

CHAPTER V

DISCUSSION

A. The Reality of The Pamekasan Society Regarding *Ihdad*

In general, *ihdad* in the Pamekasan society is still not too familiar to hear, but not a few who already know a lot about *ihdad* starting from the academic or non-academic society. This is much influenced by developments that have advanced at this time, those who are non-academics in addition to getting information from the surrounding environment such as from friends or relatives, can also take advantage of technology which is currently very good to get the information needed according to the wants and needs of the society.

However, the presence of a person who we can say is a teacher or someone who knows more, will perfect the information we get from the internet or from other sources.

1. Society Understanding of *Ihdad* in Pamekasan Regency

The Pamekasan society's understanding of '*iddah*' is generally the same, namely understanding *ihdad* as a waiting period for wives after their husbands die by not getting married until the '*iddah*' period is over. Meanwhile, regarding *ihdad*, most of pamekasan society do not understand because they are not familiar with the term. In accordance with the definition conveyed by Abu Yahya Zakariyya and Sayyid Abu

Bakar al-Dhimyati as a prevention or prohibition in the 'iddah period.⁹⁵

Meanwhile, *Ihdad* according to Wahbah Zuhaili is:

ترك الطيب والزيت والكحل والديهم الطيب وغير المطيب

Meaning: "Abandoning fragrances, jewelry, eye shadow, and oil, whether it is perfumed or not"

Based on the above definition according to wahbah zuhaili *ihdad* is leaving fragrances, jewelry, eye kohl and fragrances on women's body parts, different from beautifying beds and other household appliances. It is allowed for women who are in a state of *Ihdad*.⁹⁶

One form of *Ihdad* is not leaving the house when still undergoing the 'iddah period. *ihdad* is better known as mourning, because in existing regulations in Indonesia the term *ihdad* is not used. This is stated in CHAPTER XIX concerning the mourning period of the Compilation of Islamic Law. Article 170 paragraphs (1) and (2) are stated as follows:

- (1) Wives whose husbands die are obliged to observe a period of mourning during the 'iddah period as a sign of condolence and at the same time to prevent fitnah (slander) from arising.
- (2) Husbands who have been left for dead by their wives observe a period of separation according to what is appropriate.

⁹⁵ Nasution, dll, Pelaksanaan Ihdad, 268-270

⁹⁶ Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, Juz VII, (Damascus, Dar Al Fikr, Cet. III, 1989), 659.

The *'iddah* period for women whose husbands die is regulated in the Compilation of Islamic Law in article 153 paragraph (2), while in positive law it is regulated in PP. Number. 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage Article 39 paragraph (1). The waiting period for a widow as referred to in Article 11 paragraph (2) of the Law is as follows:

- a. If the marriage is dissolved by death, the waiting period is set at 130 (one hundred and thirty) days.⁹⁷

Basically, before these rules were regulated in the law, Islamic law had already regulated and determined them. The rules regarding the waiting period for women who are separated from their husbands have been mentioned in the Qur'an. The waiting period for women whose husbands die, as mentioned in the law above, is 130 (one hundred and thirty) days or for 4 months and 10 days. As mentioned in QS. Al-Baqarah: 234 as follows:

الَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا ۖ فَإِذَا

بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ ۗ وَاللَّهُ بِمَا

تَعْمَلُونَ خَبِيرٌ

Meaning: “And those who are taken in death among you and leave wives behind- they, (the wives, shall) wait four months and

⁹⁷ Article 39 Paragraph (1) Of Government Regulation No. 9 Of 1975 Concerning The Implementation Of Law No. 1 Of 1974 Concerning Marriage.

ten (days). And when they have fulfilled their term, then there is no blame upon you for what they do with themselves in an acceptable manner. And Allah is (fully) acquainted with what you do.”⁹⁸ (qs. Al-Baqarah(2): 234).

This is also based on the Prophetic hadith narrated by al-Bukhori and Muslim from Umm Salamah.

لَا يَجِزُ لِامْرَأَةٍ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ تَحِدُّ عَلَى مَيِّتٍ فَوْقَ ثَلَاثٍ إِلَّا عَلَى زَوْجٍ،

أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا.

" It is not permissible for a Muslim woman who believes in Allah and the last day to mourn more than three days, except for the death of her husband, which lasts four months and ten days. ”⁹⁹

During the *'iddah* period, women whose husbands die have the obligation to carry out *iḥdad* , namely prohibitions that should not be carried out by women whose husbands die because for women who divorce their husbands not due to death are not obliged to do *iḥdad* . In accordance with the opinion of the majority of scholars who say that *iḥdad* is only required for those who are left dead by their husbands. But there are some from the Hanafi school who argue that *iḥdad* is also required for those who are talak ba'in.

