

ANAYASA

(Journal of Legal Studies)

E-ISSN: 2987-9965

Vol.1, No. 2, January 2024

EXPLORE THE FOUNDATIONS AND PRINCIPLES OF ISLAMIC FAMILY LAW

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Abstrac

The aim of this research is to explore the foundations and principles of Islamic family law. The method used by the researcher is a qualitative research method with a library study type of research. This type of literature study research is used to explore an in-depth understanding of a topic or phenomenon by analyzing relevant literature and sources, which in this research is related to exploring the foundations and principles of Islamic family law. As for data, it is obtained through study and analysis of various references such as books, scientific journals, articles and other documents related to the topic being researched and then researchers draw common threads and conclude from the findings and research studies. The results of this research show that the literature study on exploring the foundations and principles of Islamic family law provides a comprehensive overview of the multifaceted nature of this legal framework. Rooted in the Quran and the Sunnah, Islamic family law encompasses principles related to marriage, divorce, child custody, inheritance, and broader ethical considerations. The literature reflects the ongoing efforts of researchers to analyze and interpret Islamic legal sources, shedding light on the adaptability of Islamic family law to different cultural and social contexts. As scholars continue to explore and debate various aspects of Islamic family law, the literature serves as a valuable resource for understanding the principles that govern family life within the Muslim community and their implications for individuals, families, and societies at large.

Keyword: Foundations, principles, Islamic family

Abstrak

Tujuan penelitian ini yaitu untuk menggali landasan dan asas hukum keluarga Islam. Adapun metode yang digunakan oleh penelitini yang digunakan peneliti adalah metode penelitian kualitatif dengan jenis penelitian studi kepustakaan. Jenis penelitian studi literatur digunakan untuk menggali pemahaman mendalam terhadap suatu topik atau fenomena dengan menganalisis literatur dan sumber yang relevan, yang mana dalam penelitian ini berkaitan dengan menggali landasan dan asas hukum keluarga Islam. Adapun data diperoleh melalui kajian dan analisis terhadap berbagai referensi seperti buku, jurnal ilmiah, artikel dan dokumen lain yang berkaitan dengan topik yang diteliti kemudian peneliti menarik benang merah dan mengambil kesimpulan dari temuan dan kajian penelitian tersebut. Hasil dari penelitian ini menunjukkan studi literatur tentang eksplorasi landasan dan asas hukum keluarga Islam memberikan gambaran

komprehensif tentang sifat multifaset kerangka hukum ini. Berakar pada Al-Quran dan Sunnah, hukum keluarga Islam mencakup prinsip-prinsip yang berkaitan dengan pernikahan, perceraian, hak asuh anak, warisan, dan pertimbangan etika yang lebih luas. Literatur tersebut mencerminkan upaya berkelanjutan para peneliti untuk menganalisis dan menafsirkan sumber-sumber hukum Islam, menyoroti kemampuan adaptasi hukum keluarga Islam terhadap konteks budaya dan sosial yang berbeda. Ketika para sarjana terus mengeksplorasi dan memperdebatkan berbagai aspek hukum keluarga Islam, literatur ini berfungsi sebagai sumber berharga untuk memahami prinsip-prinsip yang mengatur kehidupan keluarga dalam komunitas Muslim dan implikasinya terhadap individu, keluarga, dan masyarakat pada umumnya.

Kata kunci: Pondasi, prinsip, hukum keluarga Islam

INTRODUCTION

Islamic family law is a fundamental set of principles that governs the intricacies of domestic life within the Muslim community, providing a comprehensive framework for the rights and responsibilities of family members. Rooted in the teachings of the Quran and the Sunnah (traditions) of Prophet Muhammad, Islamic family law addresses various aspects of family dynamics, including marriage, divorce, child custody, inheritance, and more. This legal system plays a crucial role in shaping the social fabric of Muslim societies, ensuring that familial relationships adhere to Islamic values and principles (Al-Sharmani, 2011). Alotaibi, (2023) Marriage, as a cornerstone of Islamic family life, holds a central position in Islamic teachings. The Quran emphasizes the importance of marriage as a means of finding tranquility and companionship, stating, "And among His signs is that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between you; verily, in that are signs for those who reflect" (Quran 30:21). Islamic family law provides guidance on the process of marriage, outlining the prerequisites, conditions, and procedures involved.

