



Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia

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Abstract: *Shariat* contains rules appropriate for facing challenges at all times. It encompasses all aspects of human life including family laws. Family law as one of the important components in *fiqh* is based on evidence that is of *juz'i* and *tafsili* nature. This makes Islamic family law something dynamic. This article aims to view the position of Islamic family law in *fiqh*. It also intends to analyze the dynamicity of Islamic family law in facing current and future challenges, especially in Southeast Asia. Analysis was done through the content analysis method as descriptive and comparative. The findings of the analysis explained that Islamic family law is revealed in various forms of law bands appropriate to the current needs of the Islamic world. However, it is still in its basic framework which is to build a family system and consequently human social system based on Islamic law. Therefore, this dynamicity makes it remain relevant in facing current challenges. This study aims to analyze the dynamics of Islamic family law in facing current and future challenges. The analysis was made using descriptive and comparative content analysis methods. The results of the analysis explain that Islamic family law has been implemented in various forms and regulatory channels that are by the problems of the Islamic world. However, the rule is still within its basic framework, which is to compile the family system and so on the human social system based on Islamic law. Rather, it is this dynamic that makes it eternal and relevant to be ahead in facing today's challenges. The article also concludes that the Islamic family law that the state has fixed is dynamic with social and customary realities such as marriage, divorce, and women's and children's rights, especially in Southeast Asia.

Keywords: Dynamics, Islamic family law, *shariat*, *fiqh*, *Southeast Asia*

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Abstrak: *Syariat Islam mengandung peraturan yang sesuai untuk menghadapi cabaran sepanjang zaman. Ia merangkumi semua aspek kehidupan manusia termasuk berkaitan undang-undang keluarga. Undang-undang keluarga sebagai salah satu komponen penting dalam fiqh bersumberkan nash yang bersifat juz' i yang tafsili. Ini menjadikan undang-undang keluarga Islam suatu yang dinamik. Artikel ini bertujuan melihat kedudukan undang-undang keluarga Islam dalam fiqh. Kajian ini bertujuan menganalisis kedinamikan undang-undang keluarga Islam dalam menghadapi tantangan saat ini dan mendatang khususnya di Asia Tenggara. Analisis dibuat menggunakan metode analisis kandungan secara diskriptif dan perbandingan. Hasil analisis menjelaskan bahwa undang-undang keluarga Islam telah diimplementasikan dalam pelbagai bentuk dan jalur peraturan yang sesuai dengan masalah semasa dunia Islam. Namun demikian, aturan tersebut masih dalam kerangka asasnya yaitu untuk menyusun sistem keluarga dan seterusnya sistem sosial manusia berdasarkan syariat Islam. Justru, kedinamikan inilah yang menjadikan ia kekal dan relevan berada di hadapan dalam menghadapi tantangan saat ini. Artikel ini juga menyimpulkan bahwa hukum keluarga Islam tersebut yang telah ditetapkan oleh negara terjadi dinamika dengan realitas sosial dan adat seperti, pernikahan, perceraian, hak-hak perempuan dan anak khususnya di Asia Tenggara.*

Kata Kunci: *Dinamika, Undang-Undang Keluarga Islam, shariat, fiqh, Asia Tenggara*

Introduction

Human life is of civil nature. Human either in primitive or developed time nowadays, could not live alone but need to socialise, cooperate, and depend on each other. Ibnu Khaldun in explaining on the reality of social life stated that "Human social life is a certainty". In fact, human behaviour is to socialise and mingle. Human could not stand alone in acquiring his life needs. When human live together in a group, there would be relationship to fulfil respective needs. Reviewing through early centuries before arrival of Islam and race history of Rome, Greek and other past races, human has already possessed laws aiming to achieve justice and order in community. Those laws blend with customs in form of religious faith, morality and others. When social life becomes more complex, then appear an entity called as specific law which is separated from customs. When Islamic law is revealed, these aspects are corrected one by one embracing all sides of human life including family matters. This study is important to prove that the branches of Islamic law are always in accordance with the passage of

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time. In the context of family law, it can be enacted in the form of modern laws to deal with current challenges.¹

Shariat usually pronounced as *shariah* in technical terms understood by general is defined as a compilation of laws decreed by Allah to His servants so that they believe and practice with it and bring happiness in worldly and hereafter life.² Thus, Islamic law is Allah's rules or law revealed to human encompassing all aspects of life matters. The law is named *shariah* or *shariat* due to its straight position, truthful system, not deviating from its original purpose of revelation.³

Shariat comprises of laws decreed by Allah through His Messenger either contained in al-Qur'an al Sunnah. The laws also come later from the Companions' and scholars' *ijtihad* based on two main sources which are al-Qur'an and al Sunnah. Clearly any laws cannot deviate from its main bases. At the same time, *shariat* always grows through *ijtihad* and the *ijtihad* must fulfil its conditions. It is these aspects that differentiate between Allah's *syariat* and mere human-created rules.⁴ *Shariat* keeps on growing through fiqh development.⁵ It sometimes changes from time to time, from a form to another form as long as the produced laws do not contradict with the original principles lined in al-Qur'an and al-Sunnah. It is usually called as *ahkam fiqhiyah* which is the stipulation understood by the scholars through Allah's commandments contained in al-Qur'an or al-Sunnah.⁶ Clearly, the definition of *shariat* cannot be resembled with definition of human laws as defined by Western legal experts. In other words, we cannot put understanding of *shariat* using Western definition.⁷ The special attribute of *shariat* is that it is not restricted only to certain constraints such time constraint, place constraint or race. *Shariat* remains

¹Werner Menski, "Governance and Governability in South Asian Family Laws and in Diaspora," *The Journal of Legal Pluralism and Unofficial Law* 45, No. 1 (2013), p. 42-57. Khoiruddin Nasution and Syamruddin Nasution, "Implementation of Indonesian Islamic Family Law to Guarantee Children's Rights," *al-Jami'ah: Journal of Islamic Studies* 59, No. 2 (2021).

² Al-Shahawi, Ibrahim Dusuki, *Tarikh Tashri' al Islam*, Qaherah: Dar al Kutub, n.d, p. 6. Subhi Mahmasani, *Falsafah Tashri' fi al Islam*, Johor Bahru: Jahabersa, 2011, p. 19.

