

COMPARATIVE STUDY ON MARRIAGE PROMISES IN INDONESIA AND JORDAN IN OVERVIEW OF *MASLAHAT*

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ABSTRACT

The development of Islamic family law (*al-Ahwal al-Syakhshiyah*) in modern Islamic countries can be said to be a new format that accommodates the ideas of reforming Islamic law thought, including the position of marriage vows. The new thing in family law can be seen from the transition from *fiqh* law to positive law in the form of legislation in Muslim countries. Indonesia and Jordan, are one of the few Muslim countries that legalize marriage vows in legislation. The problem is how the form of marriage vows legislation in each of these countries. This study aims to determine the philosophical meaning and model of its renewal in each of these countries. The concept of *maslahat* that is applied in the legislation on marriage vows in Indonesia and Jordan is the concept of achieving a goal of Islamic law itself, to achieve a legal benefit and reject harm or with the principle of preserving an existing law or rule that is considered good, and developing it by law, or more beneficial rules. The formation of marriage vows legislation in Indonesia and Jordan cannot be separated from the local wisdom possessed by each of these countries, so that the concept of *maslahat* applied in marriage covenant legislation in each country has its own characteristics, each country makes *taklik talak* a promise. marriage that must be obeyed by both parties.

Keywords: *Comparative, Marriage Promise, Indonesia, Jordan*

A. INTRODUCTION

The demands of Islamic law legislation with various background things re-emerged after Western civilization succeeded in penetrating almost all Islamic countries (Abbas, 2016; Bunyamin, 2019). However, the scholars do not yet have the readiness to make Shari'ah from *fiqh* books into a positive legal draft. Modern reforms in Islam began to occur in the 19th century (Ananda & Fata, 2019; Baharuddin, 2013; Fitriyani, 2010). The process of legal adjustment made to family law is different from the process that occurred previously in other fields in Islam (Fitria, 2012; Manan, 2017). With a few exceptions; The occurrence of renewal

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is marked not only by the replacement of Islamic law with Western law, but also by changes in Islamic law itself which are based on reinterpretation of the Islamic legal tradition in accordance with the development of reasoning and practice (Donohue & John L., 1995; Nuroniyah, 2016).

Maslahat is one of the goals of the law (Amri, 2018; Mayyadah, 2018; Shidiq, 2021), especially the law of marriage, especially the case of marriage vows for a law can be applied if it is in accordance with the principles of justice, the benefit of the people. Islamic marriage law in Indonesia has been regulated long before the emergence of marriage laws in Indonesia (Ashsubli, 2015; Mohsi, 2021), which is where the emergence of several rules, they are; *First*, Islamic law for people who are Muslim (Fitriyani & Laupe, 2013; Hardjono, 2008; Ma'u, 2018), *Second*, the Christian ordinance for the Christian community in Ambon and Minahasa (Anwar & Yunus, 2020; Biga, 2017; Borrong, 2017; Malik, 2017), *Third*, the book of civil law laws for Indonesian people of Chinese and European descent (Mochtar, 2013; Simanjuntak, 2017; Sriono, 2017), *Fourth*, mixed marriage regulations for mixed marriages (Edithafitri, 2015; Fitriatmoko et al., 2017; Mariani, 2020).

Then due to the lack of legal harmony, Law no. 1 of 1974 concerning Marriage, and then followed by the emergence of the 1991 Compilation of Islamic Law, for the Indonesian Islamic community. Likewise, the country of Jordan, which has an Islamic marriage law legislation, especially regarding marriage vows, of course has a legislative process that is not the same as the Indonesian state since the two countries besides being in different countries, cultures, and schools of thought are the foundation for both adhere to different understandings as well. What is interesting to study is how the application of the concept of *maslahat* in the legislation of marriage vows and its renewal in Indonesia and Jordan. This study aims to describe, analyze and examine in depth the application of the concept of *maslahat* in the legislation of marriage vows both in Indonesia and Jordan.

There are several *maslahat* studies including Moh. Mukri (2010), Al-Gazzali's *Maslahah* Thought Enriches Contemporary Legal Studies. *Maslahah al-Mursalah* as a source of Islamic law according to Al-Gazzali contains the aim of preserving religion (*hifz al-din*), soul (*hifz al-nafs*), reason (*hifz al-'aql*), offspring (*hifz al-nasl*), and human property (*hifz al-mal*), *qat'iyyat*, *daruriyyat* and *kulliyat* requirements are needed (Badri, 2019; Herawati, 2014). Muhammad Ma'shum (2013), *Maslahat al-Tufi (Application Studies in Polygamy)*, according to al-Tufi, polygamy can be seen in the mutually agreed agreement to realize household harmony as the ultimate goal, a second wife, a third wife, a fourth wife and children resulting from a marriage that is not will demand *nafaqah*, or only accept mandatory will without *waratsah*. Sanuri (2014), *Paradigmatic Shift in Maqasid al-Syari'ah Discourse (Jasser Auda's*

Study of Thought), examines the paradigmatic shift and is equipped with a *fiqh* proposal approach through the transformation of thought and the reality of social, political, cultural changes that occur in the contemporary era.

