



From Fatwa to Bureaucracy: How Indonesian Penghulu Negotiate Islamic Law and State Regulations on Post-Divorce Marriages

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Abstract

The state policy prohibiting men from remarrying during their ex-wife's iddah period has generated varied responses among marriage registrars (penghulu). Within the framework of legal pluralism, this article analyzes the tension between classical fiqh and state regulation, as well as its institutional implications. This study employs a descriptive qualitative approach, with data collected through observation, interviews, and documentation. Data were analyzed using condensation, presentation, and conclusion drawing, while source triangulation was used to ensure validity. The findings reveal different interpretations among penghulu, rooted in the enduring authority of classical fiqh as a normative reference amid the presence of state law. In practice, these differences have resulted in three implementation patterns: (1) partial application of the Circular Letter, (2) full implementation, and (3) complete rejection. This phenomenon illustrates that in the realm of Islamic family law, state regulation has not fully displaced Islamic legal authority as the primary reference in religious institutional practice.

Keywords: Circular Letter; iddah; penghulu; legal pluralism

Abstrak

Kebijakan negara yang melarang laki-laki menikah selama masa iddah mantan istrinya memunculkan beragam respons dari para penghulu. Dalam kerangka pluralisme hukum, artikel ini menganalisis ketegangan antara fikih klasik dan regulasi negara, serta dampaknya dalam praktik kelembagaan. Penelitian ini menggunakan pendekatan kualitatif deskriptif dengan teknik pengumpulan data berupa observasi, wawancara, dan dokumentasi. Analisis data dilakukan melalui tahapan kondensasi, penyajian, dan penarikan kesimpulan, dengan validitas data diuji melalui triangulasi sumber. Temuan penelitian menunjukkan adanya perbedaan pemahaman di kalangan penghulu terhadap kebijakan tersebut. Perbedaan ini berakar pada kuatnya otoritas fikih klasik yang masih menjadi rujukan normatif di tengah keberlakuan hukum negara. Dalam praktik

implementasi, muncul tiga pola tindakan: (1) melaksanakan Surat Edaran secara parsial, (2) melaksanakan secara penuh, dan (3) menolak pelaksanaan Surat Edaran. Fenomena ini menunjukkan bahwa dalam ranah hukum keluarga Islam, regulasi negara belum sepenuhnya mampu menggeser otoritas hukum Islam sebagai pedoman utama dalam praktik kelembagaan keagamaan.

Kata Kunci: Surat Edaran; Idah; Penghulu; Pluralisme Hukum

Introduction

Divorce in Islamic law carries various consequences, one of which is the obligation to undergo the *iddah* period for divorced women. The *iddah* period is a waiting period that results from the breaking of the marriage bond, either due to divorce or death (Nuroniya, 2018). In classical fiqh literature, the *iddah* period is understood as a period of waiting for a woman to prove the emptiness or purity of her womb from a foetus with her previous husband (Ibn Hazm, n.d.) The implementation of *iddah* is also a form of *ta'abudi* or servitude to the commands of Allah SWT (al-Malibari, 2019). *Iddah* marks the boundary between the previous marital relationship and the possibility of a new marital relationship that has social, psychological, and legal dimensions in the Muslim family structure.

During the *iddah* period, women are subject to a number of restrictions, one of which is to build a marriage relationship with a new man (Hilal & Harahap, 2021). This is in line with the wisdom of the *iddah*, which is an opportunity for both parties to introspect on the decision to divorce in order to rebuild the bonds of marriage that were previously broken. This is what is known by Islam as *rujuk*, which is the return of a married couple to the bonds of marriage after divorce and is carried out while still in the *iddah* period (Al-Zuhaily, 2003).

Specifically, the prohibition of remarriage during the *iddah* period for women has been emphasized both in fiqh doctrine and in the applicable legislative regulations (Hamzah et al., 2022). However, the prohibition does not apply to ex-husbands. There is no prohibition that explicitly prohibits men from remarrying other women even though the divorced wife is still in the *iddah* period. Islamic law emphasizes the *iddah* period as a woman's obligation, while men are considered free to remarry.