One of the significant principles in Islamic family law is the concept of 'Nikah' (marriage contract). The Nikah is a solemn covenant between a man and a woman, with the aim of establishing a stable and harmonious family structure (Cholil & Sudirman, 2019). The consent of both parties is crucial, and the contract includes specific terms and conditions agreed upon by the couple. The Quran emphasizes the importance of mutual respect and kindness between spouses, stating, "And they (women) have rights (over their husbands) similar to the rights of their husbands over them to what is reasonable, but men have a degree (of responsibility) over them. And Allah is Exalted in Might and Wise" (Quran 2:228).

Moreover, according to Mulia (2015), Islamic family law recognizes the significance of financial responsibility within a marriage. The husband is obligated to provide financial support to his wife and children, ensuring their well-being and comfort. This financial support, known as 'Nafaqah,' encompasses the provision of housing, clothing, and sustenance. The Quran explicitly states, "Let the rich man spend according to his means, and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him" (Quran 65:7).

Islamic family law also addresses the delicate issue of divorce, recognizing that, despite the sanctity of marriage, situations may arise where the continuation of the marital bond becomes untenable (Nasution & Nasution, 2021). The Quran outlines a prescribed process for divorce, encouraging reconciliation and ensuring fairness in the dissolution of the marriage. To protect the rights of both parties, the concept of "Talaq" (divorce) is subject to specific guidelines and requirements. The Quran advises, "O Prophet, when you [Muslims] divorce women, divorce them for their waiting period, keep count of the waiting period, and fear Allah, your Lord. Do not turn them out of their homes (during the waiting period), nor should they themselves leave unless they are committing a clear immorality" (Quran 65:1).

Another crucial area that Islamic family law governs is child custody. In the event of divorce or the death of a parent, the question of who should have custody of the children is carefully considered. Islam places a high value on the well-being and proper upbringing of children. The Quran states, "O you who have believed, protect yourselves and your families from a fire whose fuel is people and stones, over which are [appointed] angels, harsh and severe; they do not disobey Allah in what He commands them but do what they are commanded" (Quran 66:6). Islamic family law ensures that the best interests of the child are prioritized when determining custody, taking into account factors such as the parents' ability to provide a stable and nurturing environment (Solikin & Wasik, 2023).

Inheritance laws within Islamic family law are designed to ensure an equitable distribution of wealth among family members. The Quran provides clear guidelines on the distribution of assets, specifying the shares allocated to spouses, children, parents, and other relatives. The rationale behind these rules is to prevent the concentration of wealth in the hands of a few and to maintain social justice within the Muslim community. The Quran declares, "Allah instructs you concerning your children: for the male, what is equal to the share of two females" (Quran 4:11). Islamic family law seeks to uphold principles of fairness and justice in matters of inheritance (Uddin, 2020).

Furthermore, Islamic family law addresses issues related to maintenance and financial support beyond the immediate family. The concept of 'Sadaqah' involves charitable contributions and financial assistance to those in need, including family members who may be facing financial hardships. The Quran encourages the giving of charity, stating, "The example of those who spend their wealth in the Way of Allah is like that of a grain of corn that sprouts seven ears, and in every ear there are a hundred grains. Thus Allah multiplies the action of whomsoever He wills" (Quran 2:261) (Archer, 2013).

Islamic family law also recognizes the institution of 'Kafala,' which refers to the legal sponsorship or guardianship of orphans. The Quran underscores the importance of treating orphans with kindness and fairness, stating, "And they ask you concerning the orphans. Say, 'The best thing is to work honestly on their property, and if you mix your affairs with theirs, then they are your brothers'" (Quran 2:220). Islamic family law provides a framework for the protection and care of orphans, ensuring that they receive proper support and are integrated into loving families.

