

Compilation of Islamic Law as the Foundation for Education in the Context of Religious Life

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ABSTRACT: *Education is the most important part in shaping the character of the nation. The character of the nation if balanced with education, then the human resources will show the expected quality. Compilation of Islamic law, providing education in the field of law related to Islam, so that the younger generation understands the importance of Islamic law in running the life of nation and state. Islamic education is the most important thing for the young generation to maintain and preserve the understanding of law related to Islam. Understanding law does not mean just science, but as knowledge that must be known to the nation's generation. Compilation of Islamic law becomes the civil foundation for Muslims in carrying out related contracts of marriage, inheritance and endowment. The compilation of Islamic law is expected to provide a basis for education and knowledge for young people, especially academics in deepening Islamic civil law listed in the compilation of Islamic law.*

Keywords : *Compilation, Law, Islam, Education*

Introduction

Education is the most important part in shaping the character of the nation. The character of the nation if balanced with education, then the human resources will show the expected quality. Education is the most important momentum in its contribution to promote the morals and minds of society, so that it can grow the intellectual level that is expected to be able to build the nation.

The Indonesian nation is a plural nation, which has many tribes and languages. Exploring knowledge with education, for the nation of Indonesia is the most important point to grow the level of unity and unity in building the nation with education. Education plays an important role in improving human resources that can build unity of the nation to jointly build the nation towards a more advanced level of science.

As a plural country, of course the Indonesian nation has many tribes, customs, races and religions. Associated with religion, Islam is a religion that has the largest followers in Indonesia. Many laws are established on the basis of Islamic law. It is clearly evident that the rule of law in Indonesia is mixed with Islamic law. A concrete example is the compilation of Islamic law. The compilation of Islamic law is the basic form of Islamic based law. This is the answer for Indonesian citizens especially those who embrace Islam to have a legal basis in accordance with the beliefs as followers of Islam.

Relevance to education, compilation of Islamic law provides knowledge on marriage law, inheritance law and wakaf (property donated for religious) law. Compilation of Islamic law provides legal education, especially adherents of Islam to comply with all rules of law that have been established by religion. The law of marriage governs all matters relating to marriage according to Islam. The law of inheritance relates to all things related to inheritance according to Islam. Wakaf (property donated for religious) Law is part of Islamic law related to wakaf (property donated for religious). The Compilation of Islamic Law formulates the regulation of the implementation of three basic issues in Islamic civilization related to the very urgent social conditions, namely marriage, inheritance and wakaf (property donated for religious).

With the compilation of Islamic law, is expected to provide education in the field of law related to Islam, so that the younger generation understands the importance of compilation of Islamic law in running the life of nation and state. Islamic education is the most important thing for the young generation to maintain and preserve the understanding of law related to Islam. Understanding law does not mean just science, but as knowledge that must be known to the nation's generation.

Islamic law viewed from its source, is a unique law. The uniqueness of Islamic law is because it comes from the revelation of

Allah swt in the form of the Qur'an and Sunnah that apply eternally, but when Islamic law must be enforced in society, then Islamic law must be subject to legal doctrine states that Islamic law should be able to respond to developments and changes in public life. The dynamics of Islamic law can at least be seen from four aspects, namely the interpretation of Islamic law, the characteristics of Islamic law, the principles, the source of Islamic law, and the historical dynamics of the standardization of Islamic legal material. The meaning of Islamic law itself has many opinions. Some say that Islamic law in question is jurisprudence, some say sharia. In this case, the authors conclude that all laws that are the choice of God's revelation of ideal truth and stability are sharia, while the choice of reason, religion, real truth, and change is the area of ijtihad or fiqh.¹

Compilation of Islamic law contains the rules of Islamic law in accordance with the conditions of the legal requirements and the legal awareness of Indonesian Muslims. Compilation of Islamic law is a manifestation and result of application of the various sects that exist fiqh and equipped with Indonesian scholars fatwa in response to problems that arise so that the compilation of Islamic law can be used as a reference in solving the problem of marriage, inheritance and endowments and the compilation of Islamic law also gives legal protection and Indonesian Islamic society inner peace.²

The compilation of Islamic law provides knowledge of Islamic education which becomes law. The law serves as an object for education in providing much knowledge to learners in the Islamic education process related to compilation of Islamic law. The compilation of Islamic law provides a great deal of legal knowledge regarding Islamic law which is part of the positive law in Indonesia. Many people who do not understand the compilation of Islamic law in Indonesia, related to implementation is directly proportional to positive law. Therefore, legal education on the compilation of Islamic law should be given to the community both formally and non-formally.

