



Reconstruction of Islamic Family Law: Analyzing Marital Issues Through Multimedia

[Rekonstruksi Hukum Keluarga Islam: Analisis Isu-Isu Perkawinan Melalui Multimedia]

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ABSTRACT:

The development of social media and technological disruption has occurred increasingly massively, where the media has become the primary means of knowledge transformation. One example is the construction of a discourse on marriage that becomes public consumption through social media. This paper aims to explain the process of reforming Islamic family law through multimedia. This research uses a qualitative research method in which the researcher seeks to describe the media's role in reforming Islamic family law. The approach used in this research is digital ethnography. Reconstructing Islamic family law through multimedia can be a very effective tool to educate the public about Islamic family law, clarify misconceptions, and facilitate open discussions on family-related legal issues within the Muslim community. Educational videos, podcasts, webinars, infographics and educational graphics, e-learning platforms, documentaries, social media, mobile applications and online consultations are some of how multimedia can be used to reconstruct Islamic family law.

Introduction

Social change, which encompasses new issues, becomes a triggering factor for social conflicts, as explained by Ian Robertson, a sociologist from the University

of California Los Angeles, who states that social change is the modification of cultural patterns, social structures, and social behaviour over time (Mufid, 2020).

Islam is a religion that governs all aspects of human life, including economics, politics, social issues, family law, and individual behaviour, and it faces challenges in adapting Islamic law (fiqh) to changing times. Several contemporary issues, such as online marriages and others, should have been addressed in the thinking of past Islamic jurists because these new problems have emerged. Therefore, some modern scholars argue that the door of *ijtihad* remains open and can be used to revise Islamic law to address new issues. They also acknowledge the need to reconstruct Islamic law to adapt it to the conditions of Indonesian society, especially with the rapid advancement of science and technology, so that Muslim communities remain connected to these Islamic values (Muhammad Daud & Azahari, 2019).

Islamic law is an expression of divine revelation that all Muslims must follow. The sources of Islamic law include the Quran, *hadith*, and *ijtihad*. In Indonesia, Islamic law has been present since the time of Islamic kingdoms and has been recognized as part of positive law for Muslim citizens. Currently, regulations regarding Islamic law are embodied in the Compilation of Islamic Law, also known as KHI (Mufid, 2020).

Family development fundamentally aims to create a harmonious or happy family. However, an approach that solely focuses on normative rules is sometimes considered insufficient to address the complex challenges in modern family life (Setiyanto, 2017). According to Khoiruddin Nasution, “the integrative and interconnective approach to the development of Islamic Family Law in Indonesia in creating a harmonious family” is one of the crucial references for formulating the concept of family development in the future (Nasution, 2012).

The Compilation of Islamic Law (KHI) remains a topic of ongoing debate within the Muslim community. It is not the only alternative and sometimes faces sharp protests and criticisms from certain groups of Muslims. This situation will continue unless there is resistance from dissatisfied parties, allowing those who support KHI to feel secure and undisturbed (Hidayati, 2014).

Several legal reforms have been implemented to shift classical legal texts and promote a more modern legal attitude, gender equality, and child protection. The media plays a crucial role in influencing the views of the Muslim community. As a result, Islamic law practices, especially in family law, have experienced more

progressive advancements. However, it should be noted that these developments also open the door to conservative legal thinking that emerges through TV programs, media platforms, preaching, advertisements, dramas, or films. In this context, the media not only sometimes contributes to the effort to modernize legal practices but can instead pose a challenge. Religious authorities often utilize the press with more conservative views. Therefore, the state needs to regulate and monitor media content regarding the legal substance it contains and the promotion of programs broadcast through the media.

With the growth of social media and technological disruption, media accessibility has become more extensive, and the media has become the primary means of knowledge transformation. One example is the construction of discourse about marriage, which becomes public consumption through social media (Handayani, 2022). In this article, we will further discuss how multimedia can be used to reconstruct Islamic family law.

Literature Review

Research on the reconstruction of family law is an endeavour that has been around for a while. Previously, it has been carried out by several researchers, including the study conducted by Labetubun and colleagues (Labetubun et al., 2023) which focuses on the “Reconstruction of the Epistemology of Islamic Family Law.” Furthermore, Al Fitri has also conducted research on the “Reconstruction of Nuzyuz and Its Contribution to the Reform of Family Law in Indonesia” (Al Fitri, 2022). Maimun has investigated the application of Maqasid Asy-shariah in the “Reconstruction of the Meaning of Nafqah in Contemporary Islamic Family Law” (Maimun, 2018), while Zakiul Faudy Muhammad Daud explores the “Reconstruction of Maqashid in the Reform of Islamic Inheritance Law” (Muhammad Daud & Azahari, 2019), Abdul Mufid has analyzed the “Reconstruction of Inheritance Law in Indonesia from the Perspective of Religious Pluralism” (Mufid, 2020), and Chamim Tohari and Danu Aris Setiyanto have approached the development of family law in Indonesia with a psychological approach (Setiyanto, 2017), Additionally, Tohari has also researched the “Reconstruction of Inheritance Law Based on Religious Differences from the Perspective of Ushulal-khamsah” (Tohari, 2017), Lastly, Muhammad Amanuddin and Erman Gani conducted research on the “Reconstruction of Nusyuz Case