Abdul Basith Junaidy (2013), *Utilitarianism's Argument on Maslahat in Muhammad Abu Zahrah's Legal Thought*, Abu Zahrah places *maslahat* as a method of studying Islamic law and supports *maslahat* as an *istinbat* method with the argument of utilitarianism. Busyro (2014), *Yusuf Qaradhawi's Contemporary Fatwas and Its Relation to Maqashid al-Shari'ah*, Yusuf Qaradhawi's thoughts which are different from the thoughts of scholars in general, including al-Syatibi, 1) there is an illustration that not all of his fatwas can apply *maqashid al-Shari'ah* which is recognized as valid seen by scholars, 2) fatwas that seem to prioritize human interests, 3) Yusuf Qaradhawi's fatwas also describe his attention to the god of law, 4) Yusuf Qaradhawi's fatwas can also be understood that he did not make *maqashid al-syari'ah* as a stand-alone science, 5) Yusuf Qaradhawi's use of reason is not categorized as free use of reason in interpreting the law, but in general the legal *istinbat* is still in the corridor of *nas*.

Imroatul Ajiza (2014), *Freedom of Religion and Riddah Sanctions: Efforts to Realize Islamic Criminal Law From the perspective of Maqashid al-Shari'h*, the context of *riddah*, the act of leaving Islam is personal between the servant and His Lord. If it is associated with *al-dharuriyyah al-khamsah*, especially *hifdzu al-din*. Research of Azni (2015), *Polygamy in Islamic Family Law in Indonesia and Malaysia*. Juridically polygamy has been strictly regulated in Islamic family law, both in Indonesia and Malaysia.

It is emphasized that the research that will be conducted by the author is different in focus from several previous studies. That the researcher will focus on the concept of *maslahat* in the formation and application of marriage law in Indonesia and Jordan, especially regarding the legislation on marriage vows between the two countries which is the point of study in this research, thus providing a difference between researchers and previous research.

B. METHOD

This research is literature research (*Library Research*). This type of research includes qualitative research. Qualitative research is a research procedure that produces descriptive data in the form of written speech, and observed behavior from research subjects (Furchan & Maimun, 2005). The research specification in this writing is descriptive-analytical (Faisal et al., 2021), it means that this research includes the scope of research that describes, examines and explains precisely and analyzes the data according to the condition of the object under study, the reformation of the position of marriage vows in Indonesia and Jordan.

C. DISCUSSION

In the application and change of Islamic family law in the Islamic world, there are three patterns in its application, they are; 1) a conservative form, a country that still applies a system of adhering to one school and there is no change at all, for example Saudi Arabia and Yemen (Hudaeri, 2007; Thohir, 2019); 2) secular form, countries that implement a family law system by means of contextual reforms, such as Turkey and Bahrain (Syafi'i & Fikriawan, 2021); 3) a form of transformation, countries that change the form of their legislation slowly according to their needs, but do not go out of the rules and methods of *istinbat*, such as Egypt, Morocco, Jordan, Indonesia, Pakistan, Malaysia, and Sudan (Bunyamin, 2019).

From the three definitions above, Indonesia and Jordan are part of Islamic countries that carry out legal changes by way of reform, countries that change the form of their laws slowly according to needs and socio-anthropological changes, and local wisdom, in line with a rule about changes in law that stated Ibn Qayyim al-Jauziyyah reads:

تَغْيِيرُ الْأَحْكَامِ وَاجْتِلَافُهَا بِتَغْيِيرِ الْأَمْكِنَةِ وَالْأَزْمِنَةِ وَالْأَحْوَالِ وَالنِّيَّاتِ وَالْعَوَائِدِ

Meaning: “Changes and differences in law are caused by differences in place, time, condition, motivation and culture” (al-Jauziyyah, tt.; Yanti, 2020).

According to Khoiruddin Nasution (2012), there are two characteristics of legal reform that developed in modern Islamic countries, they are; 1) *intra-doctrinal reform*, this trait is seen with the reform of Islamic family law which is carried out by combining the opinions of several priest of a school or taking the opinion of a priest from a school outside the school that is adhered to (Romlah, 2016; Tahir, 2010); 2) *extra doctrinal reform*, which reforms family law by providing a completely new interpretation of the existing texts (Andiko, 2019; Hermanto, 2017; Huda, 2020). This is what is then called *ijtihad*.

So far, the form of marriage legislation in Indonesia and Jordan has reformed its marriage law by means of intra-doctrinal reform (Budiawan, 2020), This trait is seen in the reform of Islamic family law, which is carried out by combining the opinions of several priests' schools or taking the opinions of priests' school outside the school adhered to.

Referring to the three forms of change in family law in the Islamic world, there are four ways that are usually done. *First*, *Taghyir*, a form of change by way of construction, namely eliminating the initial construction and building a new concept of legislation altogether. *Second*, *Talfiq*, changing the law by combining several opinions of priests' school and prioritizing those that are more beneficial, in accordance with socio-anthropological changes and local wisdom in each country. *Third*, using *siyasa syar'iyah* (in the public interest), which is a form of legal

change by means of legal legislation. *Fourth*, reinterpreting the text of *nas* to suit modern needs and demands (Abbas, 2016; Andaryuni, 2018).

This is inseparable from the consideration of the causes of the need for a new law that is in accordance with the purpose of establishing the law itself, in tune with the rules of fiqhiyah, This means: “*The law circulates in its ‘illat, whether there is law or not*” (Syalabi, 1981). However, *‘illat* is not the only legal reference. The rules that state that the legal reference is benefit. As the rule below: Meaning: “*The law follows a stronger benefit*” (Shobirin, 2018; Winarno, 2019).