³Abu al-'Ainain Badran, *Tarikh al-Fiqh al-Islami wa Nazariyyat al Milkiyyah wa al 'Uqud*, Beirut: Dar al-Nahdah al-Arabiyyah, n.d, p. 12.

⁴ Abd. Jalil Borham, *Pengantar Perundangan Islam*, Johor Bahru: Penerbit UTM, 2002, p. 3.

⁵ Muhammad Yusuf Musa, *al-Madkhal li Dirasah al Fiqh al-Islami*, Qaherah: Dar al Kutub al-Hadithah, n.d, p. 9.

⁶Abu Ishak Ibrahim al-Shatiby, *al-Muwafaqat*, Qaherah: T.pt, n.d., p. 11. Mahmud Zuhdi Abdul Majid, *Sejarah Pembinaan Hukum Islam*, Kuala Lumpur: Penerbit Universiti Malaya, 1988, p. 32.

⁷ J.N.D. Anderson, *Law Reform in The Muslim World*, Oxford: Oxford University Press, 1976, p. 3.

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relevant until the Day of Judgement and enforced until the Day of Hereafter. Therefore, every person who admits as Muslim is subject to *shariat* of Islam anywhere he is.

The term dynamic means "Energized and strengthened and able to adapt and publish reforms and progress". Islam should be seen as having a dynamic nature in order to be a catalyst for Muslims in facing various current challenges. Islam should also be seen to accept changes and external elements on the condition that it does not change the structural aspects of its epistemology and axiology and does not change the principal and fundamental aspects of the teachings of Islam itself. The dynamic Islam is not manifested in constituents but covers all areas of human life.⁸

Classification of *Shariat*

Shariat is a teaching revealed by Prophet Muhammad PBUH related to three main part which are:

1. Law of *akidah* (faith) related to entity and attributes of Allah, believing in Him, believing in Messenger and the Day of Judgement. Also any subject related to reward and punishment. The law functions to purify faith and then free human mind from grasp of idolatry and superstitions.
2. Law of moral (*akhlak*) purification such as attitude of honesty, keeping of promise, patience, trust and others. This law acts to purify morality and free human mind from influence and deviation of lust.
3. Law in *amalyyah* form related to human actions such as the obligation of prayer, *zakat* (alms giving), hajj (pilgrimage), fasting, the prohibition of adultery, the permission of transaction and others. The law functions as agent of improvement for community and then liberate human from tyranny, chaos and oppression. These subjects are regularly debated in *fiqh* discipline.⁹

As a *shariat* which is relevant at all time, it compiles in it static and flexible elements that can change. There are also *juz'i* and *tafsili* laws with general principles covering all aspects. This happens because Allah created universe and anything happening in it into two forms; some do not need any amendment and change in whatever situation, and some need to be amended and changed.¹⁰ It is clear that *shariat* does not constrain human life at all. *Shariat*

⁸ Amini Amir Abdullah. *Islam yang Dinamik*, Serdang: Penerbit Universiti Putra Malaysia, 2012, p.6.

⁹ Badran, Abu al-'Ainain Badran, *Tarikh al-Fiqh al-Islami wa Nazariyyat al Milkiyyah wa al 'Uqud*, Beirut: Dar al-Nahdah al-Arabiyyah, n.d, p. 13.

¹⁰ Abbas Husni Mohamad, *Perkembangan Fiqah Islam*, Kuala Lumpur: Yayasan Dakwah Islamiyyah Malaysia, 1996, p. 57.

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itself contains special characteristics that suit it to all regardless of skin colour and race.¹¹

Relationship between man and woman for example is an unchanged relationship. Then Allah revealed laws in form of *juz'i* and *tafsili*, and preserved in al-Qur'an and al-Sunnah.¹² For example, Allah explained in al-Qur'an, who should be the leader in a family. Allah said in Surah an-Nisa' verse 34: "Men are leaders and guardians who are responsible to women, as Allah has exalted men (with several advantages) above woman, and men has spent (giving charity) from some of their wealth. Then the pious women are those who obey (Allah and her husband), and protect (her dignity and anything obliged of protection) in absence of husband, by Allah's protection and His help. And the women who you fear of ill-conduct (*nusyuz*) then you should advise them, and (if they persist) do not share their beds, and (if they still persist) strike them (in purpose of education). But if they obey you, seek no means against them. Indeed, Allah is ever Exalted and Grand."

Men are given responsibility as family leader based on permanent attributes which are normally exist in men even the time changes. Men are given advantage of mind that can control their emotions. The person who is suitable as a family leader is whose mind that can control his emotions. Based on the permanent attribute, al-Qur'an and al-Sunnah details the laws of marriage and divorce. The provision is static and unchanged even there is time change. There will be no permission of wife's divorcing authority.

That also applies to *shariat* aiming to maintain peace in community and eliminate crime. The laws decreed cannot be change especially in serious crime category. Allah has ordained *hudud* laws to crime of adultery, theft, robbery, accusation of adultery and liquor drinking. Allah has also decreed *qisas* laws to murder and injury. Those laws are permanent, cannot be changed just because of time change or other reasons such as human rights.¹³

In *shariat* regarding economy meanwhile, Allah has revealed general principles that cannot be breached. While at the same time, it provides space for human to perform *ijtihad* by considering the change of time and place, in condition that it still does not deviate from general principles lined in al-Qur'an and al-Sunnah. It can be seen for example in *shariat* regarding transaction, prohibition of usury, company, rental and others. Debate is still hot until today,

¹¹ Abd al-Karim Zaydan, *Al-Madkhal li Dirasat al-Shariah al-Islamiyyah*, Beirut: Mu'assasah al-Risalah, 1999, p. 35.

¹² Abbas Husni Mohamad, *Perkembangan Fiqah...*, p. 161.

¹³ Abbas Husni Mohamad, *Perkembangan Fiqah...*, p. 60.

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but there is no single scholar who opines that usury or any oppression is permitted in any economic transaction.¹⁴

It is clear here that in *shariat* there are some which is fixed and firm in nature, and some which is lenient and flexible. *Shariat* does not restrict human life even from largest matter to smallest matter. Instead, it allows the *shariat* itself to develop in permitted scope. This means that the leniency space allowed must be practised in the scope permitted by the general principles of *shariat*.

