated 10 February 1979 regarding the issue of polygamy in Iddah did not work and therefore needed to be reviewed. Circular Letter

of the Director General of Islamic Religious Institutional Development Number: DIV/Ed/ 17/ 1979 dated 10 February 1979 concerning the Problem of Polygamy in Iddah is revoked and declared invalid when this Circular Letter comes into force.

Husband's Marriage During Wife's Iddah Period at the East Lampung Religious Affairs Office

Circular Letter of the Director General of Islamic Community Guidance Number P-005/DJ.III/HK.00.7/10/2021 regulates the marriage of wives in iddah. If you look at its meaning, the Circular is positive law. Positive law is a collection of applicable, binding, written and unwritten legal principles and rules established by the state government or Indonesian courts. Positive law is divided into written and unwritten positive law. Written positive law distinguishes between written positive law that applies generally and written positive law that applies specifically. This means that positive law is not limited to laws that apply now but also includes laws that applied in the past. Legislation and policies, such as operational guidelines, technical guidelines and circular letters, are included in generally accepted positive law.

According to the Circular Letter of the Director General of Islamic Guidance Number P-005/ DJ.III/HK.00.7/10/2021, marrying another woman while the ex-wife is still in the Iddah period is an act of polygamy in East Lampung (Abdillah, 2023). Even though the two of them are divorced, the husband still practices polygamy because his wife is still in the Iddah raj'i period. Basically, the Circular Letter of the Director General of Islamic Guidance Number P-005/ DJ.III/HK.00.7/10/2021 has been implemented in Lampung Province. However, people in East Lampung Regency still marry during their wife's Iddah period because they do not know the rules. However, some people took heed, while others did not, after the local Religious Affairs Office provided insight. If they ignore private marriages, most people marry unrecorded. This was due to the fact that the perpetrator was not aware of the Circular Letter of the Director General of Islamic Guidance Number P-005/ DJ.III/HK.00.7/10/2021 which stated that husbands should not marry during the wife's Iddah period. (Jauharataun, 2016)

Furthermore, some people refuse to comply with the Circular Letter of the Director General of Islamic Guidance Number P-005/DJ.III/HK.00.7/10/2021 concerning the Prohibition of Husbands Marrying During the Wife's Iddah Period. They refused because, based on the perpetrator's understanding of jurisprudence, they could not accept the regulation. Circular Letter of the Director General of Islamic Guidance Number P-005/ DJ.III/HK.00.7/10/2021 has been implemented in East Lampung for the most part well, but there are still some people who reject it because it goes against their understanding of fiqh or because they don't know about the letter. As is known, this circular was made with the aim of preventing easy and trivial marriages.

CONCLUSION

Circular Letter of the Director General of Islamic Community Guidance Number P-005/DJ.III/HK.00.7/10/2021 concerning Husband's Marriage during the Wife's Iddah Period prohibits husbands from marrying. The aim of this circular is to create gender justice and benefit between couples in iddah arrangements. Circular Letter of the Director General of Islamic Community Guidance Number P-005/DJ.III/HK.00.7/10/2021 concerning Marriage during the Wife's Iddah Period has been established as government policy, and according to researchers' analysis, there will be additional regulations made in stages.

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