Marriage Law

¹Edi Gunawan, *Renewal of Islamic Law in the Compilation of Islamic Law*, Journal of Studia Islamika, Vol. 12, No. 1, December 2015, p 283-284

²Andi Herawati, *Compilation of Islamic Law (KHI) As Result of Ijtihad Ulama Indonesia*, Journal Studia Islamika, Vol. 8, No. 2, December 2011, p 303

Marriage is a social bond that is a bond of interpersonal legal agreements that form a kinship relationship and which is an institution in the local culture that formalizes interpersonal relationships. Marriage generally begins with a contract and is inaugurated with a marriage ceremony. Generally marriage is lived with the intention to form a family, while marriage law is all about the law that regulates the rules of marriage.

According to Hamid Ahmad, Marriage is an inner bond between two different kinds of servants of God, with the aim of forming a happy family and forever. Marriage is one form of worship that the holiness needs to be maintained by both parties, both husband and wife. The union of the inner bond between two different kinds of servants desperately requires maturity and physical and mental preparation because marriage is something sacred and can determine one's way of life.³

Agreement marriage is not just words spoken from the mouth of a man, or just a formality to legalize the relationship of husband and wife, or custom which became a habit in marriage. The marriage ceremony is a sacred covenant whose bonds are very solid and strong. The great covenant leads to self-respect for the enjoyment of others. Strong agreement that should not be offended by words and deeds that deviate from the nature of the covenant itself.⁴

Marriage also agreement to leave disobedience, agreement to love each other for God, agreement to respect each other and appreciate, agreement to accept each other as it is, a contract to strengthen each other faith, agreement to help each other and lighten the burden, agreement to mutually advise, to his partner in joy and sorrow, in fidelity and riches, in sickness and in health.⁵

Marriage is a form of agreement between both men and women to commit themselves in a marriage agreement to which they mutually agree. Marriage within Islam itself has been set in the compilation of Islamic law, so for Muslims, marriage is a thing to know and do. Related to marriage, this requires education to provide

³Hamid Ahmad in Ridwan Hasbi, *Elasticity of Marriage Law in Hadith Perspective*, JURNAL USHULUDDIN Vol. XVII No. 1, January 2011, p 23

⁴*Ibid*

⁵*Ibid*

knowledge in the field of marriage law in the context of religious life in particular namely Islamic law.

The definition of marriage according to the Marriage Law, known as Law Number 1 Year 1974 on Marriage, is meant by marriage is the inner birth bond between a man and a woman as husband and wife in order to form a happy and eternal family based on Belief in the One Supreme. According to Saleh, the inner bond is meant to mean that marriage is not only enough in the presence of a birth bond or an inner bond, but must be both. A birth bond is a visible bond, the existence of a legal relationship between a man and woman to live together, as a husband and wife, which can also be called a formal bond. This formal relationship is binding on itself, as well as to others or society. In contrast, inner bonding is an informal relationship, a bond that can not be seen, but must exist because without any inner bond, the birth bond will become brittle.⁶

Before Law Number 1 of 1974 on Marriage was born, Muslims in Indonesia used Islamic law as the legal guidance of their marriage. The Islamic law which has been perceived into culture law receives recognition from the Indische Staats Regeling (ISR), especially chapter 163, which distinguishes three classes of inhabitants, namely; a) European (including Japanese); b) indigenous groups (indigenous Indonesians) and; c) Foreign Eastern Group. According to the ISR, for indigenous groups who apply the Islamic customary law.⁷ For Muslims, marriage law has a special place as the foundation for a marriage in Indonesia.

Marriage is one of worship to obey God's command and the person who carries out the marriage has been deemed to have fulfilled his religious orders. Marriage has several objectives, especially to continue the offspring and keep the human presence on earth in a way or sharia that is legalized by Islam. In a way that is justified by religion, it is expected that humans will meet the rules that have been established in Islamic law. marriage is the coexistence of a man and a woman who meet certain conditions, and if observed in essence marriage is a covenant that binds the birth and the soul with the

⁶ Saleh in Sri Wahyuni, *The Controversy of Different Marriage in Indonesia*, Journal of Islamic Law (JHI) Volume 8, Number 1, June 2010, p 65.

⁷ Daniel in Sofia Hardani, *Analysis of Age Limits for Growing Marriage According to Indonesian Laws*, Journal of Islamic Thought, Vol.40, July 2 - August 2015, p 127

foundation of faith.⁸ While Subekti says that marriage is a legitimate relationship between a man and a woman for a long time.⁹

In principle, marriage has a close relationship about the rope brotherhood is a marriage between the opposite sex to establish a social life in accordance with applicable rules. Marriage serves to bind both sides in establishing a legitimate covenant for the survival of mankind. With the marriage, it is expected that humans can develop a new generation for the survival of mankind with the legal foundations that have been agreed previously. Compilation of Islamic law provides the order of the rule of law for Muslims to carry out a lawful marriage recognized by the state and religion.

As one of the legal acts, that marriage has legal consequences. The existence of legal consequences is very important to do with the legitimacy of legal action. In Article 2 of the Marriage Law it is mentioned that:

1. A marriage is lawful, if done according to the law of each of his or her religion and belief.
2. Each marriage shall be recorded in accordance with applicable laws and regulations.

Law is a means or tool to change social conditions in society. The law provides a beacon for the creation of an orderly, safe and peaceful society. Associated with marriage, the law can also regulate the form of marriage, because marriage is an object of study in jurisprudence. The law of marriage itself contains the rules of law on the rules for carrying out marriage. With the law, marriage provides a positive direction for the creation of a society that obeys the norms of law, religious norms so as to create an orderly, safe and peaceful man.

In the compilation of Islamic law, article 2 Marriage according to Islamic law is marriage, which is a very strong contract or *mittsaqan ghalidzan* to obey God's command and perform it is worship. This contract is based on Allah's command and is a part of worship for Muslims. Worship in the sense of getting reward by running marriage in accordance with Islamic law. As for whether or not the marriage is valid in article 4, marriage is lawful, if done according to Islamic law in

⁸Wirjono Prodjodikoro, *Marriage Law in Indonesia*, Sumur, Bandung, 1981, p 7-8.

⁹R. Subekti, *Principles of Civil Law*, Intermasa, Jakarta, 1985, p 23.

accordance with article 2 paragraph (1) of Law number 1 Year 1974 about Marriage.

Based on the Islamic Shari'a and the guidance of proper marriage, marriage law can be classified into five categories: obligatory, sunnah, forbidden, makruh and mubah. The law of marriage is categorized based on the circumstances and ability of a person to marry. The laws can be spelled out as below:

1. Obligatory is compulsory must be done by those who meet the mandatory requirements, which means, marriage can be compulsory if a person has the ability to build a home or marry and he can not restrain himself from the things that can lead him to the act of adultery. The person is obliged to conduct marriage because it is feared that if not married can commit an act of fornication that is prohibited in Islam.
2. *Sunnah* meaning, marriage law if someone has the ability to marry or was ready to build a household but can restrain himself from something that can plunge in adultery. Someone's law is *sunnah* to marry if not feared to commit an act of adultery if not married. Nevertheless, Islam always encourages its people to marry if it already has the ability and conduct marriage as one form of worship that has been advocated by religion.
3. Forbidden is strictly prohibited, in the sense that marriage can be forbidden (haram by Islam) if it is exercised by a person who does not have the ability or responsibility to start a household life. In addition, marriage with the intent to harm someone is unlawful in Islam. There are several types of marriages can be forbidden in Islam is a marriage with a *mahram* or a woman who is unlawful married or inbreeding marriage, or marriage of different religions between Muslim women with non-Muslim men or a Muslim man with non-Muslim women.
4. *Makruh* is prohibited but there is no consequence when doing so, in the sense of a marriage law if implemented by people who have enough ability to establish a household and can refrain from adultery. Marriage law be *makruh* because someone has a desire to marry but have no desire to fulfill the husband's obligation to wife and vice versa.
5. *Mubah* is when done is not rewarded and no sin, in the sense of marriage law may be implemented if someone has the ability to marry but can slip in the act of adultery if not do it. Marriage is *mubah* if married just to fulfill lust alone.

Marriage in the compilation of Islamic law is a legal object that must be understood. In the world of Islamic education, marriage on the basis of compilation of Islamic law becomes an understanding for academics to become educational materials for students in understanding marriage. Education among young people related to marriage provides a form of religious education with reference to Islamic laws that provide the basis for marriage, so knowledge about marriage law can be understood by the nation's generation, especially academics in adding science.

The Law of Inheritance

In article 171 letter a compilation of Islamic law states that inheritance is a law that regulates the transfer of ownership rights of the heirs of the heirs determines who is ready-who is entitled to be the heir and how much of each part. According to Amir Syarifuddin, the legal principles of Islamic heritage are five kinds, namely (1) the principle of *ijbari*, (2) the bilateral principle, (3) individual principles, (4) the principle of balanced justice, and (5) the inheritance principle of death. Understanding of various principles in Islamic inheritance law can be expressed by several definitions.¹⁰

The principle of *ijbari* etymologically means coercion, meaning to do something out of its own will. Since the Islamic heritage law is based on *ijbari*, the execution of the division of inheritance implies coercion of inheritance as the law of the western civil inheritance. Then Amir Sharifuddin understood the principle of *ijbari* containing some aspects. First, in terms of transition of property, meaning by dying his world with the existence of his relic's treasures turned to others in this heirs. According to this principle, heirs are not allowed to plan the transfer of the estate of the heirs;

Secondly, the amount of wealth means the number or part of the heirs of the deceased's estate is determined by the provisions of Allah SWT and the Sunnah of the Prophet, so that heirs and experts are not allowed to determine the number of parts; and Third, the aspect to whom the treasure transfers, meaning that the persons (heirs) who receive the transfers of the estate of the heirs have been

¹⁰ Amir Syarifudin in Komari, *Existence of Hematm Inheritance In Indonesia: Between Adat and Shari'a*, Journal of Asy-Syari'ah Vol. 17 No. 2, August 2015, p 167-168

established by the Qur'an and as-Sunnah of the Prophet, so that heirs and heirs are not allowed to change them.

Individual Principles. The purpose of this principle is the inheritance of the heirs who have been received by the heirs, may be individually owned. Thus the parts of each heir are not bound by other heirs, unlike in customary law there is a part that is not individually possessible, but belongs to a group. Bilateral principle means heirs receive inheritance from lineage or relatives of men and women side, and vice versa transition of heritage property from the lineage of heirs of men and women.

The principle of fairness is balanced on the part of men and women receive inheritance in a meaningful way from the male lineage of the female party receives the inheritance in accordance with the balance of responsibilities in the domestic life. Between men and women both have the right to receive the inheritance from the heirs, but the responsibility between men and women is different, the man (public family) as the head of the household is responsible for the livelihood of his family, while the women as housewives (domestic family), which governs the household. Thus it is only natural that the Qur'an determines that men have two parts, while women are one part.

The principle of inheritance is death the Islamic heritage law recognizes only one inheritance due to death, as in the law of the western civil inheritance (*Burgerlijk wetboek*), with the term "ab intestate", but in legacy *Burgerlijk wetboek* law, in addition to ab intestato also because of a "testament" called "testament" Including as part of the law of inheritance. Another case with Islamic law will a legal institution itself, not as part of the inheritance law.¹¹

The compilation of Islamic law related to inheritance law provides a clear legal basis for Muslims especially in Indonesia as the legal basis for determining the rights of the inheritors. This can not be underestimated because inheritance is part of the object of law which certainly cause legal consequences for the community. Avoiding inheritance disputes on the basis of compilation of Islamic law provides a way of resolving in the event of a future problem. Islamic law in the context of religious life provides the foundation for the creation of justice funds can distribute benefits for Muslims in solving

¹¹*Ibid*

the problem. Certainly not contrary to positive law because the positive law gives authority to Islamic law to adjust the circumstances related to the issue of Muslims in solving the problem of inheritance.