If we look at the definition of the form of change above, Indonesia is a form of legal *talfiq*, combining several schools of thought, then *muqaranah* is carried out and then viewed from the perspective of *maslahat*, if the school is more actual and beneficial, then that school is prioritized, even though at first the Indonesian state is a country that predominantly adheres to the al-Shafi’i school, in contrast to Jordan, which is actually more moderate than Indonesia, because Jordan tends to follow the Hanafi school, even though it then carries out legal reforms by maintaining the schools and adding them to *maslahat* consideration (Ja’far et al., 2020). So, if we compare the two countries (Indonesia and Jordan), with an interdisciplinary approach, it can be formulated as follows:

Historically, the State of Jordan has applied family law far earlier than Indonesia. In 1917 Jordan enacted *the Ottoman Law of Family Rights* before Law no. 92 of 1951. However, according to El-Alami’s records, before the enactment of the law, Jordan had imposed *Qanun al-Huquq al-’A’ilah al-Urduniah* No. 26 of 1947. Therefore, with the enactment of Law No. 92 of 1951 then all previous laws have been abolished (Barkatullah & Prasetyo, 2006). Law No. 92 of 1951 includes 132 articles which are divided into 16 chapters. This law is very similar to the Turkish law of 1917, both in terms of structure and detailed rules (Anderson, 1952). Then this law was renewed with a more comprehensive law with the birth of *the Law of Personal Status* or better known as *Qanun al-Ahwal al-Syakhshiyah* No. 61 Year 1976 before the birth of kodi, the concept of Hanafī became a reference in Jordan (Mahmood, 1972).

Taklik Talak is part of an agreement after a marriage occurs (Asriani & Haddade, 2021; Burhanudin, 2019; Maki, 2021), so that with the marriage agreement, there is an accountability spoken by the husband to his wife and this is part of an effort to implement a system of justice, consequences and accountability. This principle is in line with Islamic Shari’ah and does not contradict, very logical as with *taklik talak* there will be seriousness in marriage and the consequences of *taklik talak* will result in accordance with the contents of

taklik being read, making it easier, especially for a wife, she is not easy to be ignored, and become more sure of what the husband should be responsible for when building a household.

Taklik talak is a form of agreement that is carried out voluntarily, but once the *taklik talak* is pronounced, it cannot be revoked (Nugroho, 2018; Suharto, 2019). This means that in the future the wife is not willing and not pleased with what the husband has done based on the *taklik talak* agreement, the wife can report to the Religious Court to ask for a divorce from her husband. In other words, the wife has the right to apply for *khulu'* (Himsyah, 2021; Zulkifli, 2019).

Thus, it can be understood that the agreed *taklik talak* aims to protect the wife from the arbitrariness of her husband, even though in reality there are still many husbands who violate this by committing various acts of violence against their wives (KDRT), not providing a living and so on. Khoiruddin Nasution (2012) said that *taklik talak* is an indirect source of spiritual strength for women which can be maximized as a tool to protect herself from the arbitrariness of her husband (Andaryuni, 2017; Suharto, 2019).

In addition, according to Zaini Ahmad Noeh (1980) this *taklik talak* institution is very beneficial for the woman, providing women with legal *hujjah syar'i*, which role is to free themselves from suffering due to the actions promised by their husbands themselves, and even then if the wife is not willing or not happy with the husband's actions (Suharto, 2019). Zaini Ahmad Noeh (1980) also stated that the establishment of the reading of *taklik talak* in every marriage contract caused the position of married women to be much stronger than if they applied Islamic law normally.

Furthermore, Zaini (1980) stated that so far there are no facts or jurisprudential laws that state from a *syar'i* point of view that *taklik* divorce causes *madllarat* for women. If *taklik talak* is considered detrimental to men, it is none other than because the man concerned cannot control himself from behaving un-Islamic. This *taklik talak* is a balance for women (wives) to be able to jointly have the right to break marital relations.

Abdul Mannan (2006) concluded that the *taklik talak* currently in force in Indonesia has elements of protection for both the husband and wife, namely the intention to protect the wife's rights and the intention to protect the husband from the possibility of wife fraud or the wife's *nusyuz*.

Taklik talak is a form of breakthrough that is responsive and progressive to the reality felt by each country, both Indonesia and Jordan, to accommodate and protect women's rights and avoid the arbitrariness of men. *Taklik talak* comes from two words, *taklik* and *talak*.

According to the language of *talak* or *itlaq* means to let go or leave (Jakfar & Jamaludin, 2019; Timur et al., 2018). In terms of religion, divorce means releasing the marriage bond or the dissolution of the marriage relationship (See the explanation in Isa, 2020; Muhsin & Wahid, 2021; Riami, 2020).

Taklik or *muallak* means to depend. Thus, the notion of *taklik talak* is *talak* which fall is dependent on a condition. *Taklik talak* is a divorce which is dependent on the occurrence of a certain event in accordance with the agreement. *Taklik talak* means a divorce that is suspended on a thing that may happen that has been mentioned in an agreement that has been agreed in advance or hangs the execution of divorce with the occurrence of things mentioned after the marriage contract. From some of the definitions above, it can be concluded that *taklik talak* is *talak* which depends on a case.

In the Compilation of Islamic Law (KHI) in Chapter XVI article 113 it is stated that: "Marriage can be broken because; 1) Death, 2) Divorce, and 3) Court Decision" (Abdullah, 1994; Ibrahim, 2017; Siregar, 2017). Meanwhile, in the next article, article 116, it is stated that divorce can occur for reasons or reasons: *First*, one of the parties commits adultery or becomes a drunkard, compactor, gambler and so on which is difficult to cure; *Second*, one of the parties leaves the other party for 2 (two) consecutive years without the permission of the other party and without a valid reason or for other reasons beyond his control; *Third*, one of the parties gets a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place; *Fourth*, one of the parties commits atrocities or severe persecution that endangers the other party; *Fifth*, one of the parties gets a physical disability or disease as a result of not being able to carry out his obligations as husband or wife; *Sixth*, between husband and wife there are continuous disputes and quarrels and there is no hope of living in harmony again in the household; *Seventh*, Violating *taklik talak*; Eighth, conversion of religion or apostasy that causes disharmony in the household.

Then from the article related to the case that the author raised, article 117. Apart from the Compilation of Islamic Law (KHI), the author also sought data from Law No. 1 of 1974 concerning Marriage. In this law the article relating to the issue of *taklik talak* is in article 29 Chapter V concerning the Marriage Agreement, which reads: *First*, before the marriage takes place, both parties with mutual consent can enter into a written agreement which is legalized by the marriage registrar, after which the contents also apply to third parties as long as the parties are involved. *Second*, the agreement cannot be ratified if it violates the boundaries of law, religion and morality. *Third*, the agreement is valid since the marriage took place. *Fourth*, as

long as the marriage lasts, the agreement cannot be changed, unless both parties have an agreement to change it and the change does not harm a third party.

Meanwhile, in the literature of classical fiqh books, it is stated that Islamic jurists differ in their opinion in the discussion of *taklik talak*. Ibn Hazm argues that of the two forms of *taklik talak*, *taklik qasamy* and *taklik syarhi*, both are invalid and his words have no effect. The reason is because Allah has clearly regulated divorce, while *taklik talak* has no guidance in the Qur'an and Sunnah (Nugroho, 2018; 'Uweis, 1998).

The majority of scholars are of the opinion that if a person has *taklik talak* which is within his authority and the conditions have been fulfilled according to what each of them wants, in the sense that the two spouses have legally become husband and wife, then the *taklik* is considered valid for all forms of *taklik*, both *taklik* it contains an oath (*qasamy*) or contains ordinary conditions. The person who does *taklik talak* does not do his *talak* when that person pronounces it, but the person hangs the divorce to one of the parties if the conditions contained in his speech have been fulfilled and reported to the religious court with the violation.

In the Islamic Law in Jordan, in articles two and three of the 1976 law, these articles explain that the promise of marriage will not result in a marriage. However, after an agreement is made, then one of them dies or the agreement is cancelled, then some of the previous gifts can be taken back by the man (Budiaman, 2018; Bunyamin, 2019).

Taklik talak is basically an agreement so as not to betray each other, because marriage is a *mitsaqan ghalizan*, which is a strong bond to unite two people who initially did not know each other (Mulyati, 2017; Musthofa & Subiono, 2020). The legislation in Indonesia and Jordan is relevant and both have *taklik talak* regulations, although in Islamic law itself there is no recommendation about this, and this is a matter of *ijtihadiah* which is a relevant and beneficial demand for both countries.

Philosophically, *fiqh* law does not contain the existence of *taklik talak* in the marriage bond, but if viewed from the side of benefit, that *taklik talak* is very urgent and important, since *taklik talak* is something that becomes standard in a marriage. Practically, the state of Indonesia is one of the countries that apply *taklik talak* in the marriage law, as well as this is done in the marriage law in Jordan.

Historically, *taklik talak* is a form of anticipation of something happening in the future. With the *taklik talak*, the agreement in the *taklik talak* will be directed and full of responsibility. The concept of Islamic law does not regulate it, but in some cases there is a

dispute or false promises, or other lies that can harm both parties, for example for two consecutive years the husband leaves his wife or does not provide a living for her and then there is no legal certainty. In this case, does the wife get divorce and can remarry, and or is she still in a legal marriage?

Sociologically-anthropologically *taklik talak* is a form of government control over a marriage. Therefore, both in Indonesia and in Jordan, marriage agreements are still carried out for the benefit of the people. *Taklik talak* is a form of *maslahat al-mutaghayyirah*, the benefits that change according to changes in place, time and legal subjects. This type of benefit is related to the benefits of *muamalah* and customs. This is indicated in the two countries, that the marriage agreement must be carried out to avoid mafsadat and achieve benefits since both of them cannot be separated, like two sides of the same coin. The purpose of doing *taklik talak* is; *first*, to maintain religion, so that people who do marriages do not underestimate the sacred bond. *Second*, to protect the soul, so that with a marriage agreement, for example if the husband leaves his wife for two consecutive years without clear information, then the wife has the right to file for divorce in court. It is very clear that the absence of two consecutive years will affect the psyche of the wife and children, because the departure of the husband for a long time will also result in education and lack of love and lack of livelihood. *Third*, keep the mind, of course, when a husband leaves a wife for two years in a row, the wife will feel burdened with the costs of children's education, motivation, and the husband's lack of attention, so the wife has to work hard, and think extra, the wife must also take over the duties and functions of the husband (single parent). *Fourth*, maintaining lineage, by leaving for two years, of course psychologically the child will not get the full love of the father, and vice versa, a father who is not burdened with responsibilities towards his children will give birth to a less harmonious relationship between parents and their children. Besides that, the regeneration process will also be hampered, the disconnection of husband and wife relationships for a long time. *Fifth*, safeguarding property, because of the *taklik* divorce, the husband will not arbitrarily leave his wife and child in an unlimited time and is not responsible for the maintenance that should be the husband's obligation according to household needs. Of course this is something that will destroy the purpose of a marriage bond.