Branches of *Fiqh*

Most of the scholars has categorised *fiqh* into two main parts which are *ibadah* and *muamalah*.¹⁵ The categorisation is based on the main objective and purpose of human action itself. It means that when an action is performed to seek Allah's pleasure then it is termed as *ibadah*. When the action performed is to gain worldly benefits, then it is termed as *muamalah*.¹⁶

In other words, *fiqh al ibadah* including action related to hereafter, seeking to get close to Allah such as prayer, fasting, holy war, vow and others. *Fiqh al muamalah* meanwhile cover matters related to mutual human interaction and management or transaction with other party to achieve worldly benefits. It also includes matters on arranging, organising relationship in community such as buying and selling, company, *hibah* (grant), rental, marriage and crime.

Among the explicit differences between these two branches which are *fiqh al-ibadah* and *fiqh al muamalah* branch is, the laws in *ibadah* group is firm in nature. Meaning that, it is the laws lined in details by shariah evidences either in form of Quranic verses or through al-Sunnah. Change of time and situation do not alter these laws except in temporary leniency extent which is known as *rukhsah*. Differing with laws in *muamalah* branch which are determined by Islamic laws through general shariah evidence that defines the basic principles. Laws in this category mostly can accept different approaches in implementary aspect from time to time conforming to need of time and situation.¹⁷

Family Laws as a Component in *Fiqh*

Al-Ahwal Al-Shakhsiyah is a term synonymous with family law which refers to all laws related to family matters such as law of marriage, inheritance,

¹⁴ Abbas Husni Mohamad, *Perkembangan Fiqah...*, p. 63.

¹⁵ Abu al-'Ainain Badran, *Tarikh al-Fiqh al-Islami wa Nazariyyat al Milkiyyah wa al 'Uqud*, Beirut: Dar al-Nahdah al-Arabiyyah, T.Th, p. 15. Abd al-Karim Zaydan, al-Duktur, *Al-Madkhal li Dirasat al-Shariah al-Islamiyyah*, Beirut: Mu'assasah al-Risalah, 1999, p. 55.

¹⁶ Mahmud Zuhdi Abdul Majid, *Sejarah Pembinaan...*, p. 15. Abd Jalil Borham, *Pengantar Perundangan Islam*, Johor Bahru: Penerbit UTM, 2002, p. 9.

¹⁷ Mahmud Zuhdi Abdul Majid, *Sejarah Pembinaan...* p. 16.

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will and judicial matters related to it.¹⁸ Discussions of that related laws of *al-ahwal al-shakhsiyyah* in early phase were found in separated *fiqh* topics. Beginning in middle 19th century which was in era of *fiqh* reformation, laws categorised as family laws were compiled in a specific detailed discussion group¹⁹ named the book or the chapter of *al-ahwal al-shakhsiyyah*. Reviewing on the contents of discussion by majority of *fiqh* scholars in Islamic family laws scope, there are eight main *fiqh* topics which have been discussed either in concise or exhaustive manner which are:

1. Needs before marriage which are laws of engagement and need of seeing the wife candidate.
2. Execution of marriage contract and matters related to it which are the validity of *akad* (solemnisation), eligible women of marriage, guardianship and *kafa'ah*.
3. Implications of marriage contract validity which are dowry and other gifts
4. Rights of husband and wife existing in a marriage including husband rights, wife rights and mutual rights.
5. Method of rights determination such as *mut'ah* rights, *nafaqah* rights and overnight rights (polygamy).
6. How rights in in marriage can be claimed.
7. Marriage dissolution and its implications such as *talak*, *fasakh*, *khulu'*, dissolution upon judge request. Also discussion on *ila'*, *li'an*, *zihar*, *iddah* and *ihdad*.
8. Rights of children including lineage rights, nursing rights, custody rights and *nafaqah* rights.²⁰

As stated before this, laws related to familial matters are discussed under *fiqh al muamalah* category. *Shariat* has explained the laws on it. Relationship between men, women and children is a permanent relationship. It does not

¹⁸ Faridatus Syuhadak dan Badrun, "Pemikiran Wahbah Al-Zuhaily Tentang Ahkam al Usrah," *De Jure: Jurnal Syariah dan Hukum* 4, No. 2, (2012), p. 166. Rajab Rajab, "Islamic Inheritance Law in Saruaso and Sawah Tengah Villages Based on Islamic Principles," *Jurnal Ilmiah Islam Futura* 22, No. 2 (2022). Mursyid Djawas, et.al., "The Construction of Islamic Inheritance Law: A Comparative Study of The Islamic Jurisprudence and The Compilation of Islamic Law," *JURIS: Jurnal Ilmiah Syari'ah* 21, No 2 (2021).

¹⁹ Abdul Latif Muda, *Perbahasan Sejarah Perundangan Islam dan Mazhab Fiqh*, Kuala Lumpur: Pustaka Salam, 2003, p. 472-481. Souad Kourime, "Objectivity Issues In Islamic Thought: A Conceptual Approach," *Jurnal Ilmiah Islam Futura* 22, No. 1 (2022).

²⁰ Muhammad Husain al-Zahabi, *al-Ahwal al-Shakhsiyyah fi al-Shariah al-Islamiyyah, Dirasah Muqaronah baina Mazahib ahlu al-Sunnah wa Mazahib al-Ja'fariyyah*, Qahirah: Dar al-Kutub al Hadithah, 1968, p. 22. Wahbah al-Zuhayli, *Al-Fiqh al-Islamiy wa Adillatuh*, Damsyik: Dar al Fikr, 2009, p. 24.

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change even the time or place changes. *Syariat* brings it upon in form of *juz'i* and *tafsili* laws.²¹ From there, laws on marriage, dowry, *nafaqah*, custody, nursing, divorce, *iddah* (period of waiting) and others are produced. The question is, where is the dynamics of the laws so it can reveal that it is the best methodology in organising family system and consequently human social system?