In addition to these specific areas, Islamic family law encompasses broader principles related to ethics, morality, and interpersonal relationships within the family. The Quran emphasizes the significance of compassion, communication, and mutual respect among family members. The Prophet Muhammad's teachings, as documented in the Hadith, provide valuable guidance on matters of family life, including advice on parenting, spousal relations, and the treatment of extended family members. The principles of Islamic family law are not static; they are adaptable and designed to address the evolving needs of society. Scholars within the Islamic tradition engage in ongoing interpretation and jurisprudential reasoning to ensure that the principles remain relevant in contemporary contexts. This adaptability is crucial in addressing new challenges and social developments while staying true to the underlying principles of justice, compassion, and ethical conduct (Anwar & Rumminger, 2007).

According to Ballard (2013), it is important to note that interpretations and implementations of Islamic family law can vary among different schools of thought within Islam. The Sunni and Shia branches, as well as various jurisprudential schools within each branch, may have nuanced differences in their understanding and application of certain legal rulings. Additionally, cultural practices and local customs can influence the implementation of Islamic family law in different regions. Islam views that problems that occur in family life must be resolved according to Islamic law, emphasizing the centrality of Sharia as the guiding source for addressing conflicts and challenges within the family unit. Islamic law provides a comprehensive ethical and legal framework that seeks to ensure fairness, justice, and the well-being of all family members, making it the primary reference point for dispute resolution and decision-making in matters pertaining to familial relationships.

The Quran, considered the ultimate source of guidance for Muslims, provides principles and guidelines that serve as a moral compass for navigating family issues. The teachings of the Prophet Muhammad, as documented in the Hadith, further elucidate the application of these principles in practical situations. This emphasis on Islamic law as the foundation for resolving family matters reflects the belief that adherence to divine guidance leads to just and equitable outcomes. The application of Islamic law in addressing family disputes is facilitated through various mechanisms, including religious scholars, Islamic courts, and community leaders who possess expertise in jurisprudence. These individuals play a vital role in interpreting and applying Islamic legal principles to specific cases, ensuring that resolutions align with the ethical and moral standards outlined in the Quran and Sunnah (Berger, 2013).

One of the key advantages of turning to Islamic law for dispute resolution is its inherent flexibility and adaptability. Islamic jurisprudence, known as *fiqh*, incorporates a system of legal reasoning that allows scholars to derive rulings based on foundational sources while considering the contextual realities of different times and places. This adaptability enables Islamic law to address contemporary challenges within the family, offering solutions that are both rooted in tradition and responsive to evolving societal needs. Moreover, Islam encourages alternative dispute resolution mechanisms such as mediation and arbitration. Seeking resolution within the framework of Islamic law often

involves engaging in a process of dialogue and negotiation guided by principles of equity and compassion. This approach promotes reconciliation and harmony within the family, reflecting the Quranic injunction: "And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever knowing and acquainted [with all things]." (Quran 4:35).

Islamic law's focus on the principles of justice and fairness extends to its approach to family disputes, ensuring that the rights and responsibilities of each family member are upheld. Whether the issue pertains to marital conflicts, financial matters, or child custody disputes, Islamic law provides a framework that seeks to safeguard the dignity and rights of individuals while promoting the stability and well-being of the family as a whole. It is important to note that the application of Islamic law in family matters requires a nuanced understanding of the specific circumstances and cultural contexts involved. Different schools of thought within Islam and diverse cultural practices may influence how Islamic law is interpreted and implemented. Scholars and jurists often consider the unique aspects of each case, recognizing the importance of balancing legal principles with compassion and practicality.