D. CONCLUSION

The concept of *maslahat* applied in the marriage vows legislation in Indonesia and Jordan is the concept of achieving a goal of Islamic law itself. It is to achieve a legal benefit and

reject harm or with the principle of preserving an existing law or rule that is considered good, and developing it by law or more beneficial rules. The formation of marriage vows legislation in Indonesia and Jordan cannot be separated from the local wisdom possessed by each of these countries, so that the concept of *maslahat* applied in marriage covenant legislation (*taklik talak*) in each country has its own characteristics. Each country makes *taklik talak* a marriage promise that must be obeyed by both parties.

Bibliography

- Abbas, S. (2016). Keberanjakan dari Konsep Konvensional ke dalam Perundang-undangan Hukum Keluarga Islam. *ASAS*, 8 (2), Article 2. <https://doi.org/10.24042/asas.v8i2.1244>
- Abdullah, A. G. (1994). *Pengantar Kompilasi Hukum Islam dalam Tata Hukum Indonesia*. Gema Insani.
- Ajiza, I. (2014). *Kebebasan Beragama dan Sanksi Riddah: Upaya Reaktualisasi Hukum Pidana Islam Perspektif Maqashid al-Syari'ah* [Disertasi]. UIN Sunan Ampel.
- al-Jauziyyah, M. I. Q. (tt.). *I'lam al-Muwaqqi'in 'an Rabb al-'Alamin*. Dar al-Jail.
- Amri, M. (2018). Konsep *Maslahat* Dalam Penetapan Hukum Islam (Telaah Kritis Pemikiran Hukum Islam Najamuddin At- Thufi). *Et-Tijarie: Jurnal Hukum Dan Bisnis Syariah*, 5(2), Article 2. <https://journal.trunojoyo.ac.id/ettijarie/article/view/4585>
- Ananda, R. A., & Fata, A. K. (2019). Sejarah Pembaruan Islam di Indonesia. *JAWI*, 2 (1), Article 1. <https://doi.org/10.24042/jw.v2i1.4121>
- Andaryuni, L. (2017). *Putusan Verstek Dalam Cerai Gugat Karena Pelanggaran Taklik Talak Di Pengadilan Agama Samarinda*. 16 (1), 17.
- Andaryuni, L. (2018). Pembaruan Hukum Kewarisan Islam di Turki dan Somalia. *Hikmah: Journal of Islamic Studies*, 14 (1), 145–181. <https://doi.org/10.47466/hikmah.v14i1.104>
- Anderson. (1952). Recent Development in Shari'a Law VIII: The Yordanian Law of Family Rights 1951. *The Muslim World*, 42.
- Andiko, T. (2019). Pembaharuan Hukum Keluarga Di Dunia Islam (Analisis Terhadap Regulasi Poligami dan Keberanjakannya dari Fikih). *Nuansa: Jurnal Studi Islam dan Kemasyarakatan*, 12 (2), Article 2. <https://doi.org/10.29300/nuansa.v12i2.2807>
- Anwar, S., & Yunus, M. (2020). Perkawinan Beda Agama Antar Warga Negara Indonesia di Indonesia Sebagai Diplomasi. *Prodising ISID*, 1, 116–130. <https://doi.org/10.37092/prosidingisid.v1i1.181>
- Ashsubli, M. (2015). Undang-Undang Perkawinan dalam Pluralitas Hukum Agama (Judicial Review Pasal Perkawinan Beda Agama). *Jurnal Cita Hukum*, 3 (2), 289–302. <https://doi.org/10.15408/jch.v2i2.2319>
- Asriani, A., & Haddade, A. W. (2021). Kedudukan *Taklik Talak* dalam Pernikahan Perspektif Mazhab Zahiri dan Kompilasi Hukum Islam. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab dan Hukum*, 2 (2), Article 2. <http://journal.uin-alauddin.ac.id/index.php/shautuna/article/view/19348>
- Azni. (2015). *Poligami Dalam Hukum Keluarga Islam di Indonesia dan Malaysia* [Disertasi]. UIN Syarif Qasim.
- Badri, S. (2019). Relevansi *Maslahah* Al-Ghazali Terhadap Konteks Fikih di Indonesia. *Indonesian Journal of Islamic Law*, 1 (2), 50–63. <http://jurnalpasca.iain-jember.ac.id/ejournal/index.php/IJIL/article/view/336>
- Baharuddin, H. (2013). Pembaruan Pendidikan Islam Azyumardi Azra: Melacak Latar Belakang Argumentasinya. *Lentera Pendidikan: Jurnal Ilmu Tarbiyah dan Keguruan*, 16 (2), 196–204. <https://doi.org/10.24252/lp.2013v16n2a7>