Dynamics of Islamic Family Laws in Southeast Asia

Dynamics is simply defined as energetic and strongly and able to make adjustment. Dynamics also means to initiate a reformation and development. When it is said that family laws are dynamic it means that it is suitable in all situations, places, times and environments. These several examples pointed can visualise how dynamic Islamic family laws are as the dynamics of other *shariat* components in facing current challenges. The challenge can come in form of change in community socioculture, change in community thoughts, effect of approach taken by Muslim majority country, change in community behaviour and claim by certain organisation either at international or local level.

Importance of *Wali* in a Marriage

Shariat has provided that the main bases in matters of family institution building is through a bond called marriage. This provision is brought from certain religious evidences. *Shariat* does not only guide on how a family institution must be driven, even more than that *shariat* also explains the elements that become the bases of to family building contract. It is because those basic elements will determine whether the built *akad* or contract is valid or not. Thus the contract will bear other implications in a marriage.

Akad or contract is an obligation and there are elements in it that are obliged of fulfilment. However, there is further discussion among *fiqh* scholars which finally produce different opinions and understandings. At the same time there is no scholar who reject the obligation of *akad* as the basis of marriage bond. Hadith narrated by Abu Daud and Tirmizi for example stated: "Marriage cannot be performed except with presence of *wali*." In other Hadith narrated by Ahmad and al-Baihaqi, Rasulullah PBUH said: Marriage cannot be performed except with presence of *wali* and two just witnesses.

Based on evidences above, there is a detailed discussion on the obligation of presence of *wali* in marriage. Imam Abu Hanifah (who opined that above hadis are not valid) believed that woman can get married by herself and get her female slaves married without consent of *wali*. The view is based on

²¹ Abbas Husni Mohamad, 1996, p. 162.

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Allah's words: Then do not you (the *wali*) prohibit them from remarriage with their future husband (ex-husband or others).²²

However, according to majority of scholars (based on Hadith above) consent of *wali* is compulsory. This view is valid in matters regarding *wali*. This view also the most main in protecting the welfare of women. From *maslahah* aspect, it is relevant with women's nature which is always believed as a group that easily touched emotionally and shallow in making decision. The role of *wali* is to observe woman's safety when she enters a life under other person's guard (husband). Besides that, marriage is also a connector between the family of *wali* and family of his guarded woman's husband. Therefore, definitely a *wali* has rights in making agreement. The posed reason by majority of Maliki, Shafi'i and Hanbali to put authority of *ijbar* (compulsion) on the woman who is still virgin either she has already reached puberty or not is because the woman is ignorant and inexperienced on aspect of marriage and its objectives.²³ However if the *wali* resists to consent by an irrelevant reason according shariah weightage, consent can still requested from *wali hakim*. This at the same time shows the importance of *wali* role in family development.

In history of development in Islamic family laws amendment in Muslim majority countries as early as late 19th century until today, *wali* affairs is modernised of its administration aligning with current progress. *Wali* is not just mentioned in *fiqh* books but also transformed and compiled in form of modern laws as a component in modern Islamic family law. In provision for this law, there are many options for the future bride to get marriage consent from her *wali*. If the *wali* resists to consent for example, the daughter who should be guarded by him can refer to Shariah Court. Application can be submitted for marriage through *wali hakim* if the reason for *wali*'s resistance is clashing with shariah law. In Malaysia particularly, it can be referred in Section 13 Islamic Family Law Act (Federal Territories) 1984. While in Indonesia is provided in Clause 23, Book 1, Marriage Law, Compilation of Islamic Law, 1991.²⁴

The provide spaces to preserve the authority of *wali* should not be misused to prevent encouraged practice in *shariat* of Islam which is marriage for those who are eligible. In matter of getting the girl's consent, her silence generally can be considered as an agreement to the proposed marriage. Regarding this, Shamsuddin al-Maqdisi in his book *al-Furuq* stated that agreement and willingness of a woman to marry is not sufficient only by her

²² Al-Qur'an, Surah al-Baqarah 2: 232.

²³ Raihanah Hj Azahari, "Kuasa Wali Mujbir: Satu Perbincangan," *Jurnal Syariah* 5, No. 2, 1997, p. 158.

²⁴ Kementerian Agama RI, Direktorat Jenderal Bimbingan Masyarakat Islam, *Kompilasi Hukum Islam di Indonesia*, Direktorat Bina KUA dan Keluarga Sakinah, 2018.

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silence but indeed by her explicit speech (*mithaqan ghalizan*) between husband and wife and not between her father and husband. Marriage is not a temporary bond, but it is a bond made lifelong. Therefore, it cannot be built without free will from both sides. To permit overwhelming forced marriage phenomenon nowadays is unreasonable. Parents themselves should realise the real essence of the decreed marriage concept.²⁵

As rules can condition woman's consent to get married, Islam also requires *wali*'s consent to protect her from deviation and prevent her from confusion and lust. Sometimes, the truth cannot be observe by a girl. She might follow illusion and emotion which finally leads to something undesirable.²⁶ It is something relevant to involve parents especially *wali* in early formation of family which is before the solemnisation happens. Parents should not only play role in their family but also become a foundation of strength for a peaceful family and well community development.²⁷

These rules are suitable of practice in a world with a lot of challenges nowadays including challenge from aspect of human morality itself. In other words, *fiqh* and legal experts at any time can put any condition to permissible matter in purpose of sealing door of evilness or oppression.²⁸ For example, oppression that might be done by *wali*. Also if anyone who accuses that *wali* has prevented her despite in reality that *wali* reason is on basis and aligning with shariah law, to protect individual under his guard. This makes *shariat* remain relevant following challenges of time. The rule is also considered more suitable with Muslim tradition, as the value commonly accepted that woman should not put behind her family including her *wali* for her marriage decision.²⁹

Minimal Age of Marriage

Minimal age for marriage is one of the subjects being debated by *fiqh* scholars, as one of the topics attended in *al-ahwal al shakhsiyyah* scope. This minimal age matter in current context is not something rare which is usually

²⁵ Raihanah Hj Azahari, "Kuasa Wali Mujbir: Satu Perbincangan," *Jurnal Syariah* 5, No. 2, 1997, p. 159.

