

The Existence of Islamic Family Law in Indonesia in the Competition of Political Law and Liberalism of Islamic Thought

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Abstract: *This study attempts to enhance our understanding of the Compilation of Islamic Law (KHI) and its legal status from the standpoint of political law formation. In addition, understanding the role of KHI in the liberalism of Islamic legal thought in Indonesia is also important. This research is qualitative research that uses literature review. However, this research is a type of historical normative legal research. This research reaches two important conclusions. Firstly, KHI was established using orthodox and responsive legal methods. Second, despite many efforts of thought and study to criticise it, KHI still exists. This is because the criticism is simply a result of a more open public space for Islamic thought liberalism.*

Keyword: *Legal politic, KHI, liberalism thought of Islamic law*

Introduction

Countries with a majority or minority Muslim population have experienced movements to reform Islamic family law (Abduh, 2013). Tahir Mahmud explains that there are three different attitudes of these countries in modernising Islamic family law. First, countries such as Saudi Arabia, Yemen, Kuwait, Afghanistan, and Pakistan still enforce classical Islamic family law. Second, there are countries that have secular family laws derived from European law or from the country's own laws, such as Albania, Turkey, and the Soviet Union. Third, there are countries that have classical Islamic family law that has been updated and applied as their own law, such as Jordan, Morocco, Malaysia, Brunei, and Indonesia (Mahmud, 1972). This shows that Indonesia is one of the countries that modernised and postified Islamic family law.

The Compilation of Islamic Law (KHI) is a source of modernisation and positivisation

of Islamic family law in Indonesia (Nasution, 2009). The existence of KHI has complicated historical dynamics as a result of the modernisation and positivisation of Islamic family law. Previous research, ranging from the formation process of KHI to its existence in the midst of the Islamic thought liberalism movement in Indonesia (Munif, 2015), examines the political dynamics of the formation of KHI and its existence in the midst of the Islamic legal liberalism movement.

Nasrullah Ali Munif stated that the active role of the government was very dominant in formulating the legal construction in KHI and also the direction of the objectives of KHI. Then Mochammad Muslim added that the political intervention of the New Order law had a big share in the formulation of KHI (Muslim, 2014). In line with Nasrullah Ali Munif and Mochammad Muslim, Marzuki Wachid explained that the political dynamics of government policy were very active in the

formation of KHI. Nevertheless, Marzuki realised that the role of the community was also involved in it (Wahid, 2014).

Apart from that, previous relevant research also discussed how KHI articles were formulated in the midst of the Islamic legal liberalism movement. According to Sadari, in order to realise a modern and civilised Islamic family law, it is necessary to reform the various articles of KHI. This can be achieved by reviewing the construction of these articles in Indonesia from the perspective of constitutionalism, democracy, nationalism and human rights. In her dissertation, Asni states that several articles in KHI have racial bias that is not in accordance with the spirit of race relations in Indonesia (Sadari, 2016). Asni (2012) asserted that some of the racially biased articles need to be reviewed by considering maqasid shariah and the spirit of race relations in Indonesia. Meanwhile, in his research, Abul Khoir (2016) focuses more on the paradigmatic basis of the Islamic legal liberalism movement towards the existence of KHI. According to Abul Khoir, the liberalism movement of Islamic legal thought towards the Compilation of Islamic Law, as conducted by the Counter Legal Draft Team of KHI, is more based on the liberal paradigm, in contrast to the paradigm of KHI, which relies more on ushul fiqh and classical fiqh opinions.

Unlike the previous research, this research will discuss two things. Firstly, the author will look at the KHI formation process

from a political law perspective. By looking from this perspective, the author will show that the government tradition does not dominate the KHI formation process. Second, this research will explore the existence of KHI amidst the development of the liberal movement. The author will try to identify the factors that caused KHI to remain in the face of the liberalism movement of post-reform Islamic legal thought.

Method

The method in this case is defined as one of the ways that must be done to achieve goals using certain tools, while research is an effort to discover, develop, and test a knowledge, an effort which is carried out using certain methods.⁷

As for this research, the author uses qualitative methods. While in terms of research sources in the form of written documents, this research is referred to as library research. This research uses, analyses, examines and studies secondary data related to Islamic family law in Indonesia by reading and studying various literatures.