While the heirs have several reasons as the condition of the beneficiary. In the *Al-Syir'ah Scientific Journal*, according to the Naskur's conclusion, the heirs in the compilation of Islamic law (KHI), can inherit if they have cause and fulfill the conditions. The causes are a) Has a relationship of viz. Or blood relationship; b) Having a marriage relationship. The conditions are a) the heirs of his life when heirs die; b) Moslems; c) Has no inheritance obstacles. The group of heirs in the compilation of Islamic law (KHI) as stated in Article 174 paragraph (1) a is equal to the group of heirs that exist in the books and books of inheritance fiqh.¹²

Associated with inheritance, the compilation of Islamic law provides education on the recipients of inheritance for the people, especially Muslims. In addition to being a form of education in the field of knowledge, compilation of Islamic law provides a legal basis for religious people in the division of inheritance, so that inheritance in Islamic law becomes a guide for Muslims in solving problems related to inheritance. This education is very important for the nation's generation as a form of knowledge in Islamic education.

Wakaf Law

In compilation of Islamic law article 215 letter a, wakaf (property donated for religious) is a legal act of a person or a group of persons or legal entities that separate some of their property and institutionalize it forever for the sake of worship or other public interest in accordance with the teachings of Islam. Wakaf law provides the legal basis for the implementation of wakaf (property donated for religious) acts committed by a person in providing wakaf (property donated for religious) accordance with the law and religious teachings. Especially for Muslims, the compilation of Islamic law provides a special basis for the implementation of wakaf (property donated for religious).

Article 1 (1) General Provisions of Law Number 41 Year 2004 concerning wakaf, the definition of wakaf (property donated for religious) is a wakif legal act to separate and / or hand over some of

¹²Naskur, *Heirs In The Compilation Of Islamic Law, Al-Syari'ah Journal of Sciences*, Vol. 6 No. 2 Year 2008, p 15.

his or her possessions to be exploited forever or for a certain period in accordance with his / her interests for the purposes of worship and / or general welfare according to sharia. While the meaning of wakaf (property donated for religious) is mentioned in Article 1 paragraph (1) of Government Regulation Number 28 Year 1977, namely the legal act of a person or legal entity separating part of his property in the form of land of property and instituting it forever for the sake of worship or other public purposes in accordance with teachings of Islam.

There is a difference between Government Regulation Number 28 of 1977 and Law Number 41 of 2004 regarding the period of wakaf (property donated for religious). According to Government Regulation Number 28/1977, wakaf (property donated for religious) does not have a certain period of time but for ever, whereas according to Law Number 41 of 2004 on Wakaf, wakaf (property donated for religious) can be forever or for a certain period.¹³

Wakaf (property donated for religious) is one of worship by way of setting aside some of the property that we have to make public property that will be utilized for the benefit of others or the crowd. He is the recommended security institution of Allah (SWT) to be used as a means of channeling the treasure that granted by him to humans. In the perspective of wakaf (property donated for religious) economy plays a role as a keeper of balance in the life of the community because it can cover vital needs, such as mosques, mushalls, polyclinics, orphan houses, madrassas, schools and others as a general requirement of society. Indonesia as a Muslim-majority society would be very reasonable if they were accommodated with a wakaf (property donated for religious) legal instrument in order to increase the intensity of their social worship ukhrawi regularly to realize it all, the government has published Regulation of Government Number 28 / 1977 and the last compilation of Islamic law.¹⁴

The word wakaf (property donated for religious) the basic meaning is to hold or prevent. In Arabic, it literally means confinement or detention. In the terminology of Islamic law, the word is defined as an act of detention from the use and delivery of assets in

¹³Urip Santoso, *Legal Custody of Wakaf (property donated for religious) land rights*, Journal Perspective, Volume XIX No. 2 May Edition 2014, p 74.

¹⁴Ridwan Jamal, *Law of Compilation of Islamic Law Compilation in Highlight*, Al-Syir'ah Scientific Journal, Vo.6 No. 1 Year 2008, p 1

which a person may utilize or use the proceeds for the purposes of charity, as long as the goods are still present. However, many *Hanafites* view the wakaf (property donated for religious) as taking part of Allah's property and donating it to others. In contemporary legal language, wakaf (property donated for religious) means giving, done at the will of the heir, with one intention of fulfilling the call of piety. Wakaf (property donated for religious) is also defined as donated assets for various humanitarian purposes. Once in a lifetime, or the surrender of a fixed asset by a person as a form of manifestation of obedience to religion.¹⁵

Wakaf (property donated for religious)s have strong theological roots. The Qur'an, although it does not mention explicitly the term wakaf (property donated for religious), clearly teaches the urgency of social generosity for good purposes. The Hadith of the Prophet and the practice of companions show that wakaf (property donated for religious) is actually part of the core of Islamic teachings. Wakaf (property donated for religious) itself provides positive lessons for Muslims to always obey the rules in Islam. Islam contributes positively to society in regulating the law of wakaf (property donated for religious). In the compilation of Islamic law itself has set the legal basis related wakaf (property donated for religious).

Analysis

In the compilation of Islamic law has mentioned some legal rules related to marriage law, inheritance law and wakaf law. The rule of law provides the legal basis for the implementation of Islamic civil law in Indonesia. For Muslims themselves, the compilation of Islamic law provides a legal basis for the implementation of civil actions in accordance with Islamic sharia. For academics, compilation of Islamic law is the basis for education in the context of religion that has been adapted to Islamic teachings. Education in the civil case that is in accordance with Islam provides a positive example for Muslims to run the life of the nation and state in accordance with religious life, especially Muslims.

Legal education related to compilation of Islamic law provides a scientific forum for academics in deepening knowledge. The education of Muslims in carrying out the part of worship including

¹⁵According to Mannan in Ibrahim Siregar, *Wakaf Law Reform in Indonesia*, TSAQAFAH Journal, Vol. 8, No. 2, October 2012, p 274

the implementation of marriage, inheritance and wakaf (property donated for religious) is a form of education that provides science for the nation's generation in terms of civil religion in accordance with religion.

Compilation of Islamic law contributes to science to understand the civil processes of Islam as well as the legal basis that has been agreed to become part of the law of Muslims in Indonesia to run a religious life. The Compilation of Islamic Law provides the legal basis for Muslims about marriage. Marriage is organized as a basis for Muslims in marriage. In marriage law, marriage rights, childcare, custody, marital breakup, reconciliation and mourning period.

Whereas in the law of inheritance is regulated about the heirs, magnitude parts, *aul and rad* (*Aul* for the settlement of deficiencies in the division of inheritance, while *Rad* is a method to solve the advantages in the distribution of the estate of the testator), testament and grant. The last part relating to the law of representation is regulated on the functions, elements and conditions of wakaf (property donated for religious). In addition, the procedure for the representation and registration of wakaf (property donated for religious) objects has been regulated in the law of representation. In compilation of Islamic law concerning law of wakaf (property donated for religious), also arranged change, settlement and supervision of wakaf (property donated for religious) objects. In providing legal education related to Islamic law, the compilation of Islamic law provides many civil education as the basis of education in the context of religious life.

Islamic education provides an educational model based on Islamic religion. Islamic education provides educational methods that aim to change attitudes and behavior of learners towards a better in accordance with Islamic objectives. In the compilation of Islamic law, forms of knowledge related to marriage, inheritance and endowments contribute to education in applying the model of Islamic law to the students. Related to marriage, marriage provides a positive education for students, especially those who follow Islam to comply with the rules in the marriage law. In addition to marriage, the division of inheritance in Islam, providing educational assistance about Islam in the context of inheritance. As in the context of wakaf, education to learners contribute to the knowledge of wakaf related rules by providing wakaf legal material in formal education in school.

Conclusion

Legal education in civil context, Islam provides the foundation of the compilation of Islamic law. Since the enactment of compilation of Islamic law, society has a legal basis in accordance with the religious shari'a. The compilation of Islamic law provides a broad insight into marriage law, inheritance law and wakaf law. In the world of education, especially education that in fact its Islam, compilation of Islamic law becomes the basis for education in the context of religious life.

Compilation of Islamic law becomes the civil foundation for Muslims in carrying out related contracts of marriage, inheritance and endowment. Some elements of education in Islam related to civil law action, compilation of Islamic law gives a positive contribution to the implementation of civil action for Muslims. The compilation of Islamic law is expected to provide a basis for education and knowledge for young people, especially academics in deepening Islamic civil law listed in the compilation of Islamic law.

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