²⁶ Agustin Hanapi and Hafizah Hani Binti Azizan, "Hak Wali Mujbir Membatalkan Pernikahan (Analisis Putusan Mahkamah Syari'ah Perak)," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 1 No. 1. (2017), p. 34.

²⁷ A. Holik and Ahmad Sulthon, "Peranan BP4 dalam Upaya Pembinaan Keluarga Sakinah," *Minhaj: Jurnal Ilmu Syariah* 1, No. 1, (2020).

²⁸ Abbas Husni Mohamad, 1996, p. 164.

²⁹ Mahmood Zuhdi Abdul Majid, Persetujuan Wali dalam Perkahwinan: Kajian Perbandingan antara Fiqah Islam dan Undang-undang Keluarga Islam di Malaysia, In . Abd. Monir & Siti Shamsiah Md Supi (ed.), *Manual Undang-undang keluarga Islam*, Kuala Lumpur: Institut Kefahaman Islam Malaysia (IKIM), 2006, p. 375.

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related to underage marriage issue. Diversity in *fiqh* scholars' views on underage marriage law can be summarised to three views as follows: (1) Majority of *fiqh* scholars believe that marriage of children not achieving puberty is valid according to provided conditions, (2) some *fiqh* scholars opine that marriage of children is invalid, and (3) some other *fiqh* scholars differentiate between law of marriage for male child and female child.³⁰ These different views are caused by absence of clear evidence which concretely determines minimal age level for someone to get married. Hence, consideration of *maslahah* (benefit) and *mafsadah* (harm) aspect is essential in ensuring that a certain *fiqh* view aligns with the purpose and *maqasid* (objectives) of *syarak*.

Children marriage was not a big issue among past communities. This was practised at large, not just among Muslims, but also among past cultures of other world, such as in China, Japan, India, Babylon, Rome, Athens, Jews and Christians in Europe.³¹ Change of community thoughts and customs alter their perception towards something relevant or oppositely in life norms and legal form that organise the law of local community. Modern thought stream which emphasises on *egalitarian* principle opens equal space and opportunity to man and woman towards human rights in life that become the principles founding modern community. They begin to reject children marriage which is viewed as a form of oppression to the children and denies their chance to decide on the form of life that they desire as adult. This principle is fortified further by codification of law decreeing age limit for children and adult in framework to protect children interest. The progress in West gradually also influences modern Muslim community perception towards the need for reevaluation of certain Islamic laws including those involving family that also cover matters regarding children.

Along with Western modernisation influence to Muslim community and the consciousness for need of law reformation consistent with development of community, reevaluation to marriage practice involving children especially female children begins to get attention. Woman significance in making decision and opportunity to get active in development of community and nation become an agenda of fight for the group claiming reformation in Islamic thought on affairs involving woman and family. Marriage at child level is considered harmful to the children themselves, indeed to family institution and national development. Children is seen as nation assets who should be given space to develop themselves through education and chance of making decision for their

³⁰ Nurul Hazram and Raihanah Azahari, "Analisis Perbandingan Pandangan Fuqaha mengenai Syarat Ahliyyah," *Journal of Contemporary Islamic Law* 6, No. (2021), p. 27.

³¹ Zanariah Noor, "Perkahwinan Kanak-Kanak dan Tahap Minima Umur Perkahwinan dalam Undang-Undang Keluarga Islam," *Jurnal Syariah* 21, No. 2 (2013), p. 165-190.

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life as adult. Children who are forced to marry in early age do not have chance anymore to decide on their life and only submit to the situation surrounding them without intellectual capability to question and change situation.³²

Western legal influence decreeing minimal level for someone to get married begins to be seen as positive by certain Muslim community who uphold Islamic reformation idea which sparks in Middle East and then influence Malay intellectual group in Malay Land. Early discussion on provision of minimal age for marriage among Muslim community initiated in Egypt when *al-Ittihad al-Nisa'i al-Misri (Feminist's Union)* founded in year 1923, led by Huda Sha'arawi, requesting Egyptian government to set minimal age of marriage for woman at 16 years old and 18 years old for man. The suggestion was presented and discussed by Rector of University al-Azhar, Grand Mufti of Egypt and several other scholars who were invited by Egyptian government. They agreed to decide that the provision of minimal age limit as suggested did not clash with shariah law. Due to the provision, the suggestion was then approved by Parliament and enforced as law in year 1924.³³

In Malaysia, practice of marriage between underage couples, mainly involving female children widens among Malay community before year 1930s. Main encouragement for marriage at early age for female children was because of economic factor. Poor Malay community who sometimes decided to marry their daughter on purpose of obtaining money from dowry. The need for workforce operate farm or paddy field required extra workforce, and the presence of son-in-law was assumed to lift the burden.³⁴ Indeed, findings of a study produced in year 2020 still indicated that the main cause of underage marriage in Malaysia is due to low income and poverty.³⁵

If it is seen from aspect of original purpose for decree of marriage, it can be simplified as follows; (1) to continue descendants and generation of human, (2) to bring peace to human, (3) to avoid human from falling into filthy doings, (4) to provide understanding between husband and wife, (5) to ensure that female spouse not making wrong decision in marriage, (6) to avoid harm in marriage, and (7) to preserve financial benefit for wife. Thus, based on the objectives for decree of marriage, at what extent can the age factor fulfil and achieve these objectives, and conform to shariah needs in decreeing the laws of marriage? This subject is still open for discussion and can be made foundation for any provision of law and rule related to it.

³² Zanariah Noor, *Perkahwinan Kanak-Kanak...*, p. 165-190.

³³ Zanariah Noor, *Perkahwinan Kanak-Kanak...*, p. 165-190.

³⁴ Zanariah Noor, *Perkahwinan Kanak-Kanak...*, p. 165-190.

³⁵ Kementerian Pembangunan Wanita, Keluarga dan Masyarakat, *Buku Pelan Strategi Kebangsaan Bagi Menangani Punca Perkahwinan Bawah Umur*, 2020, p. 8.