⁹⁸ Ahadi, “Quran Surah Al Baqarah 234 (QS 2: 234) In Arabic And English Translation”, 1 Juli 2009, Diakses Pada 27 Januari 2022, <https://www.alquranenglish.com/quran-surah-al-baqarah-234-qs-2-234-in-arabic-and-english-translation#Sahih-International>

⁹⁹ Az-Zuhaili, *Fiqih Islam Wa Adillatuhu*, Jilid 9, 564-565

The research found several reasons for women in Pamekasan Regency regarding the implementation of *Ihdad* , both those who implement it and those who do not.

a) Lack of Religious Understanding

The majority of Pamekasan people are Muslims, but that does not guarantee their full understanding of the rules of Islamic law. The absence of studies and socialization related to Sharia laws causes some Pamekasan people to become people who are not too familiar with some Islamic laws. Especially in *ihdad* because the lack of socialization and studies related to the law of *Ihdad* results in a lack of understanding of the Pamekasan society towards the fulfillment of the implementation of *Ihdad* where they only carry out part of *'iddah* and *ihdad* because of a habit that has been done before by previous people and continued until now.

b) Low Education

Of the many communities that researchers interviewed, most of the people who are widowed are people who have a fairly high age range, some of these people are people with low education, either only graduating from junior high school or not going to school. of course this also affects the level of understanding and implementation of *Ihdad* in the society.

c) Environment

Environmental factors are very influential regarding the implementation of *Ihdad* because most of the people who do not understand about *ihdad* they still carry out *ihdad* because a habit carried out by the surrounding society has a good impact on widows who are in the '*iddah*' period, so they carry out *ihdad* such as not leaving the house from this habit. Another habit that is also included in *ihdad* is not to adorn oneself excessively. In the Pamekasan society in general, they do not use clothes, perfume, makeup, or do not adorn themselves excessively so that the prohibition is mostly carried out by people, but there are also some of them who adorn themselves because of the work that requires it. So the implementation of *Ihdad* related to some of the prohibitions as mentioned above is very relevant to the situation of the Pamekasan society.

d) Low Economy

Most of the people in Pamekasan are farmers, so whether they like it or not they have to continue to earn money by working in the fields every day. This is also one of the obstacles to the implementation of *Ihdad* perfectly. Although there are some widows who have better jobs, sometimes their profession requires them to keep working

and look attractive as usual even though they are in a state of undergoing the *'iddah* period.

Besides the above, practices related to the implementation of *iḥdad* are also influenced by several things when viewed from the regulations.

1. General socialization related to pranikah discussions, early marriage, narcotics and others.

Generally, the socialization and counseling provided by the religious affairs office, either to the general public or to school institutions, is the socialization of premarital, early marriage, and narcotics. As in the new policy issued by Society guidance (Bimas) related to the obligation of prospective brides to follow marriage guidance which will be implemented starting from the end of July 2024.

The lack of socialization provided by the religious affairs office or the religious because of less attention from the government to widows whose husbands have died, because there is no data about widows of death divorce that noted can affect the object of socialization that will be given.

The lack of valid data related to widows of death divorce in Religious Affairs Office (KUA) is one of the reasons for the lack of socialisation. Although the existence of data from the

number of widows of divorce in Civil Registry Service Office (Disdukcapil) does not have a big impact on socialisation related to *iḥdad* because it is not the domain of Civil Registry Service Office Disdukcapil to provide socialisation related to *iḥdad* .

2. The *iḥdad* rule is non-*Ibnding* and has no sanctions.

As it is known that the compilation of Islamic law is one of the sources of positive Islamic law in Indonesia but does not have *Ibnding* legal force. The compilation of Islamic law is only used as a reference for judges in making decisions for cases from Muslims who enter the court only.

3. The *iḥdad* (mourning) regulations lack of detail

As mentioned earlier, the word *iḥdad* is not used in positive legal regulations in Indonesia, but the term mourning is used, which is regulated in CHAPTER XIX article 70 paragraphs (1) and (2) which are stated as follows:

- (1) Wives whose husbands die are obliged to observe a period of mourning during the *'iddah* period as a sign of condolence and at the same time to prevent fitnah (slander) from arising.

- (2) Husbands who have been left for dead by their wives observe a period of separation according to what is appropriate.