Concerns arose from the state when it saw the potential for covert polygamy if the men (former husbands) were allowed to remarry while their ex-wives were still in the *iddah* period (Permata, 2023; Siregar et al., 2024). In this context, the state through the Directorate General of Islamic Guidance of the Ministry of Religious Affairs issued Circular Letter Number: P-005/DJ.III/Hk.00.7/10/2021 concerning the prohibition of male

marriage while the wife is in the *iddah* period. The issue of this Circular Letter can be understood as a form of consistency by the state in maintaining the order of marriage regulations, particularly regarding court approval for polygamy (Wirastri & Van Huis, 2021).

However, at the implementation level, this Circular Letter was not uniformly accepted by the *penghulu*. As the frontiers of the state in the implementation of marriage policy, the *penghulu* actually showed diverse responses (Permata, 2023). This phenomenon also occurs in several Religious Affairs Offices (KUA) in Pati Regency, where *penghulus* demonstrate varying interpretations and understandings of state policies, leading to diverse actions during implementation. Some *penghulus* use fiqh as a reason to not or to implement this policy partially. Others view the implementation of the Circular Letter as a form of obedience to state law. In this context, the theory of legal pluralism becomes relevant to understand that, in reality, law is not singular but plural, intertwined, and interactive (Tamanaha, 2007).

Basically, the study of male marriage during the wife's *iddah* period has been the concern of a number of researchers. But so far, existing studies have focused more on aspects of justice and women's equality, as in the research conducted by Miftahudin (2023), Nikmah (2020) and Sofiana (2021). More focused on the review of Islamic law or philosophy, as done by Hasanuddin (2021). This theme is also discussed in two regulatory contexts: First, SE Number D.IV/E.D/17/1979 on the issue of polygamy during the idah period as studied by (Rohmi, 2009). Second, SE Number P-005/DJ/III/Hk.00.7/10/2021 regarding marriage when the wife is in the *iddah* period studied by Permata (2023).

Based on the above description, there is a gap that has not been comprehensively studied in previous research; the tension between classical fiqh and state regulations, which in terms of implementation has given rise to various responses from *penghulus*. The uniqueness of this study lies in the use of a legal pluralism approach as an analytical tool that is useful for understanding the dynamics of the debate between classical fiqh and state policy. Therefore, the results of this study are expected to contribute scientifically to the development of Islamic law and public policy studies, as well as provide considerations for policymakers to be more responsive to the diversity of religious understanding and practices that exist.

Research Method

This study uses a qualitative method with a descriptive-analytical approach to reveal the tension that occurs between classical fiqh and state regulations caused by differences in understanding among *penghulus*

regarding Circular Letter (SE) of the Directorate General of Islamic Guidance of the Ministry of Religious Affairs Number P-005/DJ. III/Hk.00.7/10/2021 regarding the prohibition of former husbands from marrying during their wives' *iddah* period. This study also aims to answer the impact of this debate.

The paradigm used is sociological jurisprudence, which views law not only as a normative text but also as a social practice influenced by the interaction of actors with the values internalized within it (Huda, 2021). The research was conducted with five *penghuluss* at several Religious Affairs Offices in Pati, those are Wedarijaksa, Juwana, Tlogowungu, and Trangkil. Data collection was carried out through observation, semi-structured interviews, and documentation.

This study uses document analysis by reviewing literature, secondary data, and archives relevant to the focus of the study. The data analysis process is carried out in several stages; data collection, data reduction, data presentation, and conclusion drawing or verification. In the initial stage, data was obtained through interviews and documentation to obtain valid and reliable information. Next, data reduction was carried out by simplifying and organizing raw data to make it more focused and easier to analyse. The data was then presented in the form of narratives and specific themes, before conclusions were drawn through interpretation of the meanings that emerged from the field findings. To ensure the validity of the data, source triangulation techniques are used, which involve comparing information from various parties to test its consistency and accuracy.