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Allocation of Islamic Family Law Enactment and Act in for example allocates that any child aged less than 16 years old (female) or 18 years old (male) should seek permission from Shariah Court in advance to marry, without providing minimal age level that prohibits at all any child aged less than the mentioned age to marry.³⁶ In Indonesia meanwhile in Clause 15, Book 1, Marriage Law in Indonesian Law Compilation states that; (I) For benefit of family and household, marriage should only by performed by candidate that has reached the age determined in Clause 7 Law No. 1 year 1974 that husband candidate must at least 19 years old and wife candidate at least 16 years old. For the candidate that has not reached 21 years old (must) seek permission as provided in Clause 6 phrase (2), (3), (4) and (5) Law No. 1 Year 1974.³⁷ This law was then amended in year 2019 by resembling the minimal age of marriage for man and woman at 19 years old.³⁸ Meanwhile in Brunei Darussalam, Emergency Order (Islamic Family Law) 1999 does not put any allocation regarding minimal age of marriage either to man or woman.³⁹

It is undeniable that children marriage is considered as a high-risk marriage, as children normally could not make decision maturedly and rationally for themselves. However, *fiqh* scholars who allow the kind of marriage have already put conditions to avoid larger harm from occurring. To ensure marriage involving underage couples not posing harm to the children, then this marriage should be discussed properly in advance, and should obtain permission from *wali* and authorised party. Therefore, *fiqh* scholars such as explained by al Zuhailiy⁴⁰ allow children marriage but with condition that the marriage must be through *wali*'s permission which is biological father or grandfather only, and not through other *wali*'s. Marriage involving underage couples also must be married without compulsion by *wali mujbir*.

It can be said that the main basics which should build an underage marriage is *maslahah* aspect to the underaged couples themselves. Therefore, any underage marriage that causes harm to the couple is contradictory with shariah, and the authority should take action by dissolving (*fasakh*) the marriage, as the view of Ibn Rushd from Maliki sect who allowed the ruler to dissolve the

³⁶ Akta Undang-Undang Keluarga Islam (Wilayah-Wilayah Persekutuan) 1984, Seksyen. 8. Enakmen Undang-Undang Keluarga Islam (Selangor) 2003, Seksyen. 8.

³⁷Prahasti Suyaman and Ramdani Wahyu Sururie, "Legal Effectiveness of Marriage Age Restrictions in Indonesia," *Jurnal Hukum Volkgeist* 7, No. 1 (2022).

³⁸ Undang-Undang Nomor 16 Tahun 2019.

³⁹ Perintah Darurat (Undang-undang Keluarga Islam) 1999 Brunei Darussalam.

⁴⁰ Nurul Ain Hazram and Raihanah Azahari, *Perkahwinan Bawah Umur...*, p. 32-42.

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marriage if there is any harm in it.⁴¹ This underage marriage can achieve the objectives of shariah in the decree of marriage if it is performed according to correct procedures and follow all the conditions required.

It can be concluded here that the objectives of shariah in the decree of marriage, either general objective or specific objective, can be summarised as follows; (1) to continue descendants and generation of human, (2) to bring peace to human, (3) to avoid human from falling into filthy doings, (4) to provide understanding between husband and wife, (5) to ensure that female spouse not making wrong decision in marriage, (6) to avoid harm in marriage, and (7) to preserve financial benefit for wife. Thus, based on the seven objectives for this decree of marriage, at what extent can the practice of underage marriage fulfil and achieve these objectives? Besides that, does it conform to shariah need in decreeing the laws of marriage?⁴²

Hence, in context of Islamic family law nowadays as in Malaysia and Indonesia for example, Shariah Court or Religious Judiciary Court who make decision to application of underage marriage must examine properly every application to consider between benefit and harm that can result from the future marriage.⁴³⁴⁴ The court should not be too strict and reject all applications of underage marriage. The court also cannot be too lenient by permitting all applications without doing careful examination in advance. From other perspective, underage marriage can also be considered as a mean of prevention for larger harm, which is when a couple is feared of falling into adultery when they do not marry.⁴⁵

The Judge of Shariah Court in approving an application of children marriage should ensure that the future marriage will bring as many benefits as possible⁴⁶ and avoid as many harms as possible to the involved children.⁴⁷ However, in giving consent to application due to adultery problem and

⁴¹ Muhammad bin Ahmad bin Rushd, *Bidayah Al Mujtahid Wa Nihayah Al-Muqtasid*, Beirut: Resalah Publishing, 2015, p. 99.

⁴² Nurul Ain Hazram and Raihanah Azahari, *Perkahwinan Bawah Umur...*, p. 32-42.

⁴³ Akta Undang-Undang Keluarga Islam (Wilayah-Wilayah Persekutuan), 1984, Seksyen. 8. Enakmen Undang-Undang Keluarga Islam (Selangor) 2003, Seksyen. 8. Zanariah Binti Noor and Nazirah Lee, "Preserving Child's Faith in Malaysian Law: A Maqasidic Approach," *Ulumuna: Journal of Islamic Studies* 27, No. 1 (2023).

⁴⁴ Undang-Undang Republik Indonesia No. 1 Tahun 1974, Pasal 6 Ayat (2), (3), (4) dan (5). Fadhila, "The Legal Reasoning of Judges Behind Determination of Marriage Itsbat Proposal for Siri Marriage Cases (A Study at the Shariyya Court of Banda Aceh)," *Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial* 23, No. 2 (2021).

⁴⁵ Nurul Ain Hazram and Raihanah Azahari, *Perkahwinan Bawah Umur...*, p. 40.

⁴⁶ Zanariah Noor, *Perkahwinan Kanak-Kanak...*, p. 165-190.

⁴⁷ Nurul Ain Hazram and Raihanah Azahari, *Perkahwinan Bawah Umur...*, p. 41.