Results and Discussion

Status and History of the Compilation of Islamic Law (KHI) in Legal Politics

According to A. Khisni (2015), there are three functions of the Compilation of Islamic Law (KHI)¹⁰ in its position as a legal instrument. First, as a national codification and unification of Islamic law. Second, as a guide for Religious Court judges in resolving various

cases within their authority. Third, as a guide for the community regarding applicable Islamic family law (Khisni, 2011). The three functions of KHI can be the basis of our understanding before re-understanding KHI in terms of its legal force in Indonesia.

Talking about whether KHI's position is binding law or not. In this case, it needs to be seen *de jure*. According to Law Number 12 Year 2011 on the Formation of Legislation Article 1 paragraph 4 states that Government Regulation in Lieu of Law (PERPPU) is a Legislation passed by the President due to urgent and compelling needs by the President due to urgent and compelling needs. In this case, according to the decision of the Constitutional Court Number 138/PUU-VII/2009 there are three benchmarks of compelling urgency. First, the existence of laws that is urgently needed in resolving existing legal problems. Second, the required law does not yet exist. Third, it is not possible to make a law in accordance with the general procedure, because it requires a long time. Meanwhile, there is an urgent need for law to resolve existing cases. Based on Presidential Instruction Presidential Instruction No. 1 of 1991, KHI came into effect as a legal instrument governing marriage, divorce and waqf in Indonesia governing marriage, divorce and waqf in Indonesia. In this case, the President may actually have the authority to upgrade the status of KHI from Presidential Instruction to Government Regulation in Lieu of Law that can be directly applied in religious

courts. This is if the House of Representatives approves (Helmi, 2016).

There are two views regarding the existence of KHI as a source of law. The first view states that KHI is written law and the second view is the opposite, namely KHI is unwritten law. However, judges in the Religious Courts do not question these two different views. This is because they do not distinguish the existence of KHI as a written or unwritten source of law. This is because when the law is decided by Religious Courts judges, it becomes binding law and can become jurisprudence (Hermawan, 2015).

Apart from the discourse on the existence of KHI as one of the sources of positive law, the presence of KHI has eliminated the pluralism of legal decisions in the Religious Courts because KHI has become the same reference. In addition, the existence of KHI is a product of the transformation of Islamic law into positive law that applies and is binding for Muslims in Indonesia.

Furthermore, talking about the dynamics of legal politics in the birth of the Compilation of Islamic Law (KHI) cannot be separated from the politics of Islamic law in Indonesia during the reign of President Soeharto. This is because the existence of KHI as a product of modernisation of Islamic family law was born on the progress of the political progress of Islamic law at that time. Therefore, it becomes one of the important elements to understand the political conditions of Islamic law at the time of the birth of KHI in order to

understand the direction and purpose of the formation of KHI (Ali, 2015).

The birth of the Compilation of Islamic Law (KHI) as INPRES (Presidential Instruction) No.1 of 1991 was motivated by the technical judicial needs of the Religious Courts (PA). The need in question, namely the need for a guidebook that collects all applied laws that can be used by judges in order to create unification and legal certainty. In this case, Musdah Mulia explained that there are three objectives of Islamic family law reform in various countries. *First*, the unification of Islamic family law that applies in a country. The unification of applicable and binding laws is expected to reduce community disputes from the various Islamic law schools that develop in a country. *Second*, to improve the status of women. *Third*, to respond to the times due to global influences that affect almost all aspects of human life (Mulia, 2005). Thus the existence of KHI has become law and rule in the Religious Courts. This is because KHI can be used as a guideline, foundation, and guide for judges in the Religious Courts (Hermawan, 2015).

In the process of forming KHI, the role of the government is very active and dominant. While the role of various elements of society, such as Muslim scholars and intellectuals as a complement and validator of the government's performance. According to Marzuki Wachid, to see political intervention in the KHI formation process, it can be seen from two typologies of

formation strategies and determination of the direction of legal products. First, the strategy of orthodox legal formation. This strategy is dominated and monopolised by government (state) policy through its institutions in determining the direction of law formation. Therefore, the consequences of this strategy (orthodox) can produce legal products that are intrumalis positivist in nature, namely legal products that can be used as a tool for the implementation of ideology and state (government) programmes. Not only that, the existence of law can also be a medium to realise the government's socio-political vision. This strategy can be seen in legal traditions that adhere to continental legal systems (civil law) and socialist law. Second, the strategy of responsive law formation. This strategy is the opposite of the first strategy. In this strategy, various elements of society have broad participation and active roles in the process of forming and determining the direction of the laws produced. Therefore, the consequences of this strategy will produce legal products that are responsive to the demands of a particular group or the wider community. This strategy can be seen in legal traditions that adhere to the customary system (common law) (Wahid, 2004). In this case, Mahfud MD as quoted by Mochammad Muslim (2014) explained that political contestation in a country will have the potential to influence the development of legal products applicable in the country and also give birth to products that have a certain character.