In instances where resolution through Islamic law proves challenging or is not feasible, Islam encourages seeking guidance from qualified scholars and legal experts. The community plays a crucial role in providing support and counsel, fostering an environment where individuals feel empowered to address their concerns in a manner consistent with Islamic principles. Ultimately, the Islamic perspective on resolving family problems through adherence to Islamic law reflects a holistic approach that recognizes the interconnectedness of religious, ethical, and legal considerations. It underscores the belief that turning to divine guidance, as outlined in the Quran and the Sunnah, provides a comprehensive and principled foundation for addressing the complexities of family life. By prioritizing the application of Islamic law in dispute resolution, Muslims strive to navigate challenges in a manner that aligns with their faith, fostering a sense of justice, compassion, and unity within the family unit.

METHOD

The researcher used a qualitative research method with a library study type of research. This type of literature study research is used to explore an in-depth understanding of a topic or phenomenon by analysing relevant literature and sources, which in this research is related to exploring the foundations and principles of Islamic family law. As for data, it is obtained through the study and analysis of various references such as books, scientific journals, articles, and other documents related to the topic being researched, and then researchers draw common threads and draw conclusions from the findings and research studies (Hadi et al., 2021).

RESULT AND DISCUSSION

According to the findings of a literature review on the foundations and tenets of Islamic family law, it is clear that the Quran's teachings and the Prophet Muhammad's Sunnah form the basis of the Islamic legal system governing family matters. This

comprehensive body of literature reflects the multifaceted nature of Islamic family law, encompassing principles related to marriage, divorce, child custody, inheritance, and broader ethical considerations. The Quran, as the primary source of guidance for Muslims, provides the foundational principles that underpin Islamic family law. The verses of the Quran offer insights into the nature of familial relationships and outline the rights and responsibilities of individuals within the family unit. Scholars and researchers delve into these verses to derive a nuanced understanding of the ethical and legal principles that govern various aspects of family life.

For instance, the Quranic verse "And live with them in kindness. For if you dislike them, perhaps you dislike a thing, and Allah makes therein much good" (Quran 4:19) underscores the importance of kindness and compassion in marital relationships. Researchers explore the implications of such verses in the context of marital harmony and the ethical treatment of spouses (Büchler, 2012). The Sunnah, comprising the sayings and actions of Prophet Muhammad, further elucidates the application of Quranic principles in real-life situations. Hadith literature, compiled by scholars over centuries, provides valuable insights into the Prophet's interactions with his family members, offering a practical model for Muslims to emulate in their own family lives (Djawas et al., 2022).

Research studies often analyse specific Hadiths related to family matters, such as those addressing the treatment of spouses, the importance of maintaining family ties, and the Prophet's guidance on parenting (Esposito, 1976). By delving into the Sunnah, researchers aim to uncover the practical wisdom embedded in the Prophet's teachings, which serves as a source of inspiration and guidance for contemporary Muslims navigating the complexities of family life. Moreover, the literature study reveals the role of Islamic legal scholars in interpreting and deriving legal rulings from the Quran and the Sunnah. Jurisprudential works, known as *fiqh*, provide a systematic framework for understanding and applying Islamic family law. Researchers explore the diverse opinions within different schools of thought, analysing the methodologies employed by scholars to arrive at legal conclusions.

The diversity of opinions within Islamic jurisprudence is evident in the various legal schools, such as the Hanafi, Maliki, Shafi'i, and Hanbali schools, each with its own unique approach to interpreting and applying Islamic family law. Researchers critically examine these differences, seeking to understand the historical context, methodologies, and underlying principles that contribute to the diversity of legal opinions within the Islamic legal tradition. The literature study also sheds light on the adaptability of Islamic family law to different cultural and social contexts. Researchers explore how Islamic legal principles are implemented in diverse Muslim-majority regions, taking into account local customs, traditions, and societal norms. This adaptability is crucial for ensuring that Islamic family law remains relevant and effective in addressing the evolving needs of Muslim communities worldwide. Marriage, as a foundational institution in Islamic family law, is a focal point of research within the literature. Researchers investigate the Quranic verses and hadiths that outline the principles of

marriage, including the importance of mutual consent, the rights and responsibilities of spouses, and the ethical considerations that underlie the marital relationship.