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pregnancy out of wedlock, Judge should not enable the permission to be obtained easily, fearing that community will assume it as an escape in adultery and pregnancy problem among the teenagers. In fact, increasing underage marriage due to social problems shows that community social system is at bad state. Therefore, Judge of Shariah Court in giving permission to underage marriage should play important role in making decision besides educating the community towards a better life. The approach taken in Islamic family law by conditioning Judge of Shariah Court consent for underage marriage is of *saddu zara'i*' nature which is to seal the door of harm to protect the benefit of children so that there would be no oppression upon them and they are free to decide their own future without compulsion by any parties.⁴⁸

With that, in evaluating the law of underage marriage either for now or future, a *mujtahid* cannot make a general evaluation of law, either providing that underage marriage is generally an encouraged marriage in Islam, or prohibiting underage marriage totally in general due to harm reason. This is because marriage of each couple is different from each other.⁴⁹ From other perspective, the rule on the need of getting consent from court is in fact a measure to provide legal protection to the children, through the sealed marriage bond.⁵⁰

With that also, it is necessary for Muslim community to not blindly accept the thought and approach made merely on reason of human rights or to fulfil the need of certain organisation at local or international level. It should be remembered that the boundary between someone considered as an adult and someone considered as a child in Islam is not definitely determined by age level such as posed by Western legal principle for non-Muslims.

In the context of Islamic family law in Southeast Asian countries, especially Malaysia and Indonesia, there are not many significant differences either from the point of view of the provisions of the law or its implementation. In fact, the main sources of reference used in the drafting of the law are also similar. It is clear that the approaches used are still within the framework allowed by Islamic law

In addition to the issue of the minimum age for marriage, there are several other issues that often arise. The debates surrounding polygamy, divorce,

⁴⁸ Syh Noorul Madihah Syed Husin and Tengku Fatimah Muliana Tengku Muda, "Konflik Antara Hak Wali Mujbir di Bawah Hukum Syarak dan Peruntukan Had Umur Minimum Perkahwinan," *Jurnal Islam dan Masyarakat Kontemporari*, Keluaran Khas 2011, p. 13-14.

⁴⁹ Nurul Hazram and Raihanah Azahari, *Analisis Perbandingan Pandangan Fuqaha...*, p. 29.

⁵⁰ Mohd Al Adib Samuri, et.al., "Curbing Child Marriage Amongst Muslims in Malaysia: Towards Legal Reform," *UUM Journal of Legal Studies*, 13, No. 1 (2022), p. 1-20.

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and custody in Muslim-majority countries in Southeast Asia for example are complex and often contentious. These debates highlight the complex relationship between Islamic law and women's rights in Southeast Asia. While some proponents of Islamic law argue that it provides a framework for gender equality and justice, others point to how it has been used to justify discrimination and oppression. Ultimately, the resolution of these debates will depend on the ability of policymakers and civil society organizations to promote women's rights within the framework of Islamic law while also addressing the underlying social and cultural factors that contribute to gender inequality.⁵¹

Conclusion

Shariat is a provision relevant with human's nature. It is not of deficient or unreasonable nature. It can walk in pace with human life in this world. *Shariat* guides towards well-being. In matters of family law, the *shariat* revealed has been developed in its understanding and implementation through *fiqh* discussion of diverse *mazhab*. Besides presence of fixed provisions, there are many other rules in Islamic family law which are of lenient nature, and can be suited with time and situation as long as they do not deviate from their basic principles even for the sake of justice. In today's modern era, family law matters which originally exist in *fiqh* books have been codified into modern law through compilation in certain clause forms. Codification of modern Islamic family law in Muslim majority countries sees the change in acceptance by the rulers and scholars referred by not binding strictly with *mazhab* they hold on to. Based on *siyasah shar'iyah* framework, looking at aspect of benefit and harm, then opinions from other *mazhab* begin to be used and allocated in legal codes if seen relevant with current community need. This dynamics should make Islamic family law more special. It clearly can traverse current challenges even regularly attacked from every angle. Therefore, future studies are recommended to look in more detail at the current challenges being faced. For example, the conflict that still exists between family law and local customs whether in Asian, Arab or African countries.

⁵¹ Gunawan Widjaja, "Review On The Women's Rights and Islamic Law In Southeast Asia," *Journal of Law and Sustainable Development* 11, No. 7 (2023), p. 1-18.

Dynamics of Islamic Family Law

Zaini Nasohah

DOI: 10.22373/sjhh.v8i1.16553

References**Journals and Books**

- Abdullah, Amini Amir, *Islam Yang Dinamik*, Serdang: Penerbit Universiti Putra Malaysia, 2012.
- Al-Shahawi, Ibrahim Dusuki, *Tarikh Tashri' al Islam*, Qaherah: n.p, n.d.
- Al-Shatibi, Abu Ishak Ibrahim, *al-Muwafaqat*, Qaherah: n.pt, n.d.
- Al-Zahabi, Muhammad Husain, *al-Ahwal al-Shakhsiyyah fi al Shariah al Islamiyyah, Dirasah Muqaronah baina Mazahib ahlu al-Sunnah wa Mazahib al-Ja'fariyyah*. Qahirah: Dar al-Kutub al Hadithah, 1968.
- Al-Zuhailiy, Wahbah, *Al-Fiqh al-Islamiy wa Adillatuh*, Juz. 7, Damsyik: Dar al -Fikr, 2009.
- Anderson, J.N.D, *Law Reform in The Muslim World*, Oxford: Oxford University Press, 1976.
- Badran, Abu al-'Ainain, *Tarikh al-Fiqh al-Islami wa Nazariyyat al Milkiyyah wa al 'Uqud*, Beirut: Dar al-Nahdah al-Arabiyyah, n.d.
- Biorhan, Abd. Jalil, *Pengantar Perundangan Islam*, Johor Bahru: Penerbit UTM, 2002.
- Djawas, Mursyid, et.al., "The Construction of Islamic Inheritance Law: A Comparative Study of The Islamic Jurisprudence and The Compilation of Islamic Law," *JURIS: Jurnal Ilmiah Syariah* 21, No 2 (2021). DOI: <http://dx.doi.org/10.31958/juris.v21i2.7495>.
- Fadhila, "The Legal Reasoning of Judges Behind Determination of Marriage Itsbat Proposal for Siri Marriage Cases (A Study at the Shariyya Court of Banda Aceh)," *Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial* 23, No. 2 (2021). DOI: <http://dx.doi.org/10.22373/jms.v23i2.9386>.
- Hanafi, Agustin, and Hafizah Hani Binti Azizan, "Hak Wali Mujbir Membatalkan Pernikahan (Analisis Putusan Mahkamah Syari'ah Perak)," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 1, No. 1 (2017).
- Holik, A. and Ahmad Sulthon, "Peranan BP4 dalam Upaya Pembinaan Keluarga Sakinah," *Minhaj: Jurnal Ilmu Syariah* 1, No. 1, (2020).
- Hazaram, Nurul and Raihanah Azahari, "Analisis Perbandingan Pandangan Fuqaha mengenai Syarat Ahliyyah," *Journal of Contemporary Islamic Law* 6. No. 2 (2021).
- Hazram, Nurul Ain, Raihanah Azahari, "Perkahwinan Bawah Umur dari Perspektif Maqasid al-Shariah," *Journal of Contemporary Islamic Law* 6, No. 2 (2021).
- Husen, Syh Noorul Madihah Syed and Tengku Fatimah Muliana Tengku Muda, "Konflik Antara Hak Wali Mujbir di Bawah Hukum Syarak dan