The existence of a democratic political climate will be able to produce legal products that respond to the needs of the community. Meanwhile, an authoritarian political climate will give birth to orthodox legal products.

Based on the history of its formation (KHI), it can be said that the formation of KHI accommodates two types of legal formation strategies (orthodox and responsive strategies). This is because in the process of KHI formation, in addition to the active role of the state, but also involves the role of elements of society in formulating and determining the direction of the resulting legal products. From here it can also be understood that the existence of KHI as a product of positification and modernisation of Islamic family law in Indonesia is a government programme and initiative from elements of society in order to realise unification and certainty of Islamic family law applicable to Muslims in Indonesia.

KHI in the Midst of the Liberalism of Islamic Legal Thought Post-Reformation Reformation

Philosophically, liberalism is a paradigm of freedom based on the potential of every human being who can think and do whatever they want. Talking about the history of the Islamic liberalism movement in Indonesia can actually be found since the late 1970s and 1980s, known as neo-modernism. Even President Soekarno as the first President of Indonesia can also be referred to as someone who encouraged the need for liberalisation of Islamic thought. This is in his interpretation of

Islam. Soekarno often sympathised with the apologetic slogans of Muslims, such as Islam is advanced, there is no rational religion other than Islam, Islam is relevant to scientific research, Islamic science is a product of knowledge based on the normative foundations of Islamic theology (Quran and hadith) and general knowledge. The various slogans were then intensified again after the reformation through a group called the Liberal Islamic Network (JIL) which was precisely founded in 2010 by six young men, namely, Ulil Abshar-Abdalla, Luthfi Assyaukani, Hamid Basyaib, Ihsan Ali Fauzi, Nong Darol Mahmada, and Ahmad Sahal. Among the factors behind the birth of JIL was to oppose the Islamic fundamentalism movement that began to appear after the reformation (Irawan, 2018).

According to Greg Barton as quoted by Abdullah, there are four programs of Islamic liberalisation in Indonesia, including the contextualisation of *ijtihad*, rationalisation and renewal, social pluralism and religious pluralism, and the separation of religion from political affairs. From these programs, there are also four major objects of the Islamic liberalism movement in Indonesia, namely the liberalisation of creed, liberalisation of the interpretation of the Quran, liberalisation of Islamic law, and liberalisation of studies in Islamic universities (Abdullah, 2016).

In the context of liberalism, Islamic legal thought is generally inseparable from the following four issues (Taufik, 2015). *First*, the issue of democracy. There are various

responses to the term democracy, both in the area of concepts and political systems of government in Islamic countries. There are at least three schools of Islamic thought related to democracy. The first is the school that argues that Islam and democracy cannot be combined. The second school is the one that accepts the principles of democracy, but still recognises the differences. The difference in question is the difference in the paradigm of democracy from the West, which enjoys absolute popular sovereignty. Meanwhile, Islamic democracy is limited by the boundaries of religious law. The third stream is a stream of Islamic thought that fully accepts the concept of democracy by correlating it with the values of Islamic teachings which are also very democratic. *Second*, human rights. In this case, there is a view that there is a dialectic of human rights principles in Islamic teachings. The teachings in question are the five main objectives of Islamic law for human benefit, including *hifz al-din* (protection of religion), *hifz al-mal* (protection of property), *hifzu al-nafs* (protection of the soul), *hifz al-'aql* (protection of reason) and *hifz al nasab* (protection of offspring). *Third*, Pluralism. The awareness of the importance of the spirit of pluralism in the plurality of a society or nation must be to realise the establishment of justice and security of human life together. *Fourth*, Gender. The awareness and understanding of the factors that cause discrimination against women is not only caused by a gender-biased social system, but

also by gender-biased interpretations of the normative foundations of Islamic theology (Al-Qur'an and Hadith). This awareness then encourages the reinterpretation of existing Islamic doctrines or legal products (Islamy, 2016).