The concept of 'Nikah' (marriage contract) is examined in detail, encompassing the conditions, prerequisites, and contractual obligations involved. Researchers explore how Islamic family law safeguards the rights of both parties in a marriage, emphasising principles of equity, fairness, and mutual respect. On the other hand, divorce, while discouraged in Islam, is recognised as a possible solution in situations where the marital bond becomes untenable. The literature study delves into the Quranic verses and hadiths that address the process of 'Talaq' (divorce), exploring the prescribed steps, conditions, and ethical considerations involved. Researchers analyse how Islamic family law aims to mitigate the negative consequences of divorce on individuals and society while upholding justice and fairness (Kautsar & Lestari, 2021).

Child custody, another critical aspect of Islamic family law, is thoroughly examined in the literature. Researchers explore the Quranic verses and hadiths that provide guidance on determining custody arrangements, taking into account the best interests of the child. A lot of research has been done on the idea of "Wilayah," or guardianship, and the things that are taken into account when giving custody. This is because the Quran says, "Give the orphans their property, and do not trade bad things of your own for good things of theirs, and do not eat their property with your own" (Quran 4:2). Researchers are also interested in Islamic family law's inheritance laws, which are subject to specific Quranic injunctions. The literature study explores the principles of equitable distribution of wealth among heirs, as outlined in the Quranic verses. Researchers analyse the prescribed shares for spouses, children, parents, and other relatives, considering the underlying principles of social justice and the prevention of wealth concentration (Taufiqurohman & Fauziah, 2023).

The literature on Islamic family law goes beyond legalistic aspects and delves into the broader ethical considerations embedded in the Quranic teachings. Researchers explore verses that emphasise compassion, forgiveness, and the importance of maintaining family ties. For example, the Quran encourages kindness and benevolence towards parents, stating, "And your Lord has decreed that you not worship except Him, and to parents, good treatment. Whether one or both of them reach old age [while] with you, say not to them [so much as], 'uff,' and do not repel them but speak to them a noble word" (Quran 17:23). Ethical considerations extend to issues of financial responsibility, with the Quranic principle of 'Nafaqah' (financial support) being central to discussions on family obligations. Researchers analyse how Islamic family law ensures that spouses fulfil their financial responsibilities, emphasising the equitable distribution of resources within the family unit (Temel, 2020).

Furthermore, the literature study reveals the emphasis on alternative dispute resolution mechanisms within Islamic family law. Mediation and arbitration, rooted in Islamic principles of reconciliation and justice, offer avenues for resolving conflicts within the family without resorting to formal legal proceedings. Researchers explore how these mechanisms align with the Quranic injunction to "If you fear dissension between the

two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever knowing and acquainted [with all things]" (Quran 4:35). The role of Islamic scholars and legal experts in guiding individuals through family matters is a recurring theme in the literature. Researchers examine the contributions of scholars to providing religiously grounded advice and rulings, emphasising the importance of seeking knowledge and guidance from qualified sources. The role of community leaders and counsellors is also explored, as they play a vital role in assisting families in navigating challenges while upholding Islamic principles. The literature study reflects the dynamic nature of Islamic family law, acknowledging its adaptability to contemporary challenges and societal changes. Researchers explore the ongoing efforts of scholars to reinterpret and apply Islamic legal principles in light of evolving circumstances. This adaptability is crucial for ensuring that Islamic family law remains relevant and effective in addressing the diverse needs of Muslim communities globally.

CONCLUSION

Based on the results of the study above, it is possible to conclude that the literature study on exploring the foundations and principles of Islamic family law provides a comprehensive overview of the multifaceted nature of this legal framework. Rooted in the Quran and the Sunnah, Islamic family law encompasses principles related to marriage, divorce, child custody, inheritance, and broader ethical considerations. The literature reflects the ongoing efforts of researchers to analyse and interpret Islamic legal sources, shedding light on the adaptability of Islamic family law to different cultural and social contexts. As scholars continue to explore and debate various aspects of Islamic family law, the literature serves as a valuable resource for understanding the principles that govern family life within the Muslim community and their implications for individuals, families, and societies at large.

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