Resolution in Islamic Family Law in Indonesia and Malaysia” (Amanuddin & Gani, 2022)

Methods

This research applies a qualitative research method. With this method, researchers aim to describe the media’s role in reforming Islamic family law. The approach used in this study is digital ethnography, which focuses on the mutually influential interactions between values and social practices that occur in both online and offline environments.

Result and Discussion

Reconstruction of Islamic Family Law

The word “reconstruction” originates from the base word “construction,” which refers to the process of building or creating something. In the context explained in the Kamus Besar Bahasa Indonesia (Nasional, 2005) “reconstruction” is the act of returning something to its original condition, as it was initially built. In the definition from Black Law Dictionary by A. Garner (1999), “reconstruction” is the act or process of rebuilding, recreating, or reorganizing something (A.Garner, 1999).

According to the definition provided by B.N. Marbun in the Political Dictionary (Marbun, 1996). “reconstruction” is the return of something to its original place, including the arrangement or redeption of existing materials so that they can be reassembled according to the original condition or the events that initially occurred. In this context, “reconstruction” encompasses the recovery of fundamental values that must be preserved in the process of rebuilding something in accordance with its original condition.

Reconstruction, which means building or restoring something based on its original occurrences, involves primary values that must be upheld throughout the rebuilding process, whether related to events, historical phenomena, or conceptual ideas previously proposed by thinkers. Those involved in reconstruction have a responsibility to consider all aspects in their efforts to rebuild something in accordance with the actual conditions and to avoid excessive levels of subjectivity that can obscure the essence of what they intend to construct.

Law, as a tool of social engineering, is not merely seen as a means for the government to compel the compliance of its citizens. Nowadays, this concept has evolved further, indicating that law is also employed as a instrument for rejuvenating society and bureaucracy. Therefore, a country's legislation encompasses elements such as regulation, control, and oversight carried out by the state over the general population (Rahardjo, 1981)

When associate reconstruction with the concept, ideas, or notions of law, then legal reconstruction can be understood as a process of rebuilding or restructuring ideas, concepts, or notions about the law. Every legal formulation must be interpreted in accordance with its own context. All of this operates within the framework of the national legal system, in this case, the Indonesian legal system. As part of the civil law system, the role and function of legislation as a source of law in Indonesia hold a very high degree of importance. To analyze legislation, it is essential to have a thorough understanding of the hierarchy of legislation.

The legal system encompasses a very broad dimension. Lawrence M. Friedman proposed that the legal system can be divided into three components: legal structure, legal substance, and legal culture. Therefore, legal reconstruction can be considered as a process of rebuilding, recreating, or reorganizing existing legal structure, legal substance, and legal culture to make them more effective and in line with what they should be. The effort of development through legal reconstruction aims to discover the legal will (*recht idee*), the societal will, and the moral will. This encompasses the legal will, whether it is explicitly stated or unrecorded.

The dynamics of Islamic family law in Indonesia have always been associated with the evolving legal culture over time. The primary driving force was the spirit of Islamic dissemination that attempted to apply the theory of inculturation but was later influenced by the spirit of acculturation, which led to the Arabization of Islam. This acculturation phase resulted in stagnation in the renewal of family law, with the Shafi'i school of thought becoming the main guide in the application of family law. The spirit of renewal re-emerged in the 1950s with the concept of Indonesian Fiqh and Bilateral Inheritance. This spirit continued into the reform era with the birth of the Compilation of Islamic Laws for Muslims (CLD-KHI) as an alternative to KHI (Compilation of Islamic Laws), expected to become a new Marriage Law. However, the renewal movement has once again experienced

stagnation due to the strong roots of Islamic family law dynamics based on acculturation in Indonesia.

Family law in contemporary Islamic societies, as explained by M. Daud Ali, is an interesting subject for study. This is because family law contains elements of divine revelation and the Sunnah of the Prophet, which are of utmost importance. Therefore, M. Tahir Azhary argues that anyone who wants to become an expert in Islamic law cannot ignore family law and Islamic inheritance law, which can be considered the core of Islamic law (Labetubun, 2023).

Reconstruction of Islamic Family Law Through Multimedia

The current information technology era has brought about significant advancements in telematics, utilizing and harnessing the internet network through computer media (Suhardo, 2007). Information and communication technology has transformed the behavior of societies and human civilization on a global scale. The internet, in itself, is a vast interconnected network of computers using the global standard known as the Transmission Control Protocol/Internet Protocol Suite (TCP/IP) as a packet switching communication protocol, serving billions of users worldwide.