The four issues above have also become the paradigm of Islamic legal thought liberalism as a criticism of the formulation of law in KHI. This can be seen after the reform era, the existence of KHI has experienced criticism from a group called the Counter Legal Draft (CLD)-KHI team. A group on behalf of a team of formulators of pluralist, democratic, humanist and gender-just Islamic law as a form of counter (counter) to the existing KHI formulation text. The majority of members who are members of the CLD-KHI drafting team have educational backgrounds from Islamic Studies, ranging from Islamic boarding schools, Islamic universities such as IAIN or UIN. Most of them work as lecturers and researchers. They are active in various organisational activities, some are active in NGOs (ICRP, LKAJ, Fahmina Institute, WI, Lakspesdam, P3M, Lkis, and LP3ES), others are active in various Islamic organisations, such as Nahdhatul Ulama', Muhammadiyah, MUI. Not only criticising, The CLD-KHI team also offers a building of Islamic law products that accommodate the conditions of Indonesian society with all its national character, culture and progress in democracy and upholding Human Rights (HAM).

There are three arguments from the CLD-KHI team in countering the formulation of legal articles in KHI. *Firstly*, KHI has weaknesses in its vision and mission in various articles in it. There are several articles that are counter-productive to universal Islamic values such as: equality, brotherhood and justice. *Secondly*, there are several articles of KHI that are not relevant to the prevailing laws and regulations and ratified international conventions. *Thirdly*, from a methodological point of view, KHI seems to be a replica of the classical fiqh law of Arab society. The construction of the formulation of KHI legal articles has not been conceptualised in the perspective of Indonesian Islamic society (Wahid, 2004). In this case, Musdah Mulia (2005) added that the legal material in KHI has not presented the needs and requirements of Muslims in Indonesia. This is because the KHI material does not adjust to the local wisdom of the culture of the people in Indonesia, but is adopted from classical fiqh legal opinions with Arabic nuances which are very different from the socio-cultural conditions of the people in Indonesia.

In order to make it easier for readers to see the gap between the formulation of articles in KHI and the offer of formulation of articles in CLD-KHI, it can be seen in the table below. In order to make it easier for readers to see the gap between the formulation of articles in KHI and the offer of article formulation in CLD-KHI (Wahid, 2004), it can be seen below.

Law of Marriage

1. Discussion : Marital Status
KHI : worship (article 2)
CLD-HKI : *Mu'amalah*/contract agreement (article2)
2. Discussion : Wali Nikah
KHI : Pillar of marriage (article 14)
CLD-HKI : Not a pillar of marriage (article 6)
3. Discussion : Marriage registration
KHI : Not a pillar of marriage (article 14)
CLD-HKI : Pillar of marriage (article 14)
4. Discussion : Female testimony in marriage contract
KHI : Not allowed (Article 25),
CLD-HKI : allowed (Article 11)
5. Discussion : Minimum age for marriage
KHI : 16 years for wife and 19 years for husband (Article 15)
CLD-HKI : Both wife and husband 19 years (Article 7)
6. Discussion : Marriage of a girl (never married)
KHI : Married by a guardian or representative (Article 14)
CLD-HKI : Girls who have reached 21 years of age may be married without a guardian (Article 7)
7. Discussion : Dowry