Result and Discussion

Post-Divorce Waiting Period for Men

Women who separate from their husbands, whether due to divorce or death, are obliged to observe a waiting period (*iddah*). This is what is known in classical fiqh as *iddah* (Al-Anshari, 1994; Al-Zuhaily, 2003). The duration of the waiting period for women is determined based on the cause of the separation and her biological condition. First, if the separation is due to the death of the husband, the waiting period is four months and ten days for women who are not pregnant (QS. Al-Baqarah [2]: 234), while for those who are pregnant, the waiting period lasts until childbirth (QS. At-Talaq [65]: 4). Second, if the separation is due to divorce, the waiting period is divided into three categories: (1) for women who are still menstruating, the waiting period is three menstrual cycles (QS. Al-Baqarah [2]: 228); (2) for women who no longer menstruate (menopause), the waiting period is three months (QS. At-Talaq [65]: 4); and (3) for women who are pregnant, the

waiting period also lasts until childbirth (QS. At-Talaq [65]: 4) (Al-Zuhaily, 2003; Şahin, 2025).

However, in classical fiqh literature, discussions so far have always placed *iddah* as an inherent obligation imposed on women. In the same situation, which is after divorce, men are not subject to the same obligations as women, who must observe the *iddah* period. This is understood because after divorce, men are not considered to have the same biological consequences as women. (Hilal & Harahap, 2021). This view has been prevalent in society and has been part of Islamic legal practice for centuries.

In reality, the post-divorce waiting period that requires men to undergo a period of waiting after divorce is not really a new topic of discussion. Contemporary scholars such as Wahbah Zuhaily in his book *al-Fiqh al-Islami wa Adillatuhu* introduced a concept called *syibh al-'iddah*. Terminologically, *syibh al-'iddah* consists of two words: *syibh*, meaning "resembling," and *al-'iddah*, meaning "the waiting period." Simply put, *syibh al-'iddah* is the concept of a waiting period (*iddah*) intended for men after divorcing their wives (Al-Zuhaily, 2003). Since this is not the *iddah* in the true sense of the term, the term *syibh* is used (Al-Jaziri, 2003). This concept applies under two conditions: first, when a man wishes to marry his wife's sister who is currently in the *iddah* period of a *raj'i* divorce, and second, when a man intends to marry his fifth wife after divorcing one of his four wives (Al-Zuhaily, 2003).

Apart from the fiqh literature, the concept of a waiting period for men can also be found in the Compilation of Islamic Law (KHI). There are two articles that explain the waiting period for men. The first two articles are Article 42 which reads:

A man is prohibited from marrying a woman if the man has 4 (four) wives, all four of whom are still bound by marriage or are still in the *iddah* of divorce *raj'i* or one of them is still bound by marriage while the other is in the *iddah* of *raj'i* divorce.

Meanwhile, Article 70 paragraph (1) states:

The husband with a marriage contract when he is not entitled to do so because he already has four wives, even if one of the four wives is in the *iddah* of *raj'i* divorce.

These two articles are concrete examples of the application of the principle of *syibh al-'iddah*, which is a waiting period resembling *iddah* but applies to men. The concept of *syibh al-'iddah* reflects the progress of the scholars' thinking in responding to social needs, without denying the basic principle that *iddah* is formally established for women. The presence of a waiting period for men shows that Islamic law is able to adapt to the values of justice and equality in marriage relations.

The concept of *syibh al-iddah* is increasingly relevant as the state issues policies prohibiting men from remarrying while their former wives are still in their *iddah* period. This policy is outlined in Circular Letter No. P-005/DJ. III/Hk.00.7/10/2021 issued by the Directorate General of Islamic Community Guidance (Bimas Islam) of the Ministry of Religious Affairs. The third paragraph of this provision reads:

“A former husband may marry another woman once his former wife's waiting period has ended.”