Dynamics of Islamic Family Law

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DOI: 10.22373/sjhc.v8i1.16553

- Peruntukan Had Umur Minimum Perkahwinan,” *Jurnal Islam dan Masyarakat Kontemporari*, Keluaran Khas (2011).
- Souad Kourime, “Objectivity Issues In Islamic Thought: A Conceptual Approach,” *Jurnal Ilmiah Islam Futura* 22, No. 1 (2022). DOI: <http://dx.doi.org/10.22373/jiif.v22i1.12736>.
- Mahmasani, Subhi, *Falsafah Tashri' fi al Islam*, Johor Bahru: Jahabersa, 2011.
- Majid, Mahmood Zuhdi Abdul, Persetujuan Wali dalam Perkahwinan: Kajian Perbandingan antara Fiqah Islam dan Undang-undang Keluarga Islam di Malaysia, In. Abd. Monir & Siti Shamsiah Md Supi (ed.), *Manual Undang-undang Keluarga Islam*, Kuala Lumpur: Institut Kefahaman Islam Malaysia (IKIM), 2006.
- Majid, Mahmood Zuhdi Abdul, *Sejarah Pembinaan Hukum Islam*, Kuala Lumpur: Penerbit Universiti Malaya, 1988.
- Menski, Werner, “Governance and Governability in South Asian Family Laws and in Diaspora,” *The Journal of Legal Pluralism and Unofficial Law* 45, No. 1 (2013). DOI:10.1080/07329113.2013.772768.
- Mohamad, Abbas Husni, *Perkembangan Fiqh Islam*, Kuala Lumpur: Yayasan Dakwah Islamiah Malaysia, 1996.
- Muda, Abdul Latif, *Perbahasan Sejarah Perundangan Islam dan Mazhab Fiqh*, Kuala Lumpur: Pustaka Salam, 2003.
- Musa, Muhammad Yusuf, *al-Madkhal li Dirasah al Fiqh al-Islami*, Qaherah: Dar al Kutub al-Hadithah, n.d.
- Nasution, Khoiruddin and Syamruddin Nasution, “Implementation of Indonesian Islamic Family Law to Guarantee Children’s Rights,” *al-Jami'ah: Journal of Islamic Studies* 59, No. 2 (2021). DOI: <https://doi.org/10.14421/ajis.2021.592.347-374>.
- Noor, Zanariah, “Perkahwinan Kanak-Kanak dan Tahap Minima Umur Perkahwinan dalam Undang-Undang Keluarga Islam,” *Jurnal Syariah* 21, No. 2 (2013).
- Noor, Zanariah Binti and Nazirah Lee, “Preserving Child's Faith in Malaysian Law: A Maqasidic Approach,” *Ulumuna: Journal of Islamic Studies* 27, No. 1 (2023). DOI: <https://doi.org/10.20414/ujis.v27i1.606>.
- Raihanah Hj Azahari, “Kuasa Wali Mujbir: Satu Perbincangan,” *Jurnal Syariah* 5, no. 2, (1997).
- Rajab Rajab, “Islamic Inheritance Law in Saruaso and Sawah Tengah Villages Based on Islamic Principles,” *Jurnal Ilmiah Islam Futura* 22, No. 2 (2022). DOI: <http://dx.doi.org/10.22373/jiif.v22i2.12130>.
- Rusd, Muhammad bin Ahmad bin, *Bidayah Al Muftahid Wa Nihayah Al-Muqtasid*, Beirut: Resalah Publishing, 2015.

Dynamics of Islamic Family Law

Zaini Nasohah

DOI: 10.22373/sjhc.v8i1.16553

Samuri, Mohd Al Adib, et.al., “Curbing Child Marriage Amongst Muslims in Malaysia: Towards Legal Reform,” *UUM Journal of Legal Studies*, 13, No. 1 (2022).

Suyaman, Prahasti and Ramdani Wahyu Sururie, “Legal Effectiveness of Marriage Age Restrictions in Indonesia,” *Jurnal Hukum Volkgeist* 7, No. 1 (2022). DOI:10.35326/volkgeist.v7i1.2490.

Syuhadak, Faridatus and Badrun, “Pemikiran Wahbah Al-Zuhaily Tentang Ahkam al Usrah,” *De Jure: Jurnal Syariah dan Hukum* 4, No. 2 (2012).

Widjaja, Gunawan, “Review on The Women's Rights And Islamic Law In Southeast Asia,” *Journal of Law And Sustainable Development* 11, No. 7 (2023).

Zahrah, Muhammad Abu, *al-Ahwal al-Shahsiyyah*, Qaherah: Dar al-Fikr al-Arabiy, n.d.

Zaydan, Abd al-Karim, *Al-Madkhal li Dirasat al-Shariah al-Islamiyyah*, Beirut: Mu'assasah al-Risalah, 1999.

The Role of Laws

Akta Undang-Undang Keluarga Islam (Wilayah-Wilayah Persekutuan) 1984.

Enakmen Undang-Undang Keluarga Islam (Selangor) 2003, Seksyen. 8.

Kementerian Agama Republik Indonesia, *Kompilasi Hukum Islam di Indonesia*, Direktorat Jenderal Bimbingan Masyarakat Islam, Direktorat Bina KUA dan Keluarga Sakinah, 2018.

Perintah Darurat (Undang-Undang Keluarga Islam) 1999, Negara Brunei Darussalam.