- KHI : From the prospective husband to the prospective wife (Article 20),
- CLD-HKI : May be given by the prospective wife to the prospective husband (Article 16)
8. Discussion : Position of husband and wife
- KHI : Husband as head of of the family and the wife as a housewife (Article 79) household (Article 79)
- CLD-HKI : Position, rights and obligations of husband and wife are equal (Article 49)
9. Discussion : Breadwinner
- KHI : Husband's obligation (Article 80)
- CLD-HKI : Joint obligation of husband and wife (Article 51)
10. Discussion : Marriage contract
- KHI : Not regulated
- CLD-HKI : Marriage terminates with the expiry of the agreed period of marriage (Articles 22,28,56)
11. Discussion : Interfaith marriage
- KHI : Not permitted (articles 44 and 61)
- CLD-HKI : Permitted (article 54)
12. Discussion : Polygamy
- KHI : Permitted with conditions (articles 55-59).
- CLD-HKI : Not permitted, haram *lighoirihii la bidhatihi* (articles 3)
13. Discussion : *Iddah* (waiting or transition period)
- KHI : Only for the wife (article 153)
- CLD-HKI : Applies to both husband and wife (Article 88)
14. Discussion : *Iddah* (waiting period) for divorce
- KHI : Applies after dukhul (Article 153).
- CLD-HKI : Applies after the marriage contract (Article 88)
15. Discussion : *Ihdad* (mourning)
- KHI : For the wife (Article 170)
- CLD-HKI : For the wife and husband (Article 112)
16. Discussion : *Nusyuz* (disobeying from obligation)
- KHI : May be committed by the wife (Article 84)
- CLD-HKI : It may also be committed by the husband (Article 53)
17. Discussion : *Khulu'* (divorce at the initiative of the wife).
- KHI : *Khulu'* is *talaq ba'in sughra*, so it is reconciled with a new contract (Article 119).
- CLD-HKI : *Khulu'* and *talaq* are the same, so reconciliation is permissible.
18. Discussion : Right of reconciliation

KHI : Owned by husband
(Article 163)

CLD-HKI : Owned by husband and
wife (Article 105)

Law of Inheritance

1. Discussion : Inheritance of different religions

KHI : Not allowed (articles 171
and 172)

CLD-HKI : Permitted (article 2)

2. Discussion : Children out of wedlock

KHI : Only have inheritance
rights with their mother (Article 186)

CLD-HKI : Retain inheritance rights
from their biological father (Article 16)

3. Discussion : *Aul* and *Radd*

KHI : Used (articles 192 and 193)

CLD-HKI : Deleted

4. Discussion : Share of inheritance of sons and daughters

KHI : The proportion is 2:1

CLD-HKI : Equal proportions 1:1 or
2:2

Law of *Waqf*

1. Discussion : Intellectual property rights intellectual property rights as *waqf* goods

KHI : Not regulated

CLD-HKI : Regulated (article 11)

From the various contradictory articles as explained above, between the formulation of articles in KHI and CLD-KHI, it is clear that the issue of gender equality is a dominant issue

compared to other issues, such as gender equality. gender equality is the dominant issue compared to other issues, such as democracy, human rights and pluralism. democracy, human rights and pluralism. In its journey, the CLDKHI received pro and con responses from various elements of society. According to some scholars, the formulation of the articles in the CLD-KHI has approximately 39 errors and there are also those who say about 19 errors that are contrary to Islamic law, so that it can confuse the community. society. In the end, not more than 1 month, the CLD-KHI manuscript was frozen by the Minister of Religious Affairs of the Republic of Indonesia (Muhammad Maftuh Basyuni) (Dadan, 2005). From this it can be From this, it can be understood that the CLD-KHI is a product of liberalism in Islamic legal thought as an effort to reform the KHI. Islamic legal thought liberalism as an effort to reform the KHI which was carried out massively and systematically. and systematic. Although in the end, the historical facts show that the CLD KHI cannot change the legal construction in KHI.

The development of the Islamic law reform movement towards the construction of legal articles in KHI is inseparable from the influence of the opening of a wide democratic climate after the reformation. The spirit of democracy has provided a broad public space for the community to be able to express ideas of Islamic thought, both conservative and liberal Islamic thought. This phenomenon also occurred in the development of the idea of

reforming Islamic family law in Indonesia. There is an opinion among reformers, both academics, practitioners and activists who state that KHI is a product of modernisation by the hegemony of the old order government power which then makes KHI rigid and not dynamic. Therefore, the political constellation after the reformation became more democratic, so the renewal of KHI was inevitable (Aulya, 2004).

