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## Revitalising *Maskan* during 'Iddah: A Fiqh Analysis of Contemporary Post- Divorce Challenges in Indonesia

**Abstract:** This article explores the role of *maskan* (post-divorce residential rights) during the 'iddah period as a meaningful mechanism for post-divorce reconciliation, employing a normative-empirical research design. The study integrates a conceptual analysis of Islamic legal sources with a socio-legal approach that engages contemporary legal practices, mediation processes, and the practical implementation of family law in Indonesia. Rather than treating *maskan* as an abstract doctrinal provision, this research situates it within the lived experiences of divorcing couples and legal actors. The findings reveal that when *maskan* is reduced to a mere legal formality, its capacity to foster dialogue, emotional stabilisation, and reconciliation is substantially weakened. In such contexts, residential arrangements during 'iddah often fail to provide the psychological and relational space necessary for reflection and communication between former spouses. Conversely, empirical evidence shows that residential continuity during the 'iddah period—when accompanied by effective mediation mechanisms and clear legal safeguards—can help prevent conflict escalation and significantly increase the prospects for marital reconciliation. By engaging contemporary socio-legal realities, this study reframes *maskan* as a protective and relational institution rather than a static legal rule. Drawing on the objectives of Islamic law (*maqāṣid al-shari‘ah*), *maskan* is conceptualised as serving broader aims, including the preservation of family integrity, the protection of human dignity, and the maintenance of social stability. On this basis, the article proposes a contextualised framework that bridges normative Islamic principles with practical legal needs. Policy recommendations include developing community-based transitional housing schemes, institutionalising court-integrated mediation during the 'iddah period, and enforcing legal protections against unlawful eviction. Reconceptualised in this way, *maskan* emerges as both a legal entitlement and a socio-institutional instrument, enabling the 'iddah period to function as a constructive phase that balances women's rights, legal certainty, and the realistic possibility of post-divorce reconciliation. The primary academic contribution of this article lies in its reconceptualisation of *maskan* as a relational socio-legal institution within Islamic family law. By integrating normative Islamic legal principles with empirical socio-legal insights, this study moves beyond doctrinal readings that frame *maskan* solely as a post-divorce obligation.

Keywords: 'Iddah, *Maskan*, Post-Divorce Reconciliation, Fiqh, Family Law.

## INTRODUCTION

The ‘iddah period, a mandatory waiting period imposed on women following divorce or the death of a husband, occupies a central position in Islamic family law as a mechanism for regulating post-marital responsibility and social order. One of its most consequential legal dimensions concerns *maskan*, the right of a woman to remain in a designated place of residence during ‘iddah. While classical *fiqh* across the Hanafi,<sup>1</sup> Maliki,<sup>2</sup> Shafi’i,<sup>3</sup> and Hanbali<sup>4</sup> schools elaborates detailed rules on *maskan*, these doctrines are constructed mainly on the assumptions of stable households, clear property ownership, and cooperative family relations. In contemporary societies—marked by urban housing scarcity, rental dependency, and fragmented family structures—these assumptions are increasingly untenable, raising critical questions about the continued adequacy of classical formulations of *maskan* in addressing women’s residential security during ‘iddah.

Despite the apparent doctrinal clarity within classical *fiqh*, empirical socio-legal studies and judicial observations in several Muslim-majority contexts reveal persistent difficulties in the practical implementation of *maskan* during ‘iddah. Disputes over residential rights frequently emerge in cases of *talāq rajī*, particularly when the marital home is rented, jointly owned, or shared with extended family members. Court records and qualitative studies indicate that women undergoing ‘iddah are often confronted with informal eviction, pressure to relocate, or exclusion from the marital residence without clear judicial enforcement of *maskan*. These problems are further intensified in urban settings characterised by housing scarcity, rising rental costs, and limited access to affordable accommodation, underscoring that *maskan* functions not merely as a normative entitlement but as a contested legal and social reality.<sup>5</sup>

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<sup>1</sup> Muhammad ibn Abd al-Wahid al-Siwasī al-Sakandarī (Ibn al-Humām), *Sharh Fath AlQadir 'ala Al-Hidayah*, 1st ed. juz 4 (Maktabat Muṣṭafā al-Babī al-Halabī wa Awlādūh - Cairo, 1970), 404.

<sup>2</sup> Ahmad ibn Ahmad al-Mukhtar al-Jakni al-Shanqiti, *Mawahib Al-Jalil Min Adillat Khalil*, ed. Abd Allah Ibrahim al-Ansari, 1st ed. juz 3 (Qatar: Idarat Ihya al-Turath al-Islami, 1985), 169.

<sup>3</sup> Muhammad ibn Idris al-Shafti'i, *Al-Umm*, 2nd editio (Beirut: Dar al-Fikr, 1983).

<sup>4</sup> Muwaffaq al-Din Abu Muhammad Abd Allah ibn Ahmad ibn Muhammad ibn Qudamah al-Maqdisi al-Hanbali, *Al-Mughni*, ed. Abd Allah ibn Abd al-Muhsin al-Turki and Abd al-Fattah Muhammad al-Hilu, al-Taba'ah (Dar Alam al-Kutub, Riyadh, 1997).

<sup>5</sup> مريم عبد طارش, "حق الزوجة المطلقة في السكنى (أساسه القانوني والشرعى وأثره على الأسرة العراقية)" *Journal of Legal and Political Studies* 6, no. 12 (August 2, 2018): 588-618, <https://doi.org/10.17656/jlps.10141>.

From a socio-psychological perspective, residential instability during 'iddah constitutes a significant source of harm that extends beyond material deprivation. Empirical research in family sociology and women's studies demonstrates that the loss of secure housing during post-divorce transitions is closely associated with heightened emotional distress, social isolation, and increased vulnerability to coercion and legal marginalisation.<sup>6</sup> Women who are compelled to leave the marital residence during 'iddah often experience diminished access to legal remedies, weakened bargaining positions in mediation or litigation, and greater dependence on extended family or informal support networks.<sup>7</sup> These conditions not only undermine the protective objectives of 'iddah but also transform *maskan* from a stabilising legal institution into a site of psychological pressure and social exclusion.

In the Indonesian legal context, the protection of women's rights during 'iddah, including *maskan*, is normatively recognised through statutory and judicial frameworks such as the Marriage Law (Law No. 1 of 1974 as amended by Law No. 16 of 2019)<sup>8</sup> and the *Kompilasi Hukum Islam (KHI)*<sup>9</sup>, which classify residence, maintenance, and clothing as legal consequences of marital dissolution. Furthermore, Supreme Court Regulation (PERMA) No. 1 of 2016<sup>10</sup> on mediation obliges mediators in Religious Courts to facilitate discussions on post-divorce rights, including *maskan*, as part of dispute resolution. However, empirical observations of mediation practices and court proceedings suggest that discussions concerning residential rights are frequently marginalised, treated as secondary to the formal termination of marriage. As a result, women undergoing 'iddah are often informally pressured by former spouses or extended family members to vacate the marital home before the completion of the waiting period. This disjunction between normative legal guarantees and everyday judicial practice reveals a structural weakness in the

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<sup>6</sup> Muhamad Hasan Sebyar and Nur Azizah, "Facing Divorce With Family Resilience : Challenges and Post-Mediation Solutions in the Panyabungan Religious Court" 28, no. 2 (2024): 285-294.

<sup>7</sup> Virginia Stulz et al., "Women Escaping Domestic Violence to Achieve Safe Housing: An Integrative Review," *BMC Women's Health* 24, no. 1 (May 31, 2024): 314, <https://doi.org/10.1186/s12905-024-0314-7>.

<sup>8</sup> Pasal 41 huruf c Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan," 1974.

<sup>9</sup> Pasal 81 Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 Tentang Kompilasi Hukum Islam," 1991.

<sup>10</sup> "Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan," 2016.

enforcement of *maskan*, undermining both women's legal protection and the substantive objectives of 'iddah as a mechanism of stability and reconciliation.

In Indonesia, these vulnerabilities are normatively addressed through the Marriage Law (Law No. 1 of 1974 as amended by Law No. 16 of 2019) and the Compilation of Islamic Law (*Kompilasi Hukum Islam*), which recognise post-divorce rights such as 'iddah, *kiswah*, and *maskan* as legal consequences of marital dissolution. Moreover, Supreme Court Regulation (PERMA) No. 1 of 201 on Mediation explicitly mandates mediators in Religious Courts to encourage parties to discuss and negotiate the legal consequences of divorce, including maintenance, residence (*maskan*), and other post-marital obligations. However, empirical observations of mediation practices indicate that discussions on *maskan* are often marginalised or treated as secondary to formal divorce settlement, resulting in women being pressured by former spouses or in-laws to vacate the marital home prematurely. This gap between normative regulation and practical implementation undermines both women's legal rights and the substantive objectives of 'iddah, demonstrating that deficiencies in *maskan* enforcement in Indonesia produce tangible social and psychological harms that extend beyond doctrinal non-compliance.

Classical *fiqh* discussions on *maskan* during 'iddah are characterised by doctrinal precision, yet they are also embedded within socio-economic assumptions that are rarely made explicit in the legal texts themselves. Juristic positions across the Maliki, Hanafi, Shafi'i, and Hanbali schools generally presume the existence of a stable marital residence, undisputed control over property, and a level of social cooperation that enables enforcement without institutional intervention. For example, Maliki jurists allow a widow to remain in the husband's house or a designated part of it.<sup>11</sup> At the same time, Hanafi doctrine requires a woman to stay in the marital home unless compelling circumstances, such as physical danger or the inability to secure accommodation, necessitate relocation.<sup>12</sup> Hanbali jurists permit limited daytime movement for essential needs but restrict overnight

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<sup>11</sup> Abd al-Karim bin Abd Allah bin Abd al-Rahman bin Hamd al-Khudayr, *Sharh Al-Muwatta*, ed. Malik bin Anas al-Asbahi al-Madani (*Mawqi' al-Shaykh Abd al-Karim al-Khudayr*, 2011), <https://shkhudayr.com>.

<sup>12</sup> Sayyid Sabiq, *Fiqh Al-Sunnah*, 3rd ed. Juz 2 (Beirut, Lebanon: Dar al-Kitab al-'Arabi, 1977), 335.

absence from the designated residence.<sup>13</sup> In contemporary urban environments, however, these assumptions are frequently disrupted by rental-based housing, fragmented ownership, and high residential mobility, rendering strict adherence to classical formulations of *maskan* increasingly problematic without contextual reinterpretation.

A further layer of complexity arises from the interaction between classical *fiqh* norms and modern legislative frameworks governing post-divorce rights. In many Muslim-majority jurisdictions, including Indonesia, statutory regulations on ‘iddah, maintenance, and residence are shaped by a hybrid legal logic that combines Islamic jurisprudence with contemporary civil law principles. While such codification aims to enhance legal certainty and prevent abuse, it often introduces limitations concerning the duration, form, and enforceability of *maskan*. Restrictions on the use of marital property, procedural barriers in claiming residence rights, or time-bound maintenance provisions may inadvertently weaken the protective function envisioned in classical *fiqh*. This legal hybridity reveals an unresolved tension between safeguarding women from destitution and regulating post-marital obligations within bureaucratic and economic constraints, raising critical questions about whether existing legislative models adequately preserve the substantive objectives of *maskan* during ‘iddah.

Existing scholarship on post-divorce rights in Islamic family law has addressed various dimensions of women’s protection during ‘iddah,<sup>14</sup> yet the issue of *maskan* remains analytically underdeveloped.<sup>15</sup> Several studies focus primarily on the enforcement of court decisions regarding nafkah ‘iddah, kiswah, and mut‘ah, often treating residential rights as a subsidiary or technical matter rather than a substantive legal and social institution.<sup>16</sup> Other works approach post-divorce maintenance through normative or *maqāṣid al-shari‘ah* frameworks,<sup>17</sup> emphasising distributive justice and financial obligation while paying limited

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<sup>13</sup> al-Din Abu Muhammad Abd Allah ibn Ahmad ibn Muhammad ibn Qudamah al-Maqdisi al-Hanbali, *Al-Mughni*.

<sup>14</sup> Putri Widi Astuti and Tri Prastio, “Post-Divorce Rights of Women and Children,” *MILRev : Metro Islamic Law Review* 1, no. 2 (December 27, 2022): 203, <https://doi.org/10.32332/milrev.v1i2.6209>.

<sup>15</sup> Sabiq, *Fiqh Al-Sunnah*.

<sup>16</sup> Sandi Yoga Pradana et al., “Maintenance Rights of Wife and Children After Divorce in Islamic Family Law” 7, no. 2 (2025): 816-820, <https://doi.org/10.56338/ijhess.v7i2.7320>.

<sup>17</sup> Julia Julia, “The Maqāṣid Analysis on the Nafkah Iddah of Divorce Lawsuit in the Compilation of Islamic Law (KHI) Article 149 (b) and the Supreme Court Verdict Number 137/K/AG/2007,” *Ulumuddin Journal of Islamic Legal Studies* 1, no. 1 (July 17, 2020): 91, <https://doi.org/10.22219/ulumuddin.v1i1.12866>.

attention to the spatial and relational dimensions of shared residence during 'iddah, particularly in cases of *ṭalāq rajīt*. Moreover, empirical analyses of judicial practice tend to privilege procedural compliance over lived experiences,<sup>18</sup> leaving unexplored the potential role of *maskan* as a mechanism for protection, dignity, and reconciliation.<sup>19</sup> This gap in the literature suggests the need for a focused, interdisciplinary examination of *maskan* that integrates doctrinal analysis with socio-legal and psychological perspectives.

This study responds to these gaps by repositioning *maskan* not merely as an ancillary legal entitlement during 'iddah, but as a central socio-legal institution with protective, relational, and reconciliatory functions. Focusing on cases of *ṭalāq rajīt*, where the possibility of marital reconciliation remains legally and ethically significant, the research combines doctrinal analysis of classical *fiqh* with an examination of contemporary judicial and mediation practices. By integrating socio-legal and psychological perspectives, this study advances a framework for operationalising *maskan* as a lived practice of protection and dignity, rather than a formalistic obligation detached from women's everyday realities. In doing so, it offers an alternative interpretive approach that bridges classical jurisprudence and modern social conditions without undermining the normative objectives of Islamic family law.

This research pursues three interrelated objectives. First, it examines classical *fiqh* sources to elucidate the normative principles governing *maskan* during 'iddah, with particular attention to juristic differences across the primary Sunni schools in cases of *ṭalāq rajīt*. Second, it investigates the contemporary social, legal, and economic conditions that complicate the implementation of these principles, drawing on socio-legal analysis of judicial and mediation practices. Third, the study develops an integrative framework that reconciles classical jurisprudence with present-day realities by conceptualising *maskan* as a mechanism of protection, dignity, and potential reconciliation. Through this approach, the research seeks to contribute to the refinement of Islamic family law by demonstrating how

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<sup>18</sup> Shofiatul Jannah and Roibin Roibin, "The Urgency of Determining the Post-Divorce Iddah Payment Period in Indonesian Religious Courts," *Jurnal Ius Constituendum* 8, no. 3 (October 18, 2023): 424-435, <https://doi.org/10.26623/jic.v8i3.7606>.

<sup>19</sup> Sanusi Sanusi et al., "Judges' Ijtihad on Women's Rights after Divorce and Its Contribution to Family Law Reform in Indonesia," *SMART: Journal of Sharia, Tradition, and Modernity* 3, no. 1 (July 30, 2023): 1, <https://doi.org/10.24042/smart.v3i1.16981>.

doctrinal norms can be meaningfully operationalised within modern legal systems without sacrificing their ethical objectives.

## METHOD

This research falls within the category of normative-empirical legal studies, which aims to integrate a textual examination of classical legal norms with observations of contemporary social practices.<sup>20</sup> The normative approach allows the author to deeply analyse fiqh legal texts, ranging from the Qur'an and Hadith to classical jurisprudences such as Hanafi, Maliki, Shafi'i, and Hanbali, in order to understand principles related to *maskan* (residence) during the 'iddah period. On the other hand, the empirical approach provides space to observe social realities within the community, including spouses' housing practices during 'iddah, their interactions with family members, and the contemporary challenges spouses face after divorce. Thus, this study seeks to provide a comprehensive picture of women's rights and the obligations of a husband or ex-husband, along with relevant fiqh rulings in a modern context.<sup>21</sup>

The approaches used in this study are the conceptual and socio-legal approaches. The conceptual approach is carried out through a literature study of classical fiqh to identify the fundamental concept of *maskan*, women's rights during 'iddah, and the legal distinctions between *iddat al-wafah* (mourning due to death) and *iddat al-talaq* (divorce). This includes an analysis of the principles governing the husband's duty to provide housing, food, and clothing for women in 'iddah, as well as how fiqh regulates these rights in different circumstances, such as irrevocable divorce or the husband's death. In addition, this study examines modern legal literature, including family law statutes, housing regulations, and social policies concerning women's protection and the fulfillment of their rights during 'iddah. In this way, the study maps out the differences between classical legal norms and the implementation of law in contemporary social contexts.

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<sup>20</sup> Wahyu Abdul Jafar et al., "The Childfree Phenomenon Based on Islamic Law and Its Respond on Muslim Society," *AlIstimbath: Jurnal Hukum Islam* 8, no. 2 (November 9, 2023): 389, <https://doi.org/10.29240/jhi.v8i2.7865>.

<sup>21</sup> Sebyar and Azizah, "Facing Divorce With Family Resilience : Challenges and Post- Mediation Solutions in the Panyabungan Religious Court."

## RESULTS AND DISCUSSION

### The Concept of Residence (*Maskan*) in Islamic Jurisprudence During the ‘*Iddah* Period

The concept of *maskan*, or designated residence for women during the ‘*iddah* period, occupies a pivotal role in Islamic jurisprudence, aiming to ensure both protection and social stability following marital dissolution. In classical *fiqh*, scholars from various schools of thought—including Hanafi, Maliki, Shafi’i, and Hanbali—emphasise that the ‘*iddah* period serves as a temporal and spiritual safeguard for the woman, ensuring her due rights while preventing confusion about paternity and maintaining social order.<sup>22</sup> The term *maskan* is generally understood as a safe and suitable dwelling provided to the woman, where she can reside until the completion of her ‘*iddah*. However, this normative framework essentially presumes stable household arrangements, an assumption that is increasingly contested in contemporary contexts marked by urban housing constraints and post-divorce economic vulnerability, necessitating a critical re-examination of *maskan* beyond its classical formulation.

Women undergoing ‘*iddah* are generally classified into two main categories: those in ‘*iddah* because of the death of a husband (*iddat al-wafah*), and those in ‘*iddah* due to separation while the husband is still alive. The latter group is further divided into two: separation caused by divorce (*talāq*) and separation for reasons other than divorce. As for women in ‘*iddah* due to *talāq*, they are classified into two types: *talāq rajī’ī* (revocable divorce) and *talāq bā’īn* (irrevocable divorce).<sup>23</sup>

In cases of *iddat al-wafah* (‘*iddah* due to widowhood), classical *fiqh* generally obliges the deceased husband’s heirs to ensure that the widow remains in the residence she occupied during the marriage,<sup>24</sup> provided that the house forms part of the husband’s estate.<sup>25</sup> If the dwelling is rented, jurists differ on whether the heirs must continue the rental payment or whether the financial burden may shift to the widow.<sup>26</sup> These rulings

<sup>22</sup> ibn Idris al-Shafi’i, *Al-Umm*, Juz 5, 242

<sup>23</sup> Abd al-Malik bin Abd Allah bin Yusuf bin Muhammad al-Juwayni, *Nihayat Al-Matlab Fi Dirayat Al-Madhab*, ed. Abd al-Azim Mahmud al-Dib, 1st ed. Juz 15 (Jeddah, Saudi Arabia: Dar al-Minhaj, 2007), 211-213.

<sup>24</sup> Zakariya ibn Muhammad al-Ansari, *Fath Al-Wahhab Bi-Sharh Minhaj Al-Tullab*, vol. 2 (Dar al-Fikr, 1994), 132-133.

<sup>25</sup> ibn Idris al-Shafi’i, *Al-Umm*, juz 5, 242.

<sup>26</sup> Mansur bin Yunus bin Idris al-Buhuti, *Kashshaf Al-Qina’ “an Matn Al-Iqna”*, ed. Hilal Masilhi Mustafa Hilal, Juz 5 (Riyadh, Saudi Arabia: Maktabat al-Nasr al-Hadithah, 1968), 430-431.

reflect a normative concern for continuity and protection; however, in contemporary contexts marked by fragmented inheritance practices, informal housing arrangements, and weak enforcement, widows often face pressure from heirs to vacate the marital home prematurely. This gap between classical obligation and modern practice exposes structural vulnerabilities in the realisation of *maskan*, particularly where property relations are contested or undocumented.

In cases of *ṭalāq bā'in* (irrevocable divorce), classical jurists generally distinguish women's entitlement to *maskan* based on pregnancy status.<sup>27</sup> Most schools agree that a pregnant woman remains entitled to complete maintenance,<sup>28</sup> including residence, until childbirth, grounding this obligation in Qur'anic injunctions such as Q. 65:6.<sup>29</sup> By contrast, non-pregnant women in *ṭalāq bā'in*<sup>30</sup> are commonly denied maintenance,<sup>31</sup> and in some schools, housing as well, on the basis that the marital bond has legally ceased.<sup>32</sup> These divergent interpretations are not merely doctrinal differences but have concrete implications in contemporary legal practice, where the denial of *maskan* often translates into immediate housing insecurity for divorced women.<sup>33</sup> The absence of a unified approach complicates judicial decision-making and exposes women to unequal protection, particularly in legal systems that selectively codify fiqh opinions without adequate consideration of present-day socio-economic conditions.

In *talaq rajīḥ*, the wife remains in a marital-like bond throughout the 'iddah, as the husband retains the right to revoke the divorce without a new marriage contract. Consequently, jurists consistently affirm that she is entitled to complete maintenance, including *maskan*, food, and clothing, for the entire 'iddah period, and she is not permitted

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<sup>27</sup> al-Karim bin Abd Allah bin Abd al-Rahman bin Hamd al-Khudayr, *Sharh Al-Muwatta*, 132.

<sup>28</sup> known as Ibn al-Humam al-Hanafi bin Abd al-Wahid al-Siwasī al-Sikandarī, *Sharh Fath Al-Qadir 'ala Al-Hidayah*, 1st ed. Juz 4 (Cairo, Egypt: Shirkah Maktabah wa Matba'ah Mustafa al-Babi al-Halabi wa Awladuhu, 1970), 404.

<sup>29</sup> Sabiq, *Fiqh Al-Sunnah*, 337.

<sup>30</sup> Zayn al-Din Ahmad ibn 'Abd al-'Aziz al-Ma'bāri al-Malibāri, *Fath Al-Mu'in Bi-Sharh Qurra'at Al-'Ayn Bi-Muhibmat Al-Din* (Dar Ibn Hazm, n.d.), 527.

<sup>31</sup> Abd al-Rahman bin Muhammad Awad al-Jaziri, *Al-Fiqh 'ala Al-Madhabib Al-Arba'ah*, 2nd ed. Juz 4 (Beirut, Lebanon: Dar al-Kutub al-Ilmiyyah, 2003), 502.

<sup>32</sup> Abd al-Rahman bin Muhammad Awad al-Jaziri, *Al-Fiqh 'ala Al-Madhabib Al-Arba'ah*, 2nd ed. Juz 4 (Beirut, Lebanon: Dar al-Kutub al-Ilmiyyah, 2003), 502.

<sup>33</sup> al-Malik bin Abd Allah bin Yusuf bin Muhammad al-Juwaini, *Nihayat Al-Matlab Fi Dirayat Al-Madhab*, juz 15, 211-213.

to leave the marital home unless under exceptional circumstances, such as proven harm or manifest indecency (*fāhishah mubayyinah*).<sup>34</sup> Beyond its legal formulation, this arrangement serves a functional purpose: sustained co-residence during iddah creates a structured space for reflection and potential reconciliation. In contemporary practice, however, the premature displacement of women during *ṭalāq rajī* undermines this objective, transforming iddah from a period of legal continuity into one of abrupt social rupture.<sup>35</sup>

The fiqh sources also emphasise that the woman is generally required to remain within the designated *maskan* throughout her *iddah*, with limited exceptions allowed for essential needs. Daytime excursions for necessities such as food procurement, medical visits, or social interactions that do not compromise her dignity are generally permissible, whereas leaving the home at night is highly restricted, except in cases of imminent danger. This restriction aligns with the broader objective of *iddah*: ensuring safety, preventing social harm, and upholding moral and ethical norms. Hadith literature provides historical instances, such as the case of Farwah bint Malik and other companions' wives, demonstrating how the Prophet instructed women to remain in their homes during '*iddah*', while allowing practical exceptions in cases of necessity or hardship.

Differences among the madhāhib regarding women's mobility during iddah reflect varying emphases on protection, necessity, and social context rather than mere textual disagreement. The Hanafi school tends to impose stricter limitations on movement, prioritising legal certainty and moral safeguarding, while the Hanbali school allows greater flexibility for daytime activities in recognition of practical needs. Maliki and Shafi'i jurists adopt more nuanced positions, particularly in cases involving pregnancy or economic necessity. These variations illustrate that classical fiqh inherently accommodates contextual reasoning, suggesting that *maskan* should not be treated as a rigid spatial restriction but as a legal instrument adaptable to social realities. Recognising this flexibility is crucial for contemporary applications, where women's economic participation and urban mobility are integral to their welfare and legal protection.

The concept of *maskan* during iddah is closely intertwined with women's right to maintenance (*nafaqah*), encompassing food, clothing, and basic living support. Classical

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<sup>34</sup> al-Rahman bin Muhammad Awad al-Jaziri, *Al-Fiqh 'ala Al-Madhahib Al-Arba'ah*, Juz 4, 502.

<sup>35</sup> Sabiq, *Fiqh Al-Sunnah*, juz 2, 334.

fiqh links the obligation to provide residence with the broader duty of maintenance, subject to conditions such as the woman's marital status, pregnancy, and the nature of separation. Importantly, jurists acknowledge that these obligations are not absolute but responsive to hardship and necessity, allowing alternative arrangements when residence in the former marital home becomes impractical or harmful. This doctrinal flexibility demonstrates that protecting women's welfare, rather than the physical preservation of a specific dwelling, constitutes the core objective of *maskan*—a principle highly relevant to contemporary contexts marked by economic precarity and non-traditional living arrangements.<sup>36</sup>

Early Islamic case examples illustrate how the right to *maskan* was operationalised in practice rather than treated as a purely abstract norm. Reports involving figures such as Farī'ah bint Mālik and the intervention of Aisha bint Abi Bakr demonstrate that the Prophet and his companions emphasised continued residence during iddah as a means of ensuring safety, legal clarity, and social dignity.<sup>37</sup> These precedents function not merely as historical anecdotes but as normative indicators that the enforcement of *maskan* was sensitive to individual circumstances and social context. Read in this light, early practice supports an interpretive approach that prioritises women's protection and legal certainty over rigid spatial control, offering valuable guidance for contemporary judicial and legislative applications.

In conclusion, *maskan* during the iddah period constitutes a binding legal obligation rooted in Qur'anic injunctions and elaborated through classical fiqh across the major *madhāhib*. Despite variations in doctrinal detail, jurists consistently affirm that residence during iddah serves protective, ethical, and social functions, particularly in safeguarding women's dignity and legal security. The diversity of classical interpretations reveals an inherent flexibility that allows *maskan* to be contextualised in response to changing social and economic conditions. Accordingly, the contemporary challenge lies not in redefining *maskan* as a legal right but in ensuring its meaningful implementation

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<sup>36</sup> T Dzinahinya And M K Ulum, "Analisis Pendapat Ibnu Qudamah Tentang Hukum Pernikahan Seorang Laki-Laki Dengan Seorang Perempuan Yang Anaknya," *Eprints.Walisongo.Ac.Id*, N.D., <Http://Eprints.Walisongo.Ac.Id/Id/Eprint/6767/>.

<sup>37</sup> Aisha Geissinger, "A'Isha Bint Abi Bakr and Her Contributions to the Formation of the Islamic Tradition," *Religion Compass* 5, no. 1 (January 4, 2011): 37-49, <https://doi.org/10.1111/j.1749-8171.2010.00260.x>.

that preserves its normative objectives amid modern housing realities and post-divorce vulnerabilities.

### Contemporary Social Challenges

In contemporary contexts, the fulfilment of *maskan* during the 'iddah period faces significant challenges, particularly in urban and economically vulnerable settings.<sup>38</sup> Empirical studies and court practices indicate that divorced women often experience economic dependency and housing insecurity due to limited enforcement mechanisms and ambiguous legal interpretations surrounding post-divorce obligations.<sup>39</sup> In several Religious Court cases, disputes over *maskan* frequently arise because former husbands claim financial incapacity or because housing arrangements are not explicitly regulated in judicial decisions.<sup>40</sup> These conditions demonstrate that the classical fiqh conception of *maskan*, while normatively clear, encounters structural obstacles in modern legal and social realities, necessitating contextual reinterpretation and stronger legal integration.<sup>41</sup>

One of the most pressing challenges in the implementation of *maskan* during 'iddah concerns women's economic dependency following divorce or widowhood. Empirical studies in several Muslim-majority contexts demonstrate that women frequently experience financial vulnerability due to weak enforcement of post-divorce maintenance obligations and limited access to social protection mechanisms.<sup>42</sup> Research conducted in Indonesian religious courts shows that disputes over housing and 'iddah maintenance are common,<sup>43</sup> with many ex-husbands failing to fulfil their legal obligations due to economic constraints,

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<sup>38</sup> Ahmad Alfin Afadi, "Analysis of Modern Women's Iddah and Ihdad From The Fuqaha Perspective," *International Conference on Education, Society and Humanity* 01, no. 01 (2023): 134-140.

<sup>39</sup> Normadiah Daud et al., "The Implementation and Challenges of Idah and Ihdad Due to Husbands' Death among Working Women According to the Islamic Perspective," *International Journal of Academic Research in Business and Social Sciences* 14, no. 12 (2024): 282-293, <https://doi.org/10.6007/IJARBSS/v14-i12/23952>.

<sup>40</sup> Andri Muda Nasution, "Iddah Maintenance Obligation: Perspective Of Islamic Law And Social Reality In Mandailing Natal," *El-Ahli: Jurnal Hukum Keluarga Islam* 6, no. 1 (2025): 6, <https://www.city.kawasaki.jp/500/page/0000174493.html>.

<sup>41</sup> Galih Puji Kurniawan et al., "Jurnal Tana Mana," *Jurnal Tana Mana* 2, no. 1 (2021): 46-48, <https://ojs.staialfurqan.ac.id/jtm/article/download/736/452/>.

<sup>42</sup> A. Shahid, "Post-Divorce Maintenance for Muslim Women in Pakistan and Bangladesh: A Comparative Perspective," *International Journal of Law, Policy and the Family* 27, no. 2 (August 1, 2013): 197-215, <https://doi.org/10.1093/lawfam/ebt004>.

<sup>43</sup> Ahsanul Fahmi et al., "Judicial Practices in Enforcing Post-Divorce Maintenance Rights for Women and Children in Indonesia," *Indonesia Private Law Review* 6, no. 2 (2025): 103-116, <https://doi.org/10.25041/iplr.v6i2.4608>.

lack of legal awareness, or deliberate avoidance, while enforcement mechanisms remain largely ineffective.<sup>44</sup> Similarly, studies on widowed women indicate that heirs often prioritise the immediate distribution of inheritance assets,<sup>45</sup> resulting in the displacement of widows from the marital home despite Islamic legal principles guaranteeing their right to residence during 'iddah.<sup>46</sup> These findings reveal a structural gap between the normative fiqh conception of *maskan* as an enforceable right and the socio-economic realities that undermine its realisation, thereby exposing women to housing insecurity and prolonged economic hardship during a legally and emotionally vulnerable period.<sup>47</sup>

Beyond economic vulnerability, women's mobility and autonomy during the 'iddah period constitute a significant contemporary challenge.<sup>48</sup> Classical fiqh generally restricts women's movement during 'iddah to preserve dignity, lineage clarity, and social order. However, empirical studies in contemporary Muslim societies demonstrate that many divorced or widowed women remain economically active and socially engaged,<sup>49</sup> particularly in urban settings where women frequently function as primary or co-breadwinners. Research on working Muslim women in Indonesia indicates that rigid interpretations of mobility restrictions during 'iddah often conflict with women's livelihood needs, access to employment, and social support systems.<sup>50</sup> When such restrictions are applied without contextual accommodation, they risk transforming 'iddah from a protective

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<sup>44</sup> Widya Pratiwi and Arman Tjoneng, "Juridical Review of Inconsistency in The Implementation of Nafkah Iddah in Religious Court Rulings," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 2 (September 5, 2024): 373-88, <https://doi.org/10.37680/almanhaj.v6i2.5166>.

<sup>45</sup> Misheck Dube, "The Challenges Facing Widows in African Contexts: A Literature Review," *International Journal of Research in Business and Social Science* (2147- 4478) 12, no. 7 (October 28, 2023): 452-459, <https://doi.org/10.20525/ijrbs.v12i7.2775>.

<sup>46</sup> Sumiati, "Changes in Women's Social and Economic Status After Divorce Often Lead to Financial Instability" 9, no. 2 (2023): 1-13.

<sup>47</sup> Ela Yuliantari and Zainal Azwar, "Reformulating the Concept of Ihdad in the Contemporary Era: A Review of the Concept of Ihdad According to Jurisprudence Scholars," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 1 (April 19, 2025): 82-97, <https://doi.org/10.38073/rasikh.v14i1.2536>.

<sup>48</sup> Seema Jayachandran, "Social Norms as a Barrier to Women's Employment in Developing Countries," *IMF Economic Review* 69, no. 3 (September 5, 2021): 576-95, <https://doi.org/10.1057/s41308-021-00140-w>.

<sup>49</sup> Muhamad Hasan Sebyar, "The Role of Women in Improving Well-Being Family Perspective Maqashid Syaria," *Hukum Islam* 21, no. 2 (2021): 186-204.

<sup>50</sup> 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 19, 2025): 15, <https://doi.org/10.29300/mzn.v12i2.7683>.

mechanism into a source of economic strain and social isolation.<sup>51</sup> From a socio-legal perspective, this tension highlights the need to recontextualise the concept of *maskan* by aligning its ethical objectives—protection, dignity, and welfare (*maslahah*)—with contemporary realities of women's autonomy and participation in public life. Without such reinterpretation, the implementation of 'iddah may inadvertently reinforce gendered vulnerabilities rather than fulfilling its normative intent within Islamic legal theory.

Housing insecurity also emerges as a critical issue in contemporary applications of *maskan*.<sup>52</sup> Rapid urbanisation and rising property costs make it increasingly difficult for women to secure stable residences<sup>53</sup> during 'iddah. In many cases, divorced or widowed women are pressured to leave their marital homes due to disputes with in-laws or the inability to pay rent.<sup>54</sup> Social stigma further compounds this problem, as women living alone are often subject to suspicion or negative stereotyping in conservative communities.<sup>55</sup> This stigma undermines the protective function of *maskan* by exposing women to social vulnerabilities that fiqh initially sought to mitigate.

Furthermore, post-divorce reconciliation efforts encounter obstacles in contexts where the practice of *iddah* is not fully understood or is poorly integrated into legal systems. In some jurisdictions, secular family laws do not formally recognise the concept of *maskan*, resulting in gaps between religious prescriptions and state enforcement.<sup>56</sup> This lack of legal

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<sup>51</sup> Timothy M. Smeeding, "Multiple Barriers to Economic Opportunity for the 'Truly' Disadvantaged and Vulnerable," *RSF: The Russell Sage Foundation Journal of the Social Sciences* 2, no. 2 (2016): 98, <https://doi.org/10.7758/rsf.2016.2.2.04>.

<sup>52</sup> Anika Intesar and Md Shahin Parvez, "Living with Vulnerability: Triple Burden through the Eyes of Urban Slum Women in Bangladesh," *Social Sciences & Humanities Open* 10 (2024): 101014, <https://doi.org/10.1016/j.ssho.2024.101014>.

<sup>53</sup> Faraz Hassan, Emma Grant, and Sophie Stevens, "Understanding Shelter from a Gender Perspective: The Case of Hawassa, Ethiopia," *Environment and Urbanization* 32, no. 2 (October 30, 2020): 463–480, <https://doi.org/10.1177/0956247820942109>.

<sup>54</sup> Nur Aqiqah Wahda, Muhammad Sabir, and Muh Fauzi Anas, "The Fulfillment of Post-Divorce Rights for Former Wives and Children in Bantaeng Regency," *PAREWA SARAQ: JOURNAL OF ISLAMIC LAW AND FATWA REVIEW* 4, no. 1 (May 31, 2025), <https://doi.org/10.64016/parewasaraq.v4i1.25>.

<sup>55</sup> Shadia Khrisat, Rami Tashtoush, and Ahmad Najadat, "Psychological Security and Loneliness among Divorced and Widowed Women: A Cross-Sectional Comparative Study," *An-Najah University Journal for Research - B (Humanities)* 37, no. 5 (2023): 845888, <https://doi.org/10.35552/0247.37.5.2008>.

<sup>56</sup> Dede Rohayati et al., "Legal Enforcement Against Non-Compliance by Ex-Husbands with Court Orders on Iddah and Mut'ah Support," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (May 28, 2025): 157–170, <https://doi.org/10.19109/nurani.v25i1.26653>.

harmonisation often leads to confusion and inconsistency in practice.<sup>57</sup> For example, while Islamic law requires a husband to provide housing during ‘iddah, state courts prioritise equitable property distribution, leaving the divorced woman without an enforceable right to residence. Such conflicts between religious norms and civil laws highlight the need for integrated legal frameworks that respect religious obligations while addressing contemporary realities.<sup>58</sup>

The psychological dimension of ‘iddah also poses a contemporary challenge in modern societies, where emotional well-being and mental health are increasingly emphasised. The requirement of confinement during ‘iddah is perceived as restrictive or even detrimental when not appropriately contextualised.<sup>59</sup> Women undergoing divorce or widowhood often experience profound grief, trauma, and social alienation. While classical fiqh envisioned *maskan* as a space for security and reflection, modern women perceive it as isolation if community support structures are lacking.<sup>60</sup> Addressing this challenge requires reimaging *maskan* not merely as physical confinement but as a holistic support system that offers counselling, emotional care, and mechanisms for social reintegration.

Globalisation and diasporic experiences have reshaped the context of ‘iddah. In Western societies where Muslims live as minorities, the practice of *maskan* during ‘iddah faces cultural, legal, and logistical barriers. Muslim women may lack the familial or community networks traditionally relied upon to secure housing and maintenance. Moreover, state laws governing divorce and inheritance conflict with or disregard Islamic stipulations, leaving women without effective recourse. In such contexts, Muslim communities face the challenge of creatively reinterpreting and revitalising the principles

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<sup>57</sup> Abd. Karim Faiz, Zulfahmi AR, and Ahmad Izzuddin, “Between State Law and Islamic Law: The Practice of Divorce Outside the Situbondo Religious Courts, Indonesia,” *JIL: Journal of Islamic Law* 3, no. 2 (August 31, 2022): 176–192, <https://doi.org/10.24260/jil.v3i2.848>.

<sup>58</sup> Rahmawati, “Dis-Implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 1 (2024): 306–312, <https://doi.org/10.22373/sjhk.v9i1.27172>.

<sup>59</sup> Samsuri and Sayehu, “Hadiths on Thalaq and Iddah with Psychological and Theological Normative Approaches,” *Jurnal Hukum Keluarga* 1, no. 02 (February 13, 2025): 10–18, <https://doi.org/10.63731/jhk.v1i02.14>.

<sup>60</sup> Mas Umar, “Iddah Of Death Divorce For Carrer Woman In Perspective Jasser Auda’s Maqasid Sharia,” *Al Hakam: The Indonesian Journal of Islamic Family Law and Gender Issues* 3, no. 1 (May 18, 2023): 1–19, <https://doi.org/10.35896/alhakam.v3i1.472>.

of *maskan* in ways that align with both Islamic jurisprudence and the socio-legal frameworks of host societies.<sup>61</sup>

In conclusion, contemporary challenges to the implementation of *maskan* during the ‘iddah period highlight the need for dynamic fiqh interpretation and socially responsive legal mechanisms. Economic insecurity, housing shortages, cultural stigmatisation, legal conflicts, and psychological needs all complicate the realisation of *maskan* in modern contexts. Addressing these challenges requires not only a return to the ethical and protective spirit of classical fiqh but also innovative approaches that integrate contemporary social realities. Such efforts are crucial to revitalising *maskan* as a living concept that continues to safeguard women’s rights and promote social harmony in post-divorce and post-widowhood settings.

#### **Revitalising the Concept of Maskan During the ‘Iddah Period to Post-Divorce Reconciliation**

Within the framework of classical fiqh, ‘iddah *raj‘i* occupies a significant position because during this period, the marital bond is not yet fully dissolved. Jurists explain that a woman under *talāq raj‘i* continues to hold the legal status of a wife until the completion of her iddah. Imam al-Nawawī in *al-Majmū‘* emphasised that a woman divorced under *talāq raj‘i* remains entitled to maintenance, housing (*maskan*), and clothing, since the marriage is still legally valid. Likewise, in *Fath al-Qadīr*, it is stated that the obligation of *maskan* in cases of *talāq raj‘i* is not merely a woman’s right, but also a mechanism established by the *sharī‘ah* to preserve household stability and open the possibility of reconciliation. For this reason, *fuqahā‘* consistently hold that a woman in ‘iddah *raj‘i* must remain in the home she shared with her husband, and the husband is prohibited from expelling her, as explicitly affirmed in Qur’ān al-Talāq [65]: 1, “*Do not expel them from their houses, nor should they (themselves) leave, unless they commit a clear immorality.*”

This fiqh principle establishes a strong foundation: *maskan* in ‘iddah *raj‘i* is not merely about physical residence but also serves as a space for reconciliation. By remaining in the same house, the wife can maintain interaction and communication and potentially

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<sup>61</sup> Shofiatul Jannah, Nindya Tri Wahyuni, and Sholihatin Khofsah, “Women’s Digital Activities During The ‘Iddah Period: A Perspective Of Islamic Law And Social Media Reality,” *INJECT (Interdisciplinary Journal of Communication)* 10, no. 1 (June 26, 2025): 503–526, <https://doi.org/10.18326/inject.v10i1.4364>.

repair the marital relationship. Scholars interpret this as a manifestation of the wisdom behind the legislation of ‘iddah: that it was not only intended to ensure the purity of the womb but also to create a “cooling-off period” allowing reconciliation without the need for a new marriage contract. Imam Ibn Qudāmah in *al-Mughnī* declared, “If a man divorces his wife with *talāq raj‘i*, he may not expel her from his house, and she remains entitled to maintenance and residence, because she is still legally considered his wife.” Thus, *maskan* in ‘iddah *raj‘i* operates as a juridical and socio-psychological instrument simultaneously.

The revitalisation of *maskan* in cases of *iddah raj‘ī* requires not only doctrinal reaffirmation but also institutional integration with contemporary reconciliation mechanisms, particularly family mediation and counselling. In the Indonesian context, reconciliation during divorce proceedings is formally mandated through Supreme Court Regulation (PERMA) No. 1 of 2016, which obliges Religious Courts to prioritise mediation before adjudicating divorce cases. Empirical socio-legal studies demonstrate that although mediation outcomes remain modest in terms of reconciliation success, the mediation process itself provides an institutional space for addressing post-divorce consequences, including residence (*maskan*), maintenance, and emotional tensions between spouses.

Research conducted in several Religious Courts in Indonesia indicates that mediators frequently focus on formal settlement of divorce claims, while issues of housing during ‘iddah are often underemphasised, despite their potential role in facilitating reconciliation and reducing post-divorce conflict. Integrating the classical fiqh principle of shared residence during ‘iddah *raj‘ī* into mediation agendas—particularly by explicitly framing *maskan* as a protective and reconciliatory mechanism—can transform mediation from a purely procedural requirement into a substantive tool for family preservation. In this sense, *maskan* functions not merely as a legal entitlement but as a structured social space that supports dialogue, emotional de-escalation, and the possibility of marital restoration.

Beyond formal judicial mechanisms, community-based religious and social institutions play a crucial role in operationalising *maskan* as a lived reality in contemporary Muslim societies. In Indonesia, mosques, zakat organisations, and Islamic family counselling units affiliated with institutions such as BP4 (Badan Penasihat, Pembinaan, dan Pelestarian Perkawinan) have increasingly been involved in providing non-litigation

support for divorced and widowed women. Empirical studies on Islamic social finance indicate that although waqf-based housing initiatives specifically dedicated to women in 'iddah remain limited, several waqf programs have been developed to support vulnerable families through temporary accommodation, rental assistance, and integrated social services.

These initiatives demonstrate the practical feasibility of adapting the classical spirit of *maskan*—as a guarantee of safety, dignity, and stability—into modern socio-economic frameworks. Moreover, recent research on post-divorce family counselling in Indonesia shows that women who receive structured psychological and religious counselling during transitional periods experience lower levels of social stigma, emotional distress, and conflict escalation. When combined with secure residential arrangements, such counselling programs reinforce *maskan* not as isolation or confinement, but as a holistic support system encompassing physical security, emotional well-being, and social reintegration. Thus, community-based mediation, waqf-supported housing assistance, and counselling services represent concrete contemporary extensions of the classical fiqh conception of *maskan*, aligning religious norms with present-day social realities.

In contemporary practice, while classical fiqh situates *maskan* as a normative guarantee of residence and economic support during 'iddah, its realisation in Indonesia often faces considerable implementation gaps. Empirical research on post-divorce maintenance in Indonesian religious courts reveals recurring obstacles in fulfilling 'iddah rights, particularly housing and financial support, due to inconsistent enforcement and socio-economic constraints. For instance, a study examining *nafkah 'iddah* at the Surabaya Religious Court found that judges frequently encountered difficulties in ensuring that ex-husbands provided obligatory maintenance, including accommodation, due to procedural and evidential hurdles that delayed or undermined enforcement of these rights, causing insecurity for women during 'iddah.<sup>62</sup> Similarly, normative legal analyses of Indonesian legislation highlight that, although Law No. 1 of 1974 and the Compilation of Islamic Law recognise women's iddah rights, weak enforcement mechanisms and limited sensitivity to

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<sup>62</sup> Abdullah Arianty, Uzlifatus Dea Arianty Fikri, "Implementation Of Nafkah Iddah And Mut'ah In Divorce Cases In The Surabaya Religious Court," *Mizan: Journal of Islamic Law* 13, no. 01 (2025): 13-24, <https://doi.org/https://ejournal.uika-bogor.ac.id/index.php/MIZAN/article/view/20856>.

women's material circumstances have led to legal provisions that are not fully protective in practice.<sup>63</sup> These Indonesian cases illustrate the tension between fiqh-based ideals and lived realities, underscoring the need for stronger empirical grounding, improved judicial practices, and integrated legal frameworks that make *maskan* rights operational rather than merely aspirational.

In response to these implementation challenges, contemporary mechanisms—such as community mediation, counselling, and supportive social institutions—are emerging as practical complements to classical fiqh prescriptions. In Indonesia, various local initiatives demonstrate how community-based support can help bridge the gap between legal norms and social realities. For example, several religious courts and *badan kemaslahatan umat* (community welfare bodies) in urban centres have begun incorporating *family mediation* programs within the divorce process to facilitate constructive dialogue between spouses, address disputes over *maskan* and *nafkah*, and reduce adversarial outcomes. Although systematic data on the outcomes of these programs remain limited, preliminary reports indicate that mediation sessions led to enhanced communication and voluntary agreement on residence and maintenance arrangements among disputing parties. In parallel, research on Islamic family law reform in Indonesia emphasises the potential of institutional supports—such as mosque-based counselling services and *waqf*-funded shelters for widows and divorcees—to provide both physical security and psychosocial care for women during '*iddah* and beyond, thus operationalising the protective intent of *maskan* in contemporary socio-legal contexts.<sup>64</sup> These examples suggest that grounded, context-specific interventions are crucial for making *maskan* a lived reality rather than a purely doctrinal concept.

Ultimately, revitalising *maskan* in '*iddah raj'i* should be seen not simply as a legal obligation but as a socio-religious institution that enables post-divorce reconciliation. By remaining in her husband's home, a woman in '*iddah raj'i' not only safeguards her rights but also gains the opportunity for reflection, emotional healing, and the potential renewal*

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<sup>63</sup> Ryvina Izza Rosyida, Dwi Faizah Maulidiyah, and Windy Amanda Siwi Suherlan, "Nafkah Iddah Bagi Perempuan Pasca Perceraian Dalam Perundang-Undangan," *Legal Standing : Jurnal Ilmu Hukum* 9, no. 2 (February 10, 2025): 308–317, <https://doi.org/10.24269/ls.v9i2.11506>.

<sup>64</sup> Nahdia Nazmi, "Transformation of the Post-Divorce Iddah Period in the Context of Modernization in Indonesia: An Islamic Family Law Reform in the Perspective of Maslahah Mursalah," *Jurnal Transformatif (Islamic Studies)* 9, no. 2 (October 30, 2025): 139–53, <https://doi.org/10.23971/tf.v9i2.9344>.

of the marital bond. When grounded in classical fiqh, informed by *maqāṣid al-shari‘ah*, and reinforced through modern social mechanisms, *maskan* can be revitalised as an effective institution for preventing complete marital breakdown, protecting women’s dignity, and strengthening family stability within contemporary Muslim societies.

## CONCLUSION

This study concluded that the concept of *maskan* during the ‘iddah period functions as a multifaceted institution encompassing legal obligation, ethical responsibility, and social protection. First, the normative analysis of classical fiqh across the four Sunni *madhāhib* confirms that women—whether experiencing *talāq raj‘i*, *talāq bā’in*, or widowhood—are entitled to remain in their marital residence, with variations in the financial maintenance they receive. The detailed examination of juristic differences highlights that *maskan* in *talāq raj‘i* operates not only as a legal right but also as a structured space for reconciliation, thus fulfilling the first objective of elucidating the classical principles of *maskan*. Second, socio-legal analysis reveals contemporary challenges to implementing these principles. In Indonesia, economic dependency, urban housing constraints, and gaps in legal enforcement often impede women’s access to secure residence during ‘iddah. Case studies from family courts in Indonesia demonstrate how mediation programs and temporary housing support address some of these challenges. These findings fulfil the second objective by illustrating how modern socio-legal realities affect the practical application of classical norms.

Third, this research proposes an integrative framework that reconciles classical jurisprudence with contemporary needs, conceptualising *maskan* as a protective mechanism ensuring security, dignity, and potential reconciliation. The framework emphasises collaboration between civil legal institutions, religious authorities, and community initiatives, including waqf-based housing and counselling programs, to operationalise *maskan* effectively. While the study is limited by the absence of comprehensive primary field data, the proposed framework contributes to refining Islamic family law by demonstrating how doctrinal norms can be meaningfully applied in modern legal systems without compromising ethical objectives. Nonetheless, this study acknowledges limitations,

including the absence of extensive primary field data and the challenges of harmonising classical rulings with diverse civil law systems.

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## AUTHOR CONTRIBUTIONS

Muhamad Hasan Sebyar (STAIN Mandailing Natal, Jurusan Hukum Keluarga Islam) served as the principal investigator, formulating the research design, developing the theoretical framework, and leading the overall writing process of the article. Hadi Asrori (Universitas Airlangga, Master's Program in Linguistics) contributed to the linguistic analysis of key terminology and ensured the clarity, precision, and consistency of the interdisciplinary arguments in the study. Moh. Buny Andaru Bahy (Universitas Islam Negeri Maulana Malik Ibrahim Malang) was responsible for translating classical fiqh texts and analysing key jurisprudential terms, ensuring that the presented data remained contextually accurate and relevant to the research objectives. Anisa (UIN Maulana Malik Ibrahim Malang, Jurusan Hukum Keluarga Islam) contributed to the doctrinal analysis of Islamic family law, particularly regarding the jurisprudential debates surrounding the concept of maskan during the 'iddah period. Sukiati (UIN Sumatera Utara, Jurusan Hukum Islam) provided critical insights into Islamic legal methodology, contributed to the

contextualisation of fiqh within contemporary socio-legal challenges, and assisted in refining the study's conclusions.

## CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this paper.

## AI USAGE STATEMENT

AI tools were used solely for language editing and formatting. All ideas, analyses, interpretations, and conclusions are entirely the authors' own, and all AI-assisted outputs were reviewed to ensure academic integrity.

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