- Barkatullah, A. H., & Prasetyo, T. (2006). *Hukum Islam Menjawab Tantangan Zaman yang Terus Berkembang*. Pustaka Pelajar.
- Biga, N. H. H. (2017). Sejarah Pembaruan Hukum Keluarga Islam Di Indonesia. *Al-Mizan*, 13 (2), 185–203. <https://doi.org/10.30603/am.v13i2.876>
- Borrong, R. P. (2017). Pernikahan Lintas Iman dalam Konteks Masyarakat Majemuk. *Voice of Wesley: Jurnal Ilmiah Musik dan Agama*, 1 (1), Article 1. <https://doi.org/10.36972/jvow.v1i1.3>
- Budiaman, A. (2018). Nalar Metodologi Pembaharuan Hukum Perkawinan di Dunia Muslim. *HUKUMAH: Jurnal Hukum Islam*, 1 (1), Article 1. <https://ojs.staituankutambusai.ac.id/index.php/HUKUMAH/article/view/21-32>
- Budiawan, A. (2020). Metodologi Penetapan Hukum Perkawinan di Dunia Muslim. *Jurnal An-Nahl*, 7(1), 85–97. <https://annah.staile.ac.id/index.php/annah/article/view/11>
- Bunyamin, M. (2019). Pembaruan Undang-Undang Perkawinan Yordania dan Relevansinya Terhadap Pengembangan Hukum Perkawinan Islam Modern. *ASAS*, 11 (2), 51–76. <https://doi.org/10.24042/asas.v11i2.5597>
- Burhanudin, A. A. (2019). Konsep Perjanjian Perkawinan dalam Perspektif Perbandingan Hukum: *El-Faqih: Jurnal Pemikiran dan Hukum Islam*, 5 (2), 112–125. <https://doi.org/10.29062/faqih.v5i2.69>
- Busyro. (2014). *Fatwa-Fatwa Kontemporer Yusuf Qaradhawi dan Kaitannya dengan Maqashid al-Syari'ah* [Disertasi]. IAIN Imam Bonjol.
- Donohue, J. J., & John L. (1995). *Islam dan Pembaharuan, Ensiklopedi Masalah-Masalah* (Terj. Machnun Husein). Raja Grafindo Persada.
- Edithafitri, A. S. (2015). Status Kepemilikan Benda Tidak Bergerak dalam Perkawinan Campuran Di Indonesia. *LEX PRIVATUM*, 3 (1), Article 1. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/7027>
- Faisal, F., Hakim, D. A., & Susanto, I. (2021). Creative Commons License Sebagai Hak Cipta Internasional Ditinjau Berdasarkan Aspek Hukum Indonesia. *Jurnal Hukum dan Kenotariatan*, 5(2), 218–235. <https://doi.org/10.33474/hukeno.v5i2.10186>
- Fitria, V. (2012). Hukum Keluarga Di Turki Sebagai Upaya Perdana Pembaharuan Hukum Islam. *Humanika, Kajian Ilmiah Mata Kuliah Umum*, 12 (1), Article 1. <https://doi.org/10.21831/hum.v12i1.3648>
- Fitriatmoko, R., Sudaryatmi, S., & Triyono. (2017). Praktik Perkawinan Campuran Antar Masyarakat Adat di Kota Batam dan Akibat Hukumnya (Studi Pada Perkawinan Campuran Antara Pria Batak dan Wanita Minangkabau di Sungai Panas Kota Batam). *Diponegoro Law Journal*, 6 (2), 1–12. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/17348>
- Fitriyani, F. (2010). Organisasi Islam dan Pengembangan Hukum Islam di Indonesia. *Al-Ulum*, 10 (1), 73–90. <https://www.journal.iaingorontalo.ac.id/index.php/au/article/view/12>
- Fitriyani, F., & Laupe, A. B. (2013). Positivisasi Hukum Islam dalam Pembinaan Hukum Nasional di Indonesia. *Al-Ulum*, 13 (2), 453–470. <https://www.journal.iaingorontalo.ac.id/index.php/au/article/view/196>
- Furchan, A., & Maimun, A. (2005). *Studi Tokoh Metode Penelitian Mengenai Tokoh*. Pustaka Pelajar.