Although the presence of the KHI Counter Legal Draft (CLD) as a form of criticism as well as an offer to formulate new legal articles against KHI has been frozen and has not succeeded in changing the construction of KHI, the flow of criticism of the existence of KHI in the discourse of scientific studies has not stopped. Wardah Nuroniyah in her research stated that the KHI methodological framework has not been carried out consistently in all its articles. According to Wardah, KHI renewal is only in several articles. While some other articles are still ignored, so they are still as in classical fiqh (Nuroniyah, 2016). Then Asni (2012) in her dissertation argues that the articles in KHI that are identified as gender biased need to be reviewed while still referring to *maqasid syariah* and the spirit of gender relations in Indonesia. Sadari (2014) in his dissertation also states that by conducting a *hududi* study (limit theory) offered by Syahrur on the formulation of KHI law, it will give birth to progressive KHI products in accordance with the spirit of modernity and Indonesianness. Not only that, Sadari (2014) also further explains that the

relevance and modernity of the existence of the Compilation of Islamic Law (KHI) will be said to be civilised if it can carry out a two-way process that is interrelated in the context of nationality and statehood, among others. *Firstly*, compiling KHI is coherent with human rights and democratising human rights is coherent with KHI. *Second*, compiling KHI coherent with democracy and democratising democracy coherent with KHI. *Third*, compiling KHI is coherent with the nation state and nationalising the nation state is coherent with KHI. *Fourth*, compiling KHI coherent with civil society and civilising civil society coherent with KHI. *Fifth*, compiling KHI coherent with constitutionalism and constitutionalising constitutionalism coherent with KHI. Actually, there are many more research results of other academics who try to criticise the legal construction of KHI as well as offer ideas for KHI reform. But in this case, the author does not present all of them in this paper.

In addition, the author still considers that various formulations of KHI articles are still relevant to the sociological conditions of Islamic society in Indonesia. Nevertheless, the author realises that there are several articles of KHI that seem gender biased, but this is not problematic and also not urgent to be revised. In other words, alternative solutions can still be found in a family manner so that they still follow the regulations in the KHI articles, such as the article on the prohibition of female testimony, the prohibition of marriage without

a guardian, the minimum age difference for marriage between husband and wife, the position of the husband as head of the family, the husband as the breadwinner of the family, the wife's *nusyuz*, the obligation of *iddah* only for the wife, dowry only from the prospective husband and so on. However, conceptually, it needs to be realised that KHI and CLD-KHI are products of contemporary Islamic family law *ijtihad* that try to combine conventional Islamic law (classical *fiqh* opinions) with the sociological conditions of Islamic society in Indonesia, so it is normal that the methodological construction of KHI and CLD-KHI law will continue to be interesting as an object of research studies and serious study discussions for academics and public policy makers in the context of developing contemporary Islamic family law in Indonesia.

Conclusion

Based on the discussion in this paper, two major findings can be concluded, as follows. First, political intervention in the legal formation process of the Compilation of Islamic Law (KHI) has accommodated orthodox and responsive legal strategies. This can be seen from the historical reality that shows the policy and active role of the government (orthodox) as well as the active role of elements of society (responsive) in formulating and determining the direction of the objectives of the existence of KHI as a product of positification of Islamic family law in Indonesia. Second, various movements and discourses of Islamic liberalism related to criticism of the formulation

of KHI articles after the reformation can be said to be ineffective. Historical facts show that the various movements and discourses are only a contestation of open scientific discourse in the public sphere as a result of the opening of post-reform democracy. In addition, it needs to be realised that the factor that causes the existence of KHI is still consistent until now is because the formulation of articles in KHI is still relevant to the sociological conditions of Islamic society in Indonesia. Although there are some articles of KHI that seem gender biased, but it is not problematic and not urgent to be revised.

References

- Abduh Saf. Mhd. (2013). Islam dan Hukum Keluarga dalam Dunia Modern, al-Hukama. The Indonesian Journal of Islamic Family Law, Vol. 3.
- Abdullah (2016). Respons Masyarakat Muslim Terhadap Liberalisasi di Indonesia. Sulesana, Vol.10, No.2.
- Aidil Aulya. (2004). Pengaruh Demokrasi Terhadap Hukum Keluarga (Analisis Terhadap Perkembangan Liberalisme Pemikiran dan Legislasi Hukum Keluarga di Indonesia). Tesis Sekolah Pascasarjana UIN Jakarta, 2004.
- Ali, Nasrullah Munif. (2015). KHI dan Konfigurasi Politik Hukum Orde Baru (Vis a Vis Antara Hukum Islam dan Sistem Pemerintahan Otoriter). Ahkam, Vol.3, No.2.
- Asni. (2012). Pembaharuan Hukum Islam Di Indonesia: Telaah Epistemologis