From the article above, we can see that *iḥdad* (mourning) is not explained in detail. So that it also hinders how the purpose and intent of the article reaches the community. Whereas the narrative in the verses and articles of a law should be built with a solid concept with straightforward, firm and detailed language so that there is no multi-interpretation. So that in supporting the implementation of a better implementation of *iḥdad*, the reconstruction of the article is a good idea and idea to provide people with rules that are firmer, detailed and not multi-interpretation.

Then related to the mis-interpretation of the Society towards the law of *iḥdad* arises because of the mis-integration of various authorities. From the results of observations and interviews conducted by researchers, it shows that the interpretation mission of the Pamekasan Regency Society on the law of *iḥdad* is due to the lack of socialization given to the Society regarding *iḥdad*. Some factors that influence people's interpretation of the law are the level of education, economy, and environment.

Of the various types of interpretation that exist, the type of interpretation that is commonly used is systematic interpretation as Enju Juanda's opinion. Where systematic interpretation is an interpretation that connects one article with another market in the legislation concerned or in other legal legislation, or just reading the explanation of the law, so that we understand what is meant. This interpretation is often used by the public in understanding a law, so as to facilitate the interpretation needed.

So if seen from the previous explanation that the relation between mis-integration and mis-interpretation is a cause and effect, which can affect one another. It can be concluded that when mis-integration can be corrected, mis-interpretation will decrease. So that with the reduction of Society mis-interpretation of the law of *iḥdad* will increase their understanding which also affects the practice of *iḥdad* in the Society.

That way the purpose of desacralizing *iḥdad* will be realized. Where the purpose of desacralizing *iḥdad* is to eliminate the sacred nature in people's beliefs about *iḥdad*, which so far many still think that *iḥdad* is a habit. So that the realization of the desacralization of *iḥdad* will increase understanding and implementation of *iḥdad* in the Society will be much better.

The above factors certainly have a major influence on the practice of *Ihdad* in the society. Therefore, apart from the minimal level of understanding of *Ihdad* in the society, the type of profession that the widow has also affects the practice of *Ihdad* .

2. The Practice of *Ihdad* by Pamekasan Society

Seeing from some explanations related to the understanding of the Pamekasan society above and from the results of interviews and observations conducted by researchers, there are not a few people who have carried out *ihdad* either perfectly or less. There are some of them who do not leave the house after their husband dies during the '*iddah* period. But there are also some people who still leave the house to earn money to meet family needs.

From the opinion of Imam Shafi'I who states that leaving the house is one of the things that should be avoided by women who are undergoing the '*iddah* period as well as from the opinion of Wahbah Zuhaili who also mentions the definition of *Ihdad* as a prohibition to beautify themselves such as using perfume, jewelry, eye makeup and clothes that are striking colors such as red and yellow.

When a wife is left dead by her husband, a wife has an obligation to undergo an '*iddah* period of 4 months and 10 days as well as carry out *Ihdad* . From Wahbah az-Zuhaily's opinion about the definition of *Ihdad*

that he gave, we can conclude that in *Ihdad* there are several prohibitions mentioned by Wahbah az-Zuhaili in his book as follows:¹⁰⁰

1. No adornment with jewellery, even if it is only a ring of gold or silver, or silk, even if it is black. However, some of the Shafi'i madzhab, such as Hajar Atahali, allow wearing gold and silver. The Hambali madzhab permits wearing women's silk because this is a common practice.
2. Do not adorn or use make-up excessively.
3. Do not use perfumed on your body, clothes and hair excessively.
4. Do not use eye shadow and do not wear clothes that are too flashy in colour like yellow and red.
5. Do not leave the house unless you have to.

Some of the above provisions as mentioned by the author are based on verses of the Qur'an and several traditions of the apostle including the following

لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا تَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُّبَيِّنَةٍ

Meaning: “don't turn them out of their (husbands) houses, nor should they (themselves) leave (during that period) unless they are committing a clear immorality” (al-Thallaq(65):1)

From the verse above, it is prohibited for a divorced woman to leave her husband's house during the *'iddah* period. The Shafi'i school of thought agrees that the prohibition on leaving the house for

¹⁰⁰ Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, Jilid 9, 565

women is not only intended for women who are divorced but also for those who are left dead by their husbands (this is explained in the book *Al Umm*).

There are several opinions from the Mazhab regarding the ruling on leaving the house for women who are in the *'iddah* period. The Hanafi Mazhab prohibits women who are in the *'iddah* period from leaving the house based on the prohibition mentioned in the *Qur'an: at-Thalaq (65) : 1*. By looking at whether they are divorced or their husband dies.¹⁰¹ Then there is the view of the Hambali and Maliki Madzhab that it is permissible for women who are in *'iddah* to leave the house because of an emergency or a reason like feel fear of destruction. They also argue that in the morning they are allowed to leave the house to fulfil their needs whether they are divorced or left behind by their husbands. Meanwhile, the opinion of Imam Shafi'I prohibits wives from leaving the house without a reason.¹⁰²

According to Wahbah az-Zuhaili opinion in his book, wives whose husbands die are prohibited from leaving the house at night. According to him, there is nothing wrong with going out in the morning to meet their needs, because there is no longer their husband to earn a money. Meanwhile, they should not go out at night because there is no need to go out at night.¹⁰³

¹⁰¹ Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, Jilid 9, 558

¹⁰² Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, Jilid 9, 560-561

¹⁰³ Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, Jilid 9, 559

Hadith narrated by Umm Salamah from the Prophet.

عَنْ أُمِّ عَطِيَّةَ قَالَتْ قَالَ لِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَحِلُّ لِمَرْأَةٍ تُوْمِنُ بِاللَّهِ
وَالْيَوْمِ الْآخِرِ أَنْ تُحَدَّ فَوْقَ ثَلَاثِ إِلاَّ عَلَى زَوْجٍ فَإِنَّهَا لَا تَكْتَحِلُ وَلَا تَلْبَسُ ثَوْبًا
مَصْبُوعًا إِلاَّ ثَوْبَ عَصَبٍ, وَلَا تَمَسَّ طِيْبًا إِلاَّ أَذْيَنِي طَهَرَهَا إِذَا طَهَّرَتْ نُبْدَةَ مَنْ
فُسْطٍ وَأَظْفَارٍ

Meaning: “And narrated to us Hasan ibn Rabi', narrated to us Ibn Idris from Hisham from Hafshah from Umm Athiyyah that the Messenger of Allah (blessings and peace of Allah be upon him) said: It is not permissible for a woman to observe Iddad for the death of any person for more than three days, except for the death of her husband, which is four months and ten days; and she should not wear colorful clothes, but only coarse clothes; and she should not wear kohl; and she should not wear perfume unless her Iddad period has ended, in which case it is permissible for her to wear qusth and adzfar (sweet-smelling trees).”

عنها زوجها لا العيش المعصفر من الثياب ولا المنطقة ولا الحلبي ولا المتوفى

تختصر ولا تكتحل

"Women whose husbands have died should not wear yellow clothes, clothes dyed with red, nor jewelry, nor use kohl."

In another narration,

بالطريق ولا بالحناء فإنه خضاب لا تمشطي

"You shall not comb with perfume nor with incense, then indeed this is a dye"

From some of the above hadiths we can see that during the *'iddah* period there are several prohibitions that should be avoided, such as leaving the house without a reason, then the use of jewelry, fragrances, jewelry, eye makeup, and also clothes that are striking colors such as yellow and red. So that from some of these restrictions, the scholars argue that the implementation of *Iḥdad* is mandatory seeing the many hadiths related to the prohibitions for women when undergoing the *'iddah* period due to the death of her husband.

From the discussion above, more or less pamekasan society already know some of the rules that can and cannot be done when they are still in the *'iddah* period for women whose husbands have died.

B. The Desacralization of *Iḥdad* of Maqashid Sharia At-Ṭāhir Ibn 'Āsyūr's Perspective

Looking at the previous discussion Prof. Issak, explains specifically how this desacralisation process is carried out using six specific procedures, as I have mentioned before, through which the religious dimensions of the conflict are desacralised by 1) re-priorisation (other issues become more important), 2) reformulation (the religious contents are redefined), 3) repoliticisation (religious issues are shifted to the political sphere), 4) delegitimisation (of their religious aspirations, causes or groups and organizations), 5) fractionalisation (competing among different religious

groups or organizations) or 6) reconvergence (narrowing the religious gap between society and religious groups).¹⁰⁴

The condition of the pamekasan community towards their response to the problem of *iḥdad* has begun to give a positive signal, where this is symbolized by the positive attitude of those who have begun to provide a re-understanding of marriage issues, especially the problem of *iḥdad*. This can be seen from some of the respondents' responses regarding the existence of socialization or just providing information to those who ask either to government parties such as the KUA or to community leaders. This shows an increase in services to people who need more information.

Before leading to the desacralization of *Iḥdad* when viewed from maqashid Sharia *At-Ṭāhir* ibn Asyur. The author will first describe how *iḥdad* is in ibn 'Āsyūr's perspective.

Ibn 'Āsyūr divides maqashid Sharia into two parts, namely *Maqashid 'Ammah* and *Maqashid al-Khasah*.¹⁰⁵ Maqashid al-'Ammah is the meanings and wisdom hidden in all or the majority of laws where the substance is not bound to a specific legal space. While maqashid Al khasah is the way that the shari'a wants to realize human benefits or to maintain the general benefit in specific deeds,¹⁰⁶ then the maqashid al-khasah is also devoted to one chapter of the existing sharia chapters, such as in the fields of family law,

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¹⁰⁵ Moh toriquddin, "teori maqashid Syariah perspektif ibnu asyur", ulul albab, vol 14, no. 2 (2013).
197 <https://doi.org/10.18860/ua.v14i2.2657>

¹⁰⁶ Toriquddin, "teori maqashid Syariah", 200

economics and others.¹⁰⁷ Unlike the case with maqashid al-‘ammah which covers all aspects of sharia.

If we look at the definition above, we can categorize that ihdat is included in maqashid sharia al-khassah where *iḥdad* is a special action. The special action referred to here is that *iḥdad* is a provision that is only intended for widows whose husbands die during the ‘*iddah* period. Meanwhile, widows who are divorced by their husbands even though they are in a state of ‘*iddah* are not required to carry out *iḥdad* .

According to *At-Ṭāhir* ibn ‘*Āsyūr*, the rationale in determining a maqashid is by fitrah, maslahah, and ta’lil.¹⁰⁸ So that these three categories will be used as a rationale for determining the maqashid of the desacralization of *Iḥdad* in Pamekasan Regency.

Every goal of sharia generally aims for human benefit both in this world and in the hereafter. Maslahah from ibn ‘*Āsyūr*’s opinion is the nature of an action that can realize goodness and benefit in general for many people and individuals.¹⁰⁹ Ibn ‘*Āsyūr*’ divides maqashid in a maslahah as a goal where maslahah in accordance with the purpose of *Iḥdad* is maslahah juz’iyat, where maslahah juz’iyat is a benefit for individuals or some individuals who must be maintained in the laws of muamalah.¹¹⁰

¹⁰⁷ Toriquddin, “teori maqashid Syariah”, 196

¹⁰⁸ Toriquddin, “teori maqashid Syariah”, 197

¹⁰⁹ Ibnu Ashur, “maqashid syariah”, 235

¹¹⁰ Ibnu Ashur, “maqashid syariah”, 89-90

If we look at Ibn 'Āsyūr's view related to one Sharia as mentioned above, it is maqashid sharia al-Khasah which has a more specific purpose than maqashid al-ammah. When looking at the results of research which shows that the reality of the Pamekasan society, the majority of whose population is Muslim, but there are still many of them whose level of understanding related to existing Islamic laws is still lacking. So that to improve people's understanding of Islamic laws, especially in terms of *Iḥdad* can be realized through desacralization.

Desacralization which is a process of removing the sacred meaning of a religious ethnicity, tradition, custom, belief, and knowledge that will add and improve the quality of public understanding. So that with the desacralization of *Iḥdad* in Pamekasan Regency a maslahah will be easier to achieve.

According to Ibn 'Āsyūr, maqashid Sharia must be in accordance with the following things that will be compared with the desacralization of *Iḥdad*, namely the existence of fitrah, maslahah, and ta'lil.¹¹¹

The nature of fitrah is tolerance, the absence of coercion, decrees and changes in syariah. So *iḥdad* does not contain coercion in its implementation. This is reflected in the leniency that exists in the implementation of *Iḥdad* in the form of a statement that if there is an emergency condition then the woman undergoing *iḥdad* cannot perform *iḥdad* perfectly, such as the attachment of individuals to agencies that

¹¹¹ Toriquddin, "maqashid syari'ah", 197

require the widow to continue to carry out the prohibitions that are recommended to be avoided during the *'iddah* period.

Then in terms of *maslahah*, *iḥḍad* brings more benefit to the individual. This is seen from one of the purposes of *Iḥḍad* is to avoid *fitnah* for those who are left dead by their husbands. With the declassification of *Iḥḍad* in Pamekasan Regency, it will increase public understanding and expand public understanding of *Iḥḍad*. So that if more people know, the percentage of practice or implementation will increase so that the Islamic law that regulates both *iḥḍad* will be more effective.

Then in determining a law from the view of Ibn 'Āsyūr is the existence of *ta'lil*, namely looking for the *illat* of the law. According to Ibn 'Āsyūr, the origin of *muamalah* law is based on *illat*,¹¹² so *ta'lil* is the basis of *maqashid* theory. *Maqashid* Sharia *ibn 'Āsyūr* uses the *istiqra'* method, which examines the law by using legal illusions, *illat* is used as a legal basis for determining the law, so that the law is in accordance with the development of time, place and conditions.¹¹³ This method also can we use to looking for *illat* in *hadits* too, and this method same as *imam asy-Syatibi* use for determining the law.¹¹⁴

If we look at *iḥḍad*, then the *illat* of *Iḥḍad* is clearly found in *Surah Al-Thallaq:1*

¹¹² Ismail al-Hasani, "Ndzariyat al-Maqashid 'Inda al-Imam Muhammad al Tahir Ibn 'Ashur", (Herdon: Al Ma'had al 'Alami li al fikr al islami. 1995), 318

¹¹³ al-Hasani, "Ndzariyat al-Maqashid", 323

¹¹⁴ Muhammad Fauzan Ni'ami, Dan Bustamin, "Maqashid Syariah Dalam Tinjauan Pemikiran Ibnu Asyur Dan Jasser Auda", *Jurnal Ilmiah Syari'ah*, Vol, 20, No. 1(2021), 93-95 <https://dx.doi.org/10.31958/juris.v20i1.3257>

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ ۖ وَاتَّقُوا اللَّهَ رَبَّكُمْ ۖ لَا تَخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبِينَةٍ ۚ وَتِلْكَ

حُدُودُ اللَّهِ ۚ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ ۚ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ

بَعْدَ ذَلِكَ أَمْرًا

Meaning: “O Prophet, when you [Muslims] divorce women, divorce them for [the commencement of] their waiting period and keep count of the waiting period, and fear Allah, your Lord. Do not turn them out of their [husbands'] houses, nor should they [themselves] leave [during that period] unless they are committing a clear immorality. And those are the limits [set by] Allah. And whoever transgresses the limits of Allah has certainly wronged himself. You know not; perhaps Allah will bring about after that a [different] matter.”

and several hadiths that mention *ihdad* as mentioned in the previous discussion:

عَنْ أُمِّ عَطِيَّةَ قَالَتْ قَالَ لِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَحِلُّ لِامْرَأَةٍ تُوْمِنُ بِاللَّهِ

وَالْيَوْمِ الْآخِرِ أَنْ تُحِدَّ فَوْقَ ثَلَاثِ إِلَّا عَلَى زَوْجٍ فَإِنَّهَا لَا تَكْتَحِلُ وَلَا تَلْبَسُ ثَوْبًا

مَصْبُوعًا إِلَّا ثَوْبَ عَصَبٍ, وَلَا تَمَسَّ طَبِيًّا إِلَّا أَدْنَى طَهْرَهَا إِذَا طَهَّرَتْ نُبْدَةً مِنْ

قُسْطٍ وَأَظْفَارٍ

Meaning: “And narrated to us Hasan ibn Rabi', narrated to us Ibn Idris from Hisham from Hafshah from Umm Athiyyah that the Messenger of Allah (blessings and peace of Allah be upon him) said: It is not permissible for a woman to observe Iddad for the death of any person for more than

three days, except for the death of her husband, which is four months and ten days; and she should not wear colorful clothes, but only coarse clothes; and she should not wear kohl; and she should not wear perfume unless her Iddad period has ended, in which case it is permissible for her to wear qusth and adzfar (sweet-smelling trees)."

In other words, Ibn 'Āsyūr in determining maqashid al-Khasah is by sorting out whether a law becomes a goal (maqṣud) or becomes infrastructure (*Wasail*).¹¹⁵ *Wasail* is a law that is determined by which other laws can be obtained, this law is not a goal but to get other laws in accordance with the demands where without this law sometimes a legal goal is not achieved or achieved but chaos occurs. So *Wasail* here can be mentioned as a process or way to achieve a goal in law.¹¹⁶

So that desacralization is a *Wasail* where this desacralization becomes a process in achieving the objectives of sharia, especially the purpose of *Iḥdad* .

¹¹⁵ al-Hasani,"*Ndzariyat al-Maqashid*", 250

¹¹⁶ Ibnu Ashur, "maqashid Syariah,,", 156