**Comparative Study on Marriage Promises in Indonesia
and Jordan In Overview of *Maslahat***

Mahmudin Bunyamin, Agus Hermanto, Iman Nur Hidayat

- Hardjono, I. (2008). Hukum Islam Di Indonesia dalam Perspektif Sejarah Hukum. *SUHUF*, 20 (1), 22. <https://publikasiilmiah.ums.ac.id/bitstream/handle/11617/913/1.%20IMAM%20HARDJONO.pdf?sequence=1&isAllowed=y>
- Herawati, A. (2014). *Maslahat* Menurut Imam Malik dan Imam Al-Ghazali (Studi Perbandingan). *DIKTUM: Jurnal Syariah Dan Hukum*, 12 (1), 42–53. <https://almaiyyah.iainpare.ac.id/index.php/diktum/article/view/194>
- Hermanto, A. (2017). Teori Gender Dalam Mewujudkan Kesetaraan: Menggagas Fikih Baru. *Ahkam: Jurnal Hukum Islam*, 5 (2). <https://doi.org/10.21274/ahkam.2017.5.2.209-232>
- Himsyah, F. A. (2021). The Judge's Understanding of Iwad (Living Hadith in Palembang Religious Court). *Jurnal Living Hadis*, 6 (1), 49–71. <https://doi.org/10.14421/livinghadis.2021.2673>
- Huda, A. (2020). Hukum Keluarga Di Negara Somalia. *Jurnal Pikir: Jurnal Studi Pendidikan Dan Hukum Islam*, 6 (1), 35–49. <http://ejournal.staidakrempyang.ac.id/index.php/pikir/article/view/340>
- Hudaeri, M. (2007). Islam Dan Hak Asasi Manusia. *Al Qalam*, 24 (3), 363–386. <https://doi.org/10.32678/alqalam.v24i3.1664>
- Ibrahim, M. (2017). Membedah Tingginya Angka Perceraian di Lingkungan Peradilan Agama dan Upaya Penanggulangannya. *Aplikasia: Jurnal Aplikasi Ilmu-Ilmu Agama*, 17 (2), 79–94. <https://doi.org/10.14421/aplikasia.v17i2.1379>
- Isa, M. J. H. (2020). Penerapan Sumpah Li'an dalam Perceraian atas Alasan Zina (Studi Kasus di Pengadilan Agama Barru). *Al-Azhar Islamic Law Review*, 2 (1), 29–41. <https://doi.org/10.37146/ailrev.v2i1.36>
- Ja'far, K., Nasution, K., Abror, K., & Hermanto, A. (2020). Reconstruction of Pregnancy Marriage Legality in Indonesia. *International Journal of Criminology and Sociology*, 9 (2). <https://doi.org/10.6000/1929-4409.2020.09.125>
- Jakfar, T. M., & Jamaludin, M. F. B. (2019). Persepsi Kadi tentang Keutamaan Melafalkan Taklik Talak (Studi Kasus di Mahkamah Syar'iyah Kuantan, Pahang). *EL-USRAH: Jurnal Hukum Keluarga*, 2 (1), 60–74. <https://doi.org/10.22373/ujhk.v2i1.7643>
- Junaidy, A. B. (2013). *Argumen Atilitarianisme Pada Maslahat dalam Pemikiran Hukum Muhammad Abu Zahrah* [Disertasi]. UIN Sunan Ampel.
- Mahmood, T. (1972). *Family Law Reform in the Muslim Marriage*. t.p.
- Maki, L. P. (2021). Pemberian Mahar Dalam Bentuk Hiasan Uang Kertas Menurut Perspektif Hukum Islam. *Syakhsiyah Jurnal Hukum Keluarga Islam*, 1 (1), 49–71. <https://ejournal.metrouniv.ac.id/index.php/syakhsiyah/article/view/3501>
- Malik, R. (2017). Kembalinya Unsur Agama Ke Dalam Hukum Perka Winan Di Indonesia. *Jurnal Hukum & Pembangunan*, 31 (1), 6–22. <https://doi.org/10.21143/jhp.vol31.no1.1316>
- Manan, A. (2006). *Penerapan Hukum Acara Perdata di Lingkungan Peradilan Agama*. Kencana.
- Manan, A. (2017). *Aneka Masalah Hukum Perdata Islam di Indonesia* (Ke-5). Prenada Media.

- Mariani, M. (2020). Kedudukan Perkawinan Beda Agama Dan Perkawinan Campuran Di Indonesia. *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman*, 19(1), 84–111. <https://doi.org/10.18592/al-banjari.v19i1.3821>
- Ma'shum, M. (2013). *Maslahat al-Tufi (Studi Aplikasi dalam Poligami)* [Disertasi]. IAIN Sunan Ampel.
- Ma'u, D. H. (2018). Eksistensi Hukum Islam Di Indonesia (Analisis Kontribusi dan Pembaruan Hukum Islam Pra dan Pasca Kemerdekaan Republik Indonesia). *Jurnal Ilmiah Al-Syir'ah*, 15(1), Article I. <https://doi.org/10.30984/as.v15i1.471>
- Mayyadah, M. (2018). Komparasi Maslahat Perspektif Al-Tufi Dan Al-Syatibi. *Bilancia: Jurnal Studi Ilmu Syariah Dan Hukum*, 12 (2), 263–278. <https://doi.org/10.24239/blc.v12i2.370>
- Mochtar, Z. (2013). Hak Anak Angkat Atas Harta Warisan Dalam Hukum Perdata. *LEX ET SOCIETATIS*, 1 (3), Article 3. <https://doi.org/10.35796/les.v1i3.2459>
- Mohsi, M. (2021). Hegemoni Pluralitas Hukum Terhadap Uu No. 01 Tahun 1974 (Studi Supremasi dan Legalitas Hukum Perkawinan di Indonesia). *Mahakim: Journal of Islamic Family Law*, 5(1), Article I. <https://doi.org/10.30762/mh.v5i1.2512>
- Muhsin, M., & Wahid, S. H. (2021). Talak di Luar Pengadilan Perspektif Fikih dan Hukum Positif. *Al-Syakhsyiah: Journal of Law & Family Studies*, 3 (1), 67–84. <https://doi.org/10.21154/syakhsyiah.v3i1.3063>
- Mukri, Moh. (2010). *Pemikiran Maslahah Al-Gazzali Memperkaya Kajian Hukum Kontemporer* [Disertasi]. Program Pascasarjana, UIN Sunan Kalijaga.
- Mulyati, F. (2017). Interpretasi Mitsaqan Ghalizan Dalam Surah An-Nisa (4): 21 (Pentingnya Pencatatan Pernikahan Menurut Hukum Islam). *ITTIHAD*, 12 (22), 37–55. <https://doi.org/10.18592/ittihad.v12i22.1681>
- Musthofa, K., & Subiono. (2020). Spirit Mitsaqan Ghalidza Dalam Pernikahan Sebagai Penguatan Keluarga di Kalimantan Tengah. *Legitima: Jurnal Hukum Keluarga Islam*, 2(2), 153–170. <https://doi.org/10.33367/legitima.v2i2.1199>
- Nasution, K. (2012). *Hukum Perkawinan dan Warisan di Dunia Muslim Modern*. Academia.
- Noeh, Z. A. (1980). *Peradilan Agama Islam Di Indonesia*. PT. Intermasa.
- Nugroho, H. (2018). Kedudukan *Taklik Talak* Menurut Hukum Fikih dan Kompilasi Hukum Islam. *Al-Bayyinah*, 2(1), 73–90. <https://doi.org/10.35673/al-bayyinah.v2i1.40>
- Nuroniyah, W. (2016). Kritik Metodologis Terhadap Pembaruan Hukum Perkawinan Dalam Kompilasi Hukum Islam. *Mahkamah: Jurnal Kajian Hukum Islam*, 1(1), 15. https://web.archive.org/web/20180502205743id_/http://syekhnurjati.ac.id/jurnal/index.php/mahkamah/article/viewFile/624/538
- Riami, R. (2020). Perceraian Menurut Persepsi Psikologi Dan Hukum Islam. *Imtiyaz: Jurnal Ilmu Keislaman*, 4(2), 124–145. <https://doi.org/10.46773/imtiyaz.v4i2.94>
- Romlah, R. (2016). Pembaruan Hukum Keluarga Islam di Indonesia tentang Keabsahan Akad bagi Wanita Hamil. *AL-'ADALAH*, 13 (1), 23–38. <https://doi.org/10.24042/adalah.v13i1.1127>
- Sanuri. (2014). *Pergeseran Paradigmatik Dalam Diskursus Maqasid al-Shari'ah (Telaah Pemikiran Jasser Auda)* [Disertasi]. UIN Sunan Ampel.

