

Impact of the 'Iddah of Death and Divorce on the Ihḍād of Women in Islamic Fiqh

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ABSTRACT

“Ihḍād” or “hidād” means the abstention from self-adornment by women during the period of ‘iddah. “‘Iddah” in Islamic fiqh refers to the period of time that women must observe after the death of their husband or divorce, after which they are permitted to remarry; hence, some schools of thought (madhāhib) consider ihḍād as one of the concomitants of ‘iddah. Jurists (fuqahā) are in agreement regarding the obligation of ihḍād, but they differ on ihḍād during the ‘iddah of divorce. The present study, based on a descriptive-analytical method, examines the fiqhī opinions concerning the impact of the ‘iddah of divorce on the ihḍād of women. Through an inductive survey of fiqhī opinions, it becomes evident that the majority of jurists (jumhūr al-fuqahā) do not deem ihḍād necessary during the period of the ‘iddah of divorce, whereas Ḥanafī jurists consider ihḍād obligatory during the ‘iddah of irrevocable divorce (bā’in) (minor [ṣughrā], major [kubrā], khul’, and dissolution of marriage [faskh al-nikāḥ]). Therefore, the opinion of the majority appears preponderant (rājiḥ) in accordance with the apparent meanings of the texts (ẓawāhir al-nuṣūṣ) and the objectives of the Sharī’ah (maqāṣid al-sharī’ah). The Ḥanafīyyah do not deem ihḍād obligatory for women from the People of the Book (ahl al-kitāb), the insane (majnūn), or minors (ṣaghīr), whereas the majority of jurists, due to the uniformity of the rulings on marriage and divorce (aḥkām al-nikāḥ wa-al-ṭalāq), hold ihḍād to be obligatory for all women, and considering the absence of difference in the effects of marriage and divorce (āthār al-nikāḥ wa-al-ṭalāq), the opinion of the majority appears preponderant.

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Introduction

Marriage and family occupy a special position in Islam. In the Qur'ān, marriage is described as a *mīthāq ghalīẓ* ("solemn covenant"), and Islamic teachings emphasize the preservation and cohesion of the family, attaching numerous *fiqhī* and legal consequences to it. Nevertheless, the marital bond may come to an end due to death or divorce. In Islam, just as there are prescribed preliminaries for initiating marital life, there are also rulings and regulations for ending it. Among the rulings concerning the termination of marriage is the *'iddah* of women. In Islamic *fiqh*, *'iddah* refers to the prescribed waiting period during which a widowed (*mutawaffā 'anhā zawjuhā*) or divorced (*muṭallaqah*) woman is not permitted to remarry and must observe certain prescribed etiquettes, including *iḥdād*—the abstention from adornment.

In the pre-Islamic *Jāhiliyyah* era, this practice was accompanied by harsh and burdensome rules: a woman observing *iḥdād* would have to spend one year in seclusion, living with minimal provisions in a small, unsuitable dwelling, after which she could return to normal life. Islam, while affirming the principle of *iḥdād*, reformed its rules. However, differences remain among *fiqhī* schools regarding its details.

One of the most significant areas of disagreement concerns the obligation of *iḥdād* during the *'iddah* of death and divorce (both *ṭalāq bā'in* and *ṭalāq raj'ī*). All schools agree on the obligation of *iḥdād* during the *'iddah* of widowhood. Regarding *iḥdād* during the *'iddah* of divorce, however, there is disagreement. The majority of jurists deny its obligation in cases of *nikāh fāsīd* (invalid marriage), while a narration from Aḥmad b. Ḥanbal and Qāḍī Abū Ya'ālā affirms the requirement of *'iddah*. There is consensus on the non-obligation of *iḥdād* during *ṭalāq raj'ī*, while in cases of *ṭalāq bā'in*—including *bā'inah ṣughrā*, *bā'inah kubrā*, *khulu'*, and dissolution of marriage (*faskh al-nikāh*)—three views exist:

1. The majority of jurists reject the obligation of *iḥdād*.
2. Abū Ḥanīfah and Aḥmad b. Ḥanbal affirm its obligation.
3. Ibn al-Mundhir, Rabī'ah, and Mālik hold that *iḥdād* during *ṭalāq bā'in* is recommended (*mustaḥabb*).

Another disputed matter concerns the conditions for women subject to *iḥdād*. All jurists agree that it is obligatory for Muslim women who are of age (*bāligh*), but they disagree on its obligation for non-Muslim women or those lacking legal capacity (minors or mentally incapacitated). The majority of the schools, based on the general and absolute nature of the evidence and the equal marital rights of Muslim and non-Muslim women, affirm the obligation of *iḥdād* for non-Muslim women. Others, citing the explicit mention of faith (*īmān*) in certain ḥadīths, consider *iḥdād* to be exclusive to Muslim women. Jurists also differ on the obligation of *iḥdād* for minors (*ṣaghīrah*) and the

mentally incapacitated (*majnūnah*): some hold it obligatory, while others—based on the absence of legal accountability (*taklīf*) for minors and the insane—reject its obligation for these women.

Methodology

This qualitative study adopts a descriptive–analytical approach, employing content analysis. The research population comprises *fiqhī* sources from the various Islamic schools, selected purposively to achieve comprehensive induction (*istiqrāʾ tām*) of juristic opinions on *ihdād*. The main objective is to examine the impact of *'iddah* in cases of divorce and death (independent variables) on women's observance of *ihdād* (dependent variable) in Islamic *fiqh*.

Data collection was conducted through library and documentary research, using note-taking as the primary tool. Initially, the views and evidences of the different *madhāhib* were extracted from authentic, primary *fiqhī* sources. These views were then classified, and the content was analyzed and evaluated qualitatively to identify the strongest opinion.

Findings

Analysis of the juristic opinions shows that *ihdād* is a corollary of *'iddah*. Accordingly, in cases such as *nikāḥ fāsīd*, where there is no *'iddah*, *ihdād* also does not apply. Furthermore, during *ṭalāq rajʿī*, in which the marital bond remains in effect and the emphasis is on reconciliation and resumption of marital life, *ihdād* is incompatible with this objective. Therefore, *ihdād* is not obligatory during *ṭalāq rajʿī*, and adornment is permissible—in fact, some jurists consider it recommended (*mustahabb*).

The primary disagreement concerns the obligation of *ihdād* during *ṭalāq bāʿin* (*ṣughrā*, *kubrā*, and *khuluʿ*). According to the majority, *ihdād* is not obligatory during this period; however, the Ḥanafī school holds that it is obligatory for women divorced with *ṭalāq bāʿin*. Their principal argument rests on the generality and absoluteness of ḥadīths commanding *ihdād* for divorced women. Yet, these ḥadīths have conflicting counterparts indicating the non-obligation of *ihdād* for divorced women. Hence, based on the principle of permissibility (*aṣl al-ibāḥah*), the default ruling is that adornment is permissible during this period.

Other disputed conditions include the obligation of *ihdād* for women from the People of the Book (*ahl al-kitāb*), minors, and the mentally incapacitated. Since the effects and rulings of marriage are *aḥkām waḍʿiyyah* (stipulative rulings) that apply equally to Muslims and non-Muslims, and to those with and without legal capacity, the majority view—contrary to the Ḥanafī opinion—is that *ihdād* is obligatory for these women as well.

Conclusion

A comparison of the evidences for the various juristic views indicates that *iḥdād* is exclusive to women whose husbands have died, and it is not obligatory for other divorced women. The Ḥanafī position—that *iḥdād* is obligatory for divorced women—lacks definitive and explicit proof; thus, the majority opinion is preferable.

Regarding *iḥdād* for minors, the mentally incapacitated, and women from the People of the Book, the Ḥanafīs argue against its obligation based on their lack of *taklīf* with respect to detailed rulings. By contrast, the majority hold that such women are equally subject to *aḥkām waḍʿiyyah*, making *iḥdād* obligatory for them—a view that is stronger and more consistent with the evidence.

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