Prof. Euis Nurlaelawati, M.A., a Professor of Islamic Family Law, discusses in her paper titled “Islamic Family Law and Media: Challenges to Modernization and Legal Ijtihad in Indonesia” the role of media in the context of Islamic family law in Indonesia. Islamic family law in this country encompasses marriage, divorce, inheritance, and legal issues related to these three aspects. The applicable legal sources include Law No. 1/1974 on Marriage (applies nationwide), Presidential Instruction No. 1/1991 on the Compilation of Islamic Law (specifically for Muslims and serves as a reference for Religious Courts), as well as several related regulations, including the amendments to Law No. 16/2019 on Marriage (Nurlaelawati, 2022).

Prof. Euis states that the media has a significant influence on the practice of Islamic family law, such as in the execution of marriage contracts through media, like when prospective spouses are in two different countries and the marriage contract is conducted via telephone. The implementation of marriages like this often becomes a legal debate regarding its validity or not, ultimately leading to cases in Religious Courts. For example, the Decision of the South Jakarta Religious

Court No. 1751/P/1989 recognized the practice of marriage contracts through telephone media and declared their validity (Nurlaelawati, 2022).

Divorce cases also involve the use of media, such as divorce through short messages (SMS), written communication, or even voice communication via telephone. This differs from marriage because in divorce, there is an element of conflict, and often there are factors that hinder the direct execution of divorce in accordance with legal procedures. This raises questions that require analysis from the perspective of Fiqh (Islamic law) and Indonesian legal regulations (Nurlaelawati, 2022).

In the era of modern life, media plays a crucial role in producing legal knowledge. This poses new challenges in the understanding and practice of Islamic family law. Media such as advertisements, television broadcasts (preaching, movies/soap operas, and celebrity news), and the publication of popular books serve as means of disseminating legal knowledge to the public. For instance, in cases of promoting underage marriage and polygamy, many advertisements openly offer these practices under the guise of religion, such as to avoid engaging in premarital sex. This reality poses a challenge to the state and also underscores the lack of government oversight over media usage (Nurlaelawati, 2022).

Reconstructing Islamic family law through multimedia can be a highly effective tool for educating the public about Islamic family law, clarifying any misconceptions that may exist, and facilitating open discussions on legal issues related to families in Muslim society. Here are some ways in which multimedia can be used in the reconstruction of Islamic family law:

1. **Educational Videos:** Creating educational videos about Islamic family law that provide clear and easy-to-understand information. These videos can explain the basic principles of Islamic family law, such as marriage, divorce, inheritance rights, and more. They can include explanations of how these laws are interpreted in the context of modern society.
2. **Podcasts and Webinars:** Hosting podcasts or webinars on Islamic family law that include discussions with legal experts, scholars, and Islamic thinkers. This can serve as a platform to answer the public's questions, discuss contemporary issues, and educate people about the relevance of Islamic family law in daily life.

3. **Infographics and Educational Graphics:** Creating easily understandable infographics that visually summarize key concepts of Islamic family law. These educational graphics can be shared through social media, websites, or other multimedia platforms.
4. **E-Learning Platforms:** Building e-learning platforms that offer courses on Islamic family law. These platforms can include interactive learning modules, quizzes, and other educational resources.
5. **Documentaries:** Producing in-depth documentaries about the experiences of Muslim families living under Islamic family law in their daily lives. This can help illustrate how these laws are applied in practice and how they impact Muslim families.
6. **Social media:** Utilizing social media platforms to disseminate information and provide brief explanations of Islamic family law. Social media campaigns can help spread better understanding of Islamic family law.
7. **Mobile Applications:** Developing mobile applications that provide easy access to information on Islamic family law, including practical guides, inheritance calculations, and more.
8. **Online Consultations:** Offering online Islamic family law consultation services through digital platforms, where individuals can ask their questions and receive answers from legal experts or scholars.

It's important to note that when creating multimedia content, it's crucial to ensure that the information conveyed aligns with the correct and authoritative interpretation of Islamic family law. Additionally, the content should reflect various perspectives within the Muslim community, as there is variation in the understanding and practice of Islamic family law among different communities.

Conclusion

Law reconstruction can be understood as a process of rebuilding or restructuring ideas, concepts, or notions of law. Each legal formula must be interpreted within its context. All of this occurs within the framework of the national legal system, in this case, the Indonesian legal system. Media plays a significant role in producing legal knowledge in the modern era. This poses new challenges in understanding and practising Islamic family law. Reconstructing

Islamic family law through multimedia can be a highly effective tool for educating the public about Islamic family law, clarifying any misconceptions, and facilitating open discussions on legal issues related to families in Muslim society.

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