



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
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**NSCF
2020**

9 DECEMBER 2020



PROGRAM BOOK

THE 2nd NATIONAL SEMINAR ON CONTEMPORARY FIQH

Family Fiqh in Malaysia:
Towards Promoting Insan Sejahtera

**THE 2nd NATIONAL SEMINAR ON
CONTEMPORARY *FIQH* 2020**

**Family *Fiqh* in Malaysia: Towards Promoting
Insan Sejahtera**

WEDNESDAY, 9 DECEMBER 2020

PROGRAM BOOK

ORGANISED BY:

CONTEMPORARY *FIQH* RESEARCH UNIT (CFRU)

IN COLLABORATION WITH:

AHMAD IBRAHIM KULLIYAH OF LAWS (AIKOL)

IIUM INSTITUTE OF ISLAMIC BANKING AND FINANCE (IIIBF)

FOREWORD FROM CHAIRMAN

Bismillahirrahmannirrahim

Assalammualaikum Warrahmatullahi Wabarakatuh



In the name of Allah, the Most Gracious and the Most Merciful. All praises indeed, be to Allah SWT, Lord of all the worlds. Prayers and peace be upon our Prophet Muhammad SAW, and upon on all his household and companions.

Alhamdulillah, it is my pleasure to welcome all of the participants to the Second National Seminar on Contemporary *Fiqh* (NSCF 2020), “Family *Fiqh* in Malaysia: Towards Promoting *Insan Sejahtera*.” This seminar aims to discuss the betterment of family *fiqh* by integrating the Islamic *fiqh* with the local custom and acknowledging the importance of family management from an Islamic perspective to produce the “*Insan Sejahtera*” communities. Thus, I believe that this seminar will be useful for both academic and professional purposes to understand the challenges faced by Muslim family in Malaysia to propose policy recommendations for resolving them.

As a background note, it is to reiterate that diversity of culture and the ways that households and the broader network of family work in various social settings is a fundamental feature of societies, whether ancient or modern. In the case of Muslims, while the universalizing code of establishing the family as enshrined in the Qur`an and the Sunnah and illuminating juristic views serves as a unified blueprint for all Muslims over the globe, the pragmatic recognition of cultural diversity in family structure in each locality is a significant part of Islamic family jurisprudence. Consideration of local factors in juridical works does not only guarantee the universal truth of preserving cultural diversity among people as sanctioned by the Qur`an but is an essential step for defending the Islamic family values in the face of disintegrating forces of secularist views on family and its structural framework.

In Malaysia, both theoretical and applied *fiqh* of the family represents a perfect synthesis between perennial Islamic universal values and local norms. This is clearly seen in the administration of Muslim family affairs, where the assimilation of Malay *Adat* and local customs has enriched family *fiqh* in terms of juristic content and legal enforcement. Thus making the Muslim family system in Malaysia to stand out unique as far as its local-specification is concerned. The weakening of the traditional family system and the emergence of new cultures and changing patterns in terms of family lifestyles, dealing with its contemporary legal and financial problems call for a better understanding of contemporary Muslim family concerns to propose practical policy measures to further enrich the discourse

on family *fiqh in Malaysia*. Hence, this seminar was conceived to be a platform for such a national discourse.

Thus, I would sincerely express my thanks to the respected Dean of the Kulliyah of Islamic Revealed Knowledge and Human Sciences for supporting this program and Yayasan Bukhary for sponsoring our research project on family *fiqh* in Malaysia through a research grant under the Research Management Center of IIUM and to all participants for their full cooperation and contribution to this online seminar

I also would like to express my deepest gratitude and heartfelt thanks to our collaborators, namely Kulliyah Ahmed Ibrahim Laws(AIKOL) and International Institute of Islamic Banking and Finance(IIIBF) for giving this program an interdisciplinary content and not to forget the organizing committees who are working very hard for making this event as a success. I hope that the seminar will be very beneficial, and the next few hours will prove to be enjoyable and fruitful for all of us.

Thank you very much, and may Allah bless all of us accordingly. Ameen and *Wassalam*.

Assoc. Prof. Dr. Mek Wok Mahmud

Chairman,

National Seminar on Contemporary Family Fiqh

FOREWORD FROM DIRECTOR

In the name of Allah, the Most gracious and the Most Merciful



All praises be to Allah, the Most Gracious and the Most Merciful. And the supplication is due to the Prophet (p.b.u.h). I have the pleasure to welcome all of the presenters and the participants to the second National Seminar on Contemporary *Fiqh* (NSCF 2020), "Family *Fiqh* in Malaysia: Towards Promoting *Insan Sejahtera*, conducted online. I believe that this seminar which has been conceptualised with the intention of enriching family *fiqh discourse* in all its multiple dimensions will not only be beneficial for the academics and practitioners but also for the stakeholders and community at large in the country.

Just to give you a glimpse of the underlying academic philosophy of the seminar's main theme, it is to note that the emphasis on local customs encompassing indigenous cultures, customary practices and usages (*`urf/adah*) which governed everyday matters of family, was central in the classical *fiqhi* discourse on Islamic family jurisprudence. In retrospect, classical Islamic law incorporated *`urf*, both extant and emerging, within its corpus through *de facto* juristic and judicial recognition. In consequence, through such a process of assimilation, a great deal of customary juridical rulings became *de jure* part of Islamic family jurisprudence which continues to inform any juristic discourse on family issues until today. The edifying role of such customary laws in maintaining family stability and preserving its Islamic values was largely instrumental in defending Muslim family institution against the erosive impacts of hegemonic ideological and legal intrusion of alien systems into its sphere during colonial and postcolonial eras. Now the question is: Can the history repeat itself in our time, namely the age of globalization and its ideology of postmodernism- "change of meaning", where the existing and emerging *`urf* through their Shariah legitimation once again become the source of Muslim family's moral strengths to withstand the tsunami of disintegrating forces and ideologies alien to the Islamic view of family and its central place in nation building? How do we define local custom in an era of change of family forms, changing conceptions of family and familial relationships, secularists notions of marriage, gender, women's rights, children's rights, and excessive monopolistic intrusion of temporal authorities on family sphere on top of international pressures to comply with global views of family norms/values?

Accordingly, it is against this background that this Seminar provides a forum for the scholars of diverse backgrounds and specializations to deliberate on the significance of *de facto* recognition of local factors for developing both theoretical and applied family *fiqh* so as to promote the wholesome sustainability of Muslim family in the contemporary time. And I hope that your deliberation of numerous family issues during this Seminar would be engaging and constructive towards the above goal.

I conclude my remarks by taking this opportunity to express my profound gratitude and sincere thanks to: firstly, the Dean of the Kulliyah of Islamic Revealed Knowledge and Human Sciences for endorsing this Seminar to go ahead. Secondly, the Kulliyah Ahmed Ibrahim Laws, and International Institute of Islamic Banking and Finance, for their kind support as our collaborators. Thirdly, the organizing committee, without whose sincere commitment and dedication, throughout the various stages of the preparation this programme would not have materialised. And lastly, Yayasan Bukhary for sponsoring our research project on family *fiqh* in Malaysia.

Prof.Dr. Sayed Sikandar Shah Haneef

Deputy Director

National Seminar on Contemporary Family Fiqh

FOREWORD FROM DEPUTY DIRECTOR

Bismillahirrahmannirrahim

Assalamualaikum Warrahmatullahi Wabarakatuh Alhamdulillah



The deeper contextual definition of “Insan Sejahtera” makes the term unique and significant. From a literal point of view, “sejahtera” might be translated into “wellbeing.” Analysing a broader definition of the word, it can be defined as a balanced and prosperous way of living that involves various aspects of life. To be “sejahtera,” is not only to take care for oneself – in contrast, one must care for others as well. Thus, this seminar would like to acknowledge the importance of family management from an Islamic *fiqh* point of view to achieve the “Insan Sejahtera” goals.

To be an “Insan Sejahtera,” a person must realize his/her role in a family hierarchy. From an Islamic perspective, a human being is destined to play a significant role in this world. By reflecting to the history of first man’s creation, it has been learned that Adam A.S was created to serve a purpose as a Khalifah. So does the humans that come after him. Allah mentioned in the Qur’an, “And [mention, O Muhammad], when your Lord said to the angels, “Indeed, I will make upon the earth a successive authority (Khalifah)” (Al Baqarah, verse 30). A Khalifah is assigned to keep peace and harmony in this world. For this seminar’s context, we would like to emphasize on the role of a Khalifah in family *fiqh* issues since every family member must realize and fulfill their roles.

Malaysia has witnessed various family issues due to diverse causes and factors such as cultures and religions. The family institution is a pillar to produce “Insan Sejahtera” because home is where everything is started. Children learn for the first time from their parents. Their upbringing is influenced through the way a household is operated by the leader of the family. The role of the family institution is crucial to enhance the development of an insan. To achieve the “sejahtera” goal, it is very crucial to first provide a pleasant and peaceful place to live.

This seminar aims to discuss the betterment of family *fiqh* by integrating the Islamic *fiqh* with the local custom. It is vital to develop a hybrid solution since building a family these days could be extremely challenging in the age of technological advancement. By focusing on “Insan Sejahtera” vision and mission, we believe the integration of local *fiqh* in strengthening family institution is the right solution to creating a harmonious family institution. Furthermore, we need to elaborate on the functional roles of each Muslims in administering their family institution.

By pushing the Khalifah agenda into the picture, we pray and hope that our target to inculcate the notion of “Insan Sejahtera” into the minds of every members in the family.

It is by becoming an “Insan Sejahtera,” that all individuals not only provide a better place for everyone, but they also will make their ways to absolute goal as Muslims. Every Muslim must work hard to maintain the world in the best possible way. Allah has imposed the responsibility on human beings to take care of each other. It is a privileged amanah from Allah to humanity. Thus, we must be vigilant to keep this world in the most prosperous and harmonious way, aligned with the “sejahtera” concept.

I wind up my message by expressing my gratitude to the Dean of the Kulliyah of Islamic Revealed Knowledge and Human Sciences for his endless support, Kulliyah Ahmed Ibrahim Law and International Institute of Islamic Banking and Finance for their mutual collaboration for ensuring that this event is happening. I would also like to thank the committees for their hard work and determination in managing this event to its success. Lastly, we are honored to have received funding from Yayasan Bukhary through a research grant under the Research Management Center of IIUM to ensure that such an intellectual discourse on family *fiqh* becomes a reality.

Thank You.

Wassalamualaikum wr wb.

Asst. Prof. Dr Raudlotul Firdaus Fatah Yasin

Deputy Director

National Seminar on Contemporary Family Fiqh

COLLABORATORS



**AHMAD IBRAHIM KULLIYAH OF LAWS
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PROGRAMME AGENDA

NATIONAL SEMINAR IN CONTEMPORARY *FIQH* (NSCF) 2020
Wednesday, 9 December 2020 (Malaysia time GMT+8)

Time	Session	Venue
8.00am-8.30 am	Arrival of Guest	
8.30am-8.40 am	Opening remarks by MC MC: Asst. Prof. Dr. Raudlotul Firdaus Fatah Yasin	
8.40am-8.50 am	Qur'anic Recitation	
8.50am-9.00am	Welcoming Remarks Assoc. Prof. Dr. Mek Wok Mahmud, Chairman of NSCF 2020	
9.00am-9.15am	Officiating Speech Professor Emeritus Tan Sri Dato' Dzulkifli Abdul Razak IIUM Rector	
9.15am-10.15am	Keynote Address: Professor Emeritus Dato' Dr Mahmood Zuhdi Hj Abd. Majid Chairman, Majlis Dakwah Negara (MDN)	
10.30am-12.45pm	Paper Presentation Parallel Session 1 (Online) Group 1: Arabic Presentation Group 2: English Presentation Group 3: English Presentation Group 4: Malay Presentation Group 5: Malay Presentation	
1.00pm - 2.00 pm	Lunch and Zuhr Prayer	
2.00pm- 5.00pm	Paper Presentation Parallel Session 2 (Online) Group 1: Arabic Presentation Group 2: English Presentation Group 3: English Presentation Group 4: English & Malay Presentation Group 5: English & Malay Presentation	
5.00pm	Closing remarks Assoc. Prof. Dr. Miszairi Sitoris, MC: Asst. Prof. Dr Mohd Abbas Abdul Razak	

PARALLEL SESSION SCHEDULE

THE 2ND NATIONAL SEMINAR IN CONTEMPORARY FIQH (NSCF 2020)

TENTATIVE PARALLEL SESSION

		Br. Al Ghoul Ghaza	Br. Muhammad Tabib	Sr. Aulia Arifatu D	Br. Ahmad Akram	Sr. Zahra Nabila
Session 1	Time	G1 Arabic paper Chairperson: Assoc. Prof. Dr. Abdul Majid	G2 English paper Chairperson: Assoc. Prof. Dr. Salina Kassim	G3: English paper Chairperson: Assoc. Prof. Dr. Norlia Ibrahim	G4 Malay Paper Chairperson: Asst. Prof. Dr. Roudlotul Firdaus	G5 Malay Paper Chairperson: Assoc. Prof. Dr. Abdul Bari bin Awang
TIME 10:30- 12:45	10:30- 10:50	1 أثر العدول عن الخطبة في القانون الماليزي والشريعة الإسلامية	1- Achieving Financial Inclusion: A Comparative Discourse between Islamic and Conventional Finances approach	1- Harta Sepencarian in Business Interest: An Analysis of Malaysian Courts Approaches	1 Isu Nafkah untuk Ibu Tunggal dan Anak Yatim Menurut Syarak	1 Nikah Khitbah: Alternatif Penyelesaian Kes Anak Tak Sah Taraf
	10:55- 11:15	2 اقتصاديات الأسرة دراسة تحليلية وفق مقاصد الشريعة الإسلامية	2- Is Malaysia in the Middle-Income Trap? Symptoms, Challenges and Remedies	2- Overview of The Practice of Hibah Amanah by the Islamic Banking and Financial Institution in Malaysia and Its Compliance With the Existing Legal System	2 Teori Masalih Mursalah Berdasarkan Pandangan Imam as-Syatibiy dan al-Ghazzali Terhadap Pengabaian Hak-Hak Wanita dalam Isu Lafaz Cerai Taklik Lisan	2 Konsep Pusat Asuhan Patuh Syariah dan Peranannya Dalam Menjaga Kemaslahatan Kanak-Kanak
	11:20- 11:40	3 دور الفقه المقارن في تقنين الفقه الإسلامي، ونماذج التطبيقية في قانون الوفاق والأسرة والميراث	3- The Intention of Muslim Young Adults to Participate in Family Takaful Scheme	3- The role of Wasi in the administration of minor's property under provisions of Islamic law inn Malaysia	3 Antara Kewajipan Dan Keinginan Nafsu Berpoligami Dalam Membentuk Keluarga Bahagia	3 Zakat Menyantuni Kanak-Kanak Gelandangan: Satu Sorotan
	11:45- 12:05	4 تقسيم أموال الوالدين قبل وفاتهما بين الأولاد في ضوء مقاصد الشريعة	4- Family financial management: a conceptual framework based on Maqasid al-Shariah for its enhancement	4- The Execution of Muslim's Will (Wassiyah) in Malaysia: A Way to Evade Islamic Inheritance (Faraid)?	4 Kahwin Lari Tanpa Izin Wali Bagi Anak Dara Yang Masih Mempunyai Wali Nasab: Satu Analisis Ke Atas Fatwa Negeri Perlis	4 Aplikasi Fiqh al-Mizan Dalam Sunnah Kekeluargaan

2nd NATIONAL SEMINAR ON CONTEMPORARY FIQH 2020

	12:10-12:30	5 حقيقة الوصية الواجبة في ولاية سلانجور ماليزيا: دراسة تحليلية قانونية	5- A Conceptual Study on Investment-Linked Takaful Product: Protecting Life and Wealth for Family Institution	5- The Significant of Financial Literacy for Family Financial Management: A Critical Study from Maqasid Perspective	5 Nilai Dan Kepentingan Adat Perkahwinan Melayu Dalam Melahirkan Institusi Keluarga Yang Sejahtera	5 Autisme Sebagai Mitigasi Dalam Sistem Kehakiman
	12:35-12:45	6 زوج المسيار بين المصالح والمفاسد في الواقع المعاصر: دراسة تقويمية لدولة ماليزية أنموذجا				

2nd NATIONAL SEMINAR ON CONTEMPORARY FIQH 2020

Session 2 TIME	Time	G1 Arabic paper Chairperson: Assoc. Prof. Dr. Bouhedda Ghalia	G2 English paper Chairperson: Asst. Prof. Dr. Nur Farhah Mahadi	G3: English paper Chairperson: Prof. Dr. Nora Abdul Hak	G4 English & Malay Paper Chairperson: Assoc. Prof. Dr. Saupi Man	G5 English & Malay Paper Chairperson: Prof. Dr. Najibah Mohd Zin
02:00-4.55	02:00-2.20	6 تمكين المرأة في منظومة الأسرة الماليزية والمواثيق الدولية: دراسة تحليلