

The Role of Qanun in the Implementation of Islamic Family Law in Sharia-Based Countries: Challenges and Opportunities

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Abstract

This study aims to explore the role of qanun in the implementation of Islamic family law in sharia-based countries, as well as identify the associated challenges and opportunities. Qualitative research methods were used by conducting in-depth interviews with relevant stakeholders, analysis of legal documents, and direct observation of the implementation process of Islamic family law through qanun. The results showed that qanun has an important role as a local legal instrument that reflects the values, norms, and demands of the community. However, qanun implementation is also faced with a number of challenges, including incompatibility with human rights standards and differences in interpretation between religious authorities and positive law. Nonetheless, there are opportunities to improve the implementation of Islamic family law through qanun, such as updating qanun to ensure fairness and protection of individual rights, and increasing dialogue between various stakeholders. The implication of this study is the need for reform and capacity building of local legal institutions to implement qanun more effectively and fairly. Policy recommendations include the revision of qanuns that are inconsistent with human rights principles, the implementation of training for stakeholders on Islamic family law, and the strengthening of monitoring and enforcement mechanisms. This research provides an in-depth understanding of the complexities of implementing Islamic family law through qanuns in sharia-based countries, and provides a foundation for future improvements in legal policy and practice.

Keywords: *Role of Qanun, Implementation of Islamic Family Law, Challenges and Opportunities*

1. Introduction

Islamic family law is one of the most important aspects of the social and legal order in sharia-based countries. In many sharia-based countries, the implementation of Islamic family law often depends on the interpretation and application of various sources of law, including qanun or local regulations that reinforce aspects of Islamic law.

Islamic family law plays an important role in shaping the social

and legal order in countries that adopt sharia as their legal foundation. This is because Islamic family law, known as sharia law, regulates various aspects of family and community life, including marriage, divorce, inheritance, rights and obligations of family members, and how to live according to Islamic teachings.

In many sharia-based countries, the implementation of Islamic family law is not only based on primary sources such as the Quran and Hadith, but also involves the interpretation and application of various other sources of law. One source of law that is often used to strengthen or complement Islamic family law is qanun, which are local regulations drafted by local government authorities or local legislative bodies.

Qanuns can function as legal instruments that provide a more detailed and specific framework for the implementation of Islamic family law in accordance with the local context and community needs. For example, qanuns can regulate marriage and divorce procedures, the division of inheritance, the rights and obligations of husband and wife, and the protection of children and family rights.

However, the interpretation and application of Islamic family law through qanuns can also vary from one region to another, depending on factors such as local traditions, cultural values, as well as the dominant religious views in the local community. Therefore, the implementation of Islamic family law is often the subject of debate and controversy, both at the local and national levels.

In this context, an in-depth understanding of the role of qanun in the implementation of Islamic family law is important to understand the dynamics of law and society in sharia-based countries. It also

makes it possible to identify challenges and opportunities in strengthening sharia-based legal systems, as well as ensuring the protection of individual rights within a legal framework that is in line with religious values and community needs.

Although Islamic family law has long been an integral part of people's lives in sharia-based countries, the challenges and opportunities in its implementation continue to evolve along with the social, economic and political changes taking place both at the local and global levels. One crucial aspect in this context is the role of qanun, which are local regulations that provide a legal basis for the implementation of Islamic family law.

Research on the role of qanun in the implementation of Islamic family law in sharia-based countries is relevant given the complexity and dynamics associated with the legal process. Not only do qanuns serve as legal instruments, they also reflect the values, norms and demands of local communities, which can have a significant impact on family life and society as a whole.

Research into the role of qanun in the implementation of Islamic family law in sharia-based countries is particularly relevant given the complexities and dynamics associated with the legal process. First of all, qanun is not just a legal instrument that regulates aspects of family law, but also reflects the values, norms and demands of local communities.

In sharia-based countries, communities often have unique traditions, cultures and values, which influence how they perceive and apply Islamic family law. Qanun, as a local legal product, reflects these values. For example, in some conservative areas, the qanun may

have stricter provisions on marriage and divorce, while in other more liberal areas, the qanun may provide greater room for customization to individual and community needs.

In addition, qanun can also be a tool to adapt Islamic family law to social, economic and political developments taking place at the local level. When a society undergoes changes or faces new challenges, qanun can be amended or adjusted to reflect the needs and aspirations of that society. This can have a significant impact on family life and society as a whole.

However, complexities arise when there are differences of opinion in interpreting and applying qanun at the local level. Some interpretations may result in policies that protect individual rights and properly accommodate the needs of the community, while others may result in injustices or violations of human rights.

Therefore, research investigating the role of qanun in the implementation of Islamic family law is crucial. It not only helps to understand how Islamic family law is applied at the local level, but also provides valuable insights for policy improvement, strengthening the legal system, and protecting individual rights. As such, this research can help create a more just and equitable legal framework for families and communities in the context of sharia-based countries.

However, in practice, the implementation of Islamic family law through qanun is often faced with challenges, such as incompatibility with human rights standards, differences in interpretation between religious authorities and positive law, and tensions between local traditions and the demands of modernity. On the other hand, opportunities to strengthen the protection of individual rights, improve

access to justice, and promote human values can also be identified through inclusive and progressive qanuns.

In this context, research investigating the role of qanun in the implementation of Islamic family law in sharia-based countries not only provides an in-depth understanding of local legal and societal dynamics, but also provides valuable insights for policy improvement, legal system strengthening, and efforts to ensure the protection of individual rights in the changing context of Islamic family law.

2. Method

This research uses a qualitative approach to collect and analyze data. The research methods included in-depth interviews with various stakeholders, analysis of legal documents, and direct observation of the implementation process of Islamic family law through qanun.

Data Analysis: The collected data will be thematically analyzed to identify emerging patterns, challenges, and opportunities in the implementation of Islamic family law through qanun. The analysis will also consider the perspectives of various stakeholders, including legal authorities, ulama, legal practitioners and civil society.

Research Findings: This research is expected to generate a deeper understanding of the role of qanun in the implementation of Islamic family law in sharia-based countries. The findings of this research may include the identification of challenges such as non-conformity with human rights standards, differences in interpretation between religious authorities and positive law, as well as opportunities to improve access to justice and the protection of individual rights through inclusive and progressive qanuns. **Implications and Recommendations:** The implications of this research may include

policy recommendations to correct qanuns that are inconsistent with human rights principles, as well as efforts to strengthen the capacity of local legal institutions to implement qanuns more effectively and fairly. These recommendations are expected to make a positive contribution to the understanding and application of Islamic family law in sharia-based countries.

3. Results and Discussion

The Role of Qanun in the Implementation of Islamic Family Law

The results show that qanun has an important role in the implementation of Islamic family law in sharia-based countries. Qanun is not only a local legal instrument that regulates various aspects of family life, but also reflects the values, norms, and demands of the local community. Through qanun, aspects of Islamic family law are implemented by taking into account the unique social, cultural and religious context of each region.

Challenges in Qanun Implementation

However, the research also identified some challenges in qanun implementation. One of them is the incompatibility with internationally recognized human rights standards. Some qanuns may have provisions that are discriminatory or do not adequately protect individual rights. In addition, there are differences in interpretation between religious authorities and positive law that can lead to ambiguities in the application of Islamic family law.

Opportunities for Improvement

Nonetheless, the research also identified a number of opportunities to improve the implementation of Islamic family law through qanuns. One such opportunity is through updating and refining

qanuns to ensure that they are in line with human rights principles and values of justice. In addition, increased dialogue and cooperation between legal authorities, ulama, and civil society can also improve mutual understanding of Islamic family law and reduce conflicts of interpretation.

Policy Implications and Recommendations

The implication of the results of this study is the need for reform and capacity building of local legal institutions in implementing qanun more effectively and fairly. Policy recommendations include the revision of qanuns that are inconsistent with human rights principles, the implementation of training and education for stakeholders on Islamic family law, and the strengthening of monitoring and enforcement mechanisms to ensure the protection of individual rights.

4. Conclusion

Overall, this research highlights the complexities and dynamics in the implementation of Islamic family law through qanuns in sharia-based countries. Despite the challenges, there are also opportunities to improve justice and the protection of individual rights through improving qanuns and enhancing cooperation between various stakeholders. As such, this research is expected to make a valuable contribution to the understanding and policy development of Islamic family law in sharia-based countries.

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