- Kedudukan Perempuan Dalam Hukum Keluarga (Jakarta: Kementerian Agama Republik Indonesia).
- Athoillah Islamy. (2016). Eksistensi Hukum Keluarga Islam dalam.....Islamy, Athoillah, Diskursus Hak Perempuan Sebagai Wali dan Penghulu Nikah Di Indonesia. Ciputat: Cinta Buku Media.
- Djaenab. (2019). Perkembangan Hukum Islam (Kodifikasi dan Unifikasi). Ash-Shahabah, Vol.5, No.1.
- Ghofur, Abdul, Sulistiyono. (2014). Eklektisisme dalam Taqin Hukum Keluarga di Dunia Islam. Islamica, Vol.8, No.2, 281.
- Helmi, Muhammad. (2016). Kedudukan Instruksi Presiden No.1 Tahun 1991 Tentang Kompilasi Hukum Islam Menurut Peraturan Perundang-undangan di Indonesia”, Mazahib: Jurnal Pemikiran Hukum Islam, Vol. XV, No.1.
- Hermawan, Dadang, Sumardjo. (2015). “Kompilasi Hukum Islam Sebagai Hukum Materil Pada Peradilan Agama, Yuridis, Vol.6, No.1.
- Irawan. (2018). Al-Tawassut wa al-Ijtihad: Menjawab Tantangan Liberalisme dan Konservatisme Islam. Afakruna, Vol.14, No.1.
- Khair, Abul. (2016). Telaah Kritis Counter Legal Draft KHI (Reorientasi Hukum Keluarga Islam Indonesia). al-Risalah, Vol.2, No.1, 35-36.
- Khisni, A. (2011). Transformasi Hukum Islam Ke Hukum Nasional. Semarang :Unisulla Press.
- Mahmud. (1972). Tahir, Family Law Reform In The Muslim World, Bombay: NM. Tripathi PVT LTD.
- Mulia, Musdah. (2007). Islam dan Inspirasi Kesetaraan Gender, Jakarta: Kibar Press.
- Mulia, Musdah. (2005). Muslimah Reformis: Perempuan Pembaru Keagamaan, Bandung: Mizan.
- Muslim, Mochammad. (2014). Pengaruh Konfigurasi Politik Hukum Orde Baru Terhadap Kompilasi Hukum Islam (KHI) DI Indonesia. Al-Daulah, Vol. 4, NO.1.
- Mutaqin, Dadan. (2005). Telaah Terhadap Draft KHI Perspektif Sejarah Sosial Hukum, Jurnal al-Mawarid,” Edisi. 14.
- Nasution, Khoiruddin. (2009). Hukum Perdata (keluarga) Islam Indonesia Dan Perbandingan Hukum Perkawinan Di Dunia Muslim: Studi Sejarah, Metode, Pembaharuan Materi dan Status Perempuan Dalam Perundang-Undangan Perkawinan Muslim, Yogyakarta: Academia+Tazzafa.
- Nuroniyyah, Wardah. (2016). Pembaharuan Hukum Perkawinan DI Indonesia (Studi Terhadap Kontruksi Ushul Fikih Dalam KHI). Disertasi, Sekolah pascasarjana UIN Syarif Hidayatullah Jakarta.
- Sadari. (2014). Sakralisasi Vis-a-Vis Desakralisasi Hukum Keluarga Islam Di

- Indonesia (Studi Hududi untuk Relevansi Modernitas dan Keindonesiaan). Disertasi Sekolah Pascasarjana UIN Syarif Hidayatullah Jakarta,
- Sadari. (2016). Studi Islam dalam Kajian Hukum Keluarga Islam di Indonesia. Indonesian Journal of Islamic Literature and Muslim Society, Vol.1, No1.
- Salam, Abdus. (2015). Pengaruh Politik dalam Pembentukan Hukum di Indonesia. Mazahib, Vol. XIV, No. 2.
- Taufik, Muhammad. (2019). Pandangan Kritis Islam Liberal atas Isu-isu Kontemporer. Al-Banjari, Vol. 14, No. 1, 2015. 176 | Al-Istinbath: Jurnal Hukum Islam, Vol.4, No.2.
- Wahid, Marzuki. (2004). Fiqh Indonesia: Kompilasi Hukum Islam dan Counter Legal Draft Kompilasi Hukum Islam Dalam Bingkai Politik Hukum Indonesia. Cirebon: ISIF.