**Comparative Study on Marriage Promises in Indonesia
and Jordan In Overview of *Maslahat***

Mahmudin Bunyamin, Agus Hermanto, Iman Nur Hidayat

- Shidiq, G. (2021). Teori Maqashid Al-Syari'ah Dalam Hukum Islam. *Majalah Ilmiah Sultan Agung*, 44 (118), 117–130. <http://lppm-unissula.com/jurnal.unissula.ac.id/index.php/majalahilmiahsultanagung/article/view/15>
- Shobirin, S. (2018). Penemuan Hukum Oleh Hakim Mahkamah Agung Dalam Putusan Perkarakerwarisan Islam Di Indonesia Pada Tahun 1995-2014. *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam*, 9 (1), 152–174. <https://doi.org/10.21043/yudisia.v9i1.3678>
- Simanjuntak. (2017). *Hukum Perdata Indonesia*. Kencana.
- Siregar, R. S. (2017). Keabsahan Perceraian Perspektif Fiqh Dan Undang-Undang No. 1 Tahun 1974. *Jurnal Al-Muqaranah: Jurnal Perbandingan Hukum dan Mazhab*, 5 (1), Article 1. <http://jurnal.uinsu.ac.id/index.php/almuqaranah/article/view/1349>
- Sriono, S. (2017). Sistem Pewarisan Pada Warga Negara Indonesia Keturunan Tionghoa (Cina) Muslim. *JURNAL ILMIAH ADVOKASI*, 5 (2), 110–122. <https://doi.org/10.36987/jiad.v5i2.311>
- Suharto, M. (2019). Studi Sejarah Taklik Talak di Indonesia. *Khuluqiyya*, 1(1), 1–15. <http://jurnal.staialhikmahdua.ac.id/index.php/staia/article/view/15>
- Syafi'i, A., & Fikriawan, S. (2021). Pembaruan Hukum Keluarga Islam (Studi Kasus Hukum Waris di Somalia). *AL-MIKRAJ: Jurnal Studi Islam Dan Humaniora (E-ISSN: 2745-4584)*, 2 (1), 44–60. <https://ejournal.insuriponorogo.ac.id/index.php/almikraj/article/view/1019>
- Syalabi, M. M. (1981). *Ta'lim al-Ahkam*. Dar al-Nahdhah al-Arabiyyah.
- Tahir, M. (2010). Meredam Kemelut Kontroversi Nikah Sirri (Perspektif Masalah). *Al-Mawarid Journal of Islamic Law*, 11 (2), 42572. <https://www.neliti.com/publications/42572/>
- Thohir, U. F. (2019). Pembaharuan Hukum Waris Islam di Turki. *Asy-Syari'ah: Jurnal Hukum Islam*, 5 (2), 181–201. <https://doi.org/10.36835/assyariah.v5i2.121>
- Timur, W., Royani, F., & Vikriawan, M. (2018). Impact of Social Media on Divorce Rates in Bengkulu Province (Study at the Seluma District Religious Court). *Jurnal Hukum Nusantara*, 1 (1), 15–19. <https://penerbitadm.com/index.php/JHN/article/view/238>
- 'Uweis, A. H. (1998). *Ibn Hazm al-Andalusia* (Cet. Ke-2). Al-Zahra lil 'lam al-Arabi.
- Winarno, W. (2019). Eksistensi Istihsan dalam Istinbath Hukum Menurut Imam Hanafi. *AL-QUWWAH: Jurnal Pengabdian Masyarakat*, 2 (1), 93–107. <https://lp2msasbabel.ac.id/jurnal/index.php/alq/article/view/1026>
- Yanti, M. F. (2020). Rekonstruksi Sistem Waris Zawil Arham dalam Kompilasi Hukum Islam. *Al Maqashidi*, 3 (1), 62–81. <http://ejournal.sunan-giri.ac.id/index.php/ALMAQASHIDI/article/view/267>
- Zulkifli, S. (2019). Putusnya Perkawinan Akibat Suami Menikah Tanpa Izin Dari Istri. *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, 18 (3), 14–26. <https://doi.org/10.30743/jhk.v18i3.1184>