This policy is motivated by the state's concerns over the potential for covert polygamy, which is the practice of polygamy without the consent of the wife and the court (Sam'ani et al., 2023). The provisions of Indonesian marriage law require a court license for those who wish to marry more than one woman at the same time (Bedner & Van Huis, 2010). This policy can also be understood as a reflection of the state's commitment to protecting women's rights in the context of marriage (Permata, 2023).

From a regulatory perspective, this circular letter reinforces the principle of prudence in marriage registration by emphasizing the need to complete the *iddah* period before remarrying, in order to maintain administrative order and protect women's rights. Although it is classified as a circular letter that is not included in the hierarchy of legislation in Indonesia, its existence remains an important reference in the field, especially in efforts to synchronise religious norms and national law. With this provision, *penghulus* are given the basis to refuse to register the marriage of an ex-husband while the *iddah* period is still ongoing. It also demonstrates the state's efforts to maintain the legal order of marriage and serves the purpose of protecting women during this vulnerable period.

In practice, the implementation of this circular letter provides legal certainty for marriage registrars (*penghulu*), particularly in cases where there is ambiguity regarding the timing of remarriage after divorce. By formalizing the requirement to wait until the completion of the *iddah* period, the regulation not only safeguards the woman's reproductive rights—especially in the event of pregnancy—but also prevents potential legal conflicts, such as issues of lineage (*nasab*) and inheritance. In this context, the letter indirectly enforces Islamic legal values while promoting procedural discipline within the national legal system.

From a regulatory harmonization perspective, the circular serves as a bridge between Islamic jurisprudence (*fiqh*) and positive law. While Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI) already recognize the concept of *iddah*, they do not always provide concrete procedural guidance for marriage officers. The circular, therefore, plays a vital role in operationalizing abstract normative principles into practical administrative actions. It strengthens institutional coordination between

the Office of Religious Affairs (KUA), the Religious Courts, and local government units in ensuring that marriages are conducted in accordance with both religious mandates and state administrative procedures.

However, the normative power of circular letters remains a matter of legal debate. Given their non-legislative status, such circulars rely heavily on internal compliance and professional ethics rather than legal enforceability. Despite this limitation, in regions where religious values are strongly upheld, such as in many parts of Indonesia, the circular is often treated with quasi-binding authority. This underscores the sociological function of regulatory instruments that, although technically non-binding, are effectively internalized as part of the working legal culture. As such, the circular on *iddah* not only contributes to procedural order but also to the broader aim of integrating Islamic legal ethics into the national legal framework.

The response of Penghulus in Pati Religious Affairs Office to the implementation of Bimas Islam's Circular

The concept of *iddah* in Islam is a fundamental aspect of family law, serving as a transition period for women after divorce or the death of their husband (Jafar et al., 2025). The rules regarding the waiting period after divorce in Indonesia have evolved to apply not only to women but also to men. This is in line with the issue of Circular Letter No. P-005/DJ. III/Hk.00.7/10/2021 from the Ministry of Religious Affairs' Islamic Guidance Agency, which prohibits husbands from remarrying while their former wives are still in their *iddah* period. The purpose of issuing this regulation is to prevent the potential for covert polygamy (Hasanuddin, 2021).

This regulatory shift reflects a progressive reinterpretation of classical Islamic norms in light of contemporary legal and social realities. Traditionally, the obligation to observe the *iddah* period was placed solely on women, often interpreted as a biological necessity tied to matters of lineage and pregnancy. However, the inclusion of men, specifically the prohibition against remarrying during the ex-wife's *iddah*, signals a move toward shared moral responsibility and legal fairness within marital dissolution. It also serves to counterbalance patriarchal tendencies in the application of Islamic law by emphasizing the ethical obligation of men to respect the sanctity of the marital bond, even after divorce.

Moreover, this policy reinforces the role of the state in regulating religious practices to ensure justice and social order. By prohibiting remarriage during the *iddah* period, the circular letter seeks to prevent manipulative practices such as hidden polygamy or the circumvention of legal procedures for reconciliation and divorce. It enhances the authority of

the *penghulu* and local Office of Religious Affairs (KUA) in enforcing marital discipline and ensures that marriages are registered only when the legal and religious prerequisites are fully met. This contributes not only to the integrity of family law administration but also to the broader goals of gender justice and protection of women's rights in post-divorce scenarios.

However, this policy did not receive a uniform response from the *penghulu* as the technical implementers of the regulation. Based on the results of research conducted on several *s* in Pati Regency, three categories of responses to the policy were revealed; (1) partially implementing the contents of the Circular Letter, specifically in cases of talak raj'i and not talak ba'in, (2) fully implementing the contents of the Circular Letter, and (3) not implementing the contents of the Circular Letter.

The partial implementation of the contents of the Circular Letter prohibiting husbands from remarrying during their former wives' *iddah* period has been the response of the majority of *penghulus* in Pati Regency. This is in line with the findings of Permata (2023) which state that most marriage officials in Yogyakarta agree that the provisions of this Circular Letter are only intended for the *iddah* period caused by talak raj'i, not talak ba'in. Raj'i divorce is a divorce that can be revoked by the husband who issued the divorce while the wife is still in the *iddah* period, whether it is a first or second divorce (Fahmi et al., 2023). Ahsin, Ulin, and Muslih are among the *penghulus* who implement this policy partially. They understand that the only type of divorce that allows for reconciliation with the former wife is talak raj'i, so the contents of this Circular Letter are more appropriately applied only to this type of divorce.

Unlike the three *penghulus* mentioned above, Sukardi chose to fully implement this Circular Letter in accordance with the third provision, which states, "A former husband may marry another woman once his former wife's waiting period has ended." He did not consider whether the former husband's divorce status was raj'i or ba'in. In his opinion, the wording of this provision was clear and left no room for interpretation. Furthermore, implementing this rule is a form of submission and obedience as a civil servant who must fully carry out the state's orders. In this regard, Sukardi's view aligns with the views of al-Jassas (1994) dan al-Zarkashi (1985) who state that the state's decision, in this case the Circular Letter, should eliminate (khilaf) differences and close the doors to wild interpretations.

The last category of attitudes is not implementing the contents of the Circular Letter. Researchers found that there were *penghulus* who did not implement this provision because they considered it to be contrary to Islamic law (fiqh), which does not recognize *iddah* for men, as well as higher positive law, Article 2 of the Marriage Law, which states that a marriage is valid if it is conducted in accordance with religious law. In classical fiqh

literature, the waiting period is indeed reserved for women, not men, as a result of the dissolution of the marital bond (al-Malibari, 2019). Another reason stating that this Circular Letter contradicts higher regulations is also in line with the principle in legal science that *lex superior derogat inferiori* (Guastini, 2013).

This resistance reveals a deeper tension between administrative governance and the doctrinal purity of Islamic jurisprudence. For some *penghulu*, adhering strictly to classical fiqh is not only a matter of legal consistency but also of religious integrity. They argue that enforcing a prohibition on male remarriage during the *iddah* period is tantamount to imposing a legal burden not supported by religious texts or scholarly consensus (*ijma'*). This view emphasizes that administrative policy, even if well-intentioned, should not override established religious doctrine—especially when it affects the validity of a religious contract like marriage.

Additionally, the invocation of the principle *lex superior derogat legi inferiori* highlights a legitimate legal concern regarding the normative hierarchy in Indonesian law. As a circular letter, the directive does not have binding legal force above statutory regulations or religious norms recognized by law, such as those referenced in Article 2 of the Marriage Law. This raises questions about the extent to which administrative instructions may influence or restrict citizens' rights in matters of private law. Without clear integration into the formal legal system, such circulars remain vulnerable to rejection at the practical level, particularly by state officials who view their legal and religious obligations as being grounded in higher authoritative sources.

The debate between classical fiqh and state policy in post-iddah marriages

The dominance of the principles of legal centralism and legal positivism, which became widespread as a result of legal modernization projects in the 19th and 20th centuries, has led to the rejection of legal authorities other than those established by the state. This phenomenon has ultimately strengthened the idea of legal pluralism as an antithesis to legal centralism (Salim, 2015). The concept of law in this era is reduced to state law, namely codified law, institutionalized law, and the expression of the legitimacy and monopoly of state power (Mensah, 2021). If modern states only recognize one uniform law, legal pluralism describes a situation in which two or more laws coexist and interact (Salim, 2015).

Indonesia, as a country governed by the rule of law, explicitly recognizes the existence and validity of three legal systems simultaneously, namely customary law, Islamic law, and positive law (Wardhani et al., 2022). This is clearly and explicitly reflected in Law No. 12 of 2011 on the

Formation of Legislation, which mentions the importance of considering customary law and religious law values in the legislative process. The existence of more than one legal system in a country such as Indonesia is a manifestation of legal pluralism (Tamanaha, 2021; Griffiths, 1986).

Legal pluralism in Indonesia does not merely exist as a theoretical framework but functions as a practical foundation in the formulation and implementation of legal policies. This coexistence of legal systems is evident in various domains, particularly in family law, where Islamic legal norms are formally recognized through instruments such as the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). The state's acknowledgment of Islamic law in this context reflects a deliberate political and constitutional accommodation of religious identity, especially for the Muslim majority. At the same time, local customary laws (*hukum adat*) continue to shape dispute resolution mechanisms at the community level, especially in matters related to inheritance, marriage customs, and land ownership.

However, the coexistence of these legal systems often gives rise to normative tensions and overlapping jurisdictions. For instance, a particular issue—such as marriage registration, inheritance claims, or divorce proceedings—might simultaneously fall under the purview of Islamic law, customary traditions, and national statutory law. These legal intersections can create confusion both for legal practitioners and justice seekers. Therefore, the challenge for Indonesia's legal system is not only to acknowledge this pluralism but also to develop integrative mechanisms that harmonize the values of these three legal traditions, ensuring that they do not contradict each other but instead work synergistically to promote justice, legal certainty, and cultural legitimacy.

A similar situation can be seen in Indonesia's marriage law system. Article 2 of Law No. 1 of 1974 states that a marriage is considered valid if it is conducted in accordance with religious law. According to Tamanaha (2021), this provision indicates the adoption (transplantation) of religious law into state law. A more explicit form of adoption can also be found in Article 11 of this law, which regulates the obligation to undergo a waiting period after the dissolution of a marriage. This provision clearly accommodates the principles of Islamic law regarding the *iddah* period as part of the national legal system.

The provisions regarding the waiting period after divorce in Indonesia have undergone developments with the issue of Circular Letter of the Director General of Islamic Community Guidance Number P-005/DJ.III/Hk.00.7/10/2021 concerning Marriage of a Husband during his Wife's 'Iddah Period. This circular letter urges *penghulu*, as officials responsible for recording Muslim marriages, not to record the marriage of a man conducted before the completion of his former wife's 'iddah period. However, this circular letter has received mixed responses from

penghulu's. On one hand, are state officials obligated to enforce government policies. On the other hand, the provisions in the circular letter do not fully align with classical fiqh understanding, which has long been the primary reference.

The legal centralism desired by the state through this Circular Letter has encountered "resistance," even from its own officials. It is therefore true when Griffiths (1986) says that legal centralism is only a myth, utopia, claim, even an illusion, while legal pluralism is a necessity. Although the state desires legal subordination, meaning the enforcement of state law above non-state law, which is at least carried out by its own officials, the facts show the emergence of Islamic law standing on equal footing with state law. Griffiths (1986) refers to this phenomenon as strong legal pluralism, where fiqh law exists as a separate entity distinct from state law.

Differences in understanding among *penghulus* regarding the contents of the Circular Letter are triggered by the use of classical fiqh law in the midst of the existence of state law. In the face of state legal policies, *penghulus* cannot escape from their understanding of classical fiqh law. State policies must pass the fiqh filter to be considered correct and worthy of implementation. In this context, fiqh serves as a decisive standard of truth, even though state law and fiqh should not stand in opposition to one another but rather collaborate actively and support one another (Swenson, 2018; Tamanaha, 2007).

The state, as the policy maker, should pay attention to the potential use of religious law in addition to state law by its officials. This is because in matters of marriage, religious law is the standard of truth, and disobedience to it results in sin. Therefore, by understanding this potential, the state can first resolve fiqh aspects before making policies. Failure to consider the fiqh dimension before enacting policies may lead to tensions between the formal legal framework and the religious consciousness of both officials and society. In many cases, especially in rural or devout regions, religious law holds greater normative force than state law. Consequently, when regulations appear to contradict established fiqh principles, marriage registrars or *penghulu* may find themselves in ethical dilemmas—torn between professional obligations and religious convictions. This potential for friction underscores the need for inclusive policymaking that involves Islamic legal scholars (*fuqaha*) in the early stages of regulatory formulation.

By engaging religious authorities and aligning state regulations with accepted fiqh doctrines, the government not only increases the legitimacy and acceptability of its policies but also ensures smoother implementation at the grassroots level. This integrative approach is particularly vital in the domain of family law, where religious values deeply influence personal and communal decision-making. Harmonizing legal instruments with Islamic jurisprudence allows the state to maintain authority while simultaneously

respecting the theological and cultural foundations that underpin Muslim family life in Indonesia.

However, on the other hand, the head of the village must also be aware that the position of the state is *raf'ul khilaf*, which is an institution that mediates and resolves all forms of disputes (*khilaf*), including disputes over whether it is better for men to wait after divorce or not. Furthermore, Islamic law and state law should not be placed in opposition to one another. Both can converge in one principle: the greater good (*mashlahat*). As long as state policies are aimed at achieving the greater good, then there is Islamic law.

Conclusion

The implementation of Circular Letter Number P-005/DJ.III/Hk.00.7/10/2021 concerning the prohibition of marriage during the *iddah* period highlights the state's inability to establish a unified legal authority in the domain of Islamic family law. In the absence of normative clarity, final decisions are delegated to *penghulu*, who operate in a gray zone between state legality and religious legitimacy. From the perspective of legal pluralism, this reflects the enduring influence of classical fiqh as a normative reference among legal actors at the grassroots level—demonstrating that state law has not entirely supplanted religious legal authority.

The findings of this study show a divergence of understanding among *penghulu*, resulting in three distinct patterns of implementation: (1) those who fully apply the circular based on state compliance and a concern for women's protection; (2) those who apply it selectively—only in cases of talak raj'i but not talak ghoiru raj'i; and (3) those who reject its implementation altogether on the grounds that it contradicts fiqh. This evidences that the enforcement of Islamic family law in Indonesia is not monolithic but is shaped by contextual negotiations between religious doctrine, statutory norms, and the individual interpretations of legal practitioners.

In light of these findings, it is recommended that future policy formulation especially in areas intersecting with Islamic law—should involve substantial consultation with *ulama* (scholars), *penghulu*, and scholars of Islamic jurisprudence to ensure greater normative alignment. The state should also consider codifying key fiqh positions within legally binding instruments to reduce ambiguity and limit discretionary interpretation at the implementation level. In addition, structured training and clear technical guidelines should be provided to marriage registrars to harmonize their understanding and application of state-issued religious

regulations, thereby reinforcing legal certainty while respecting the epistemological authority of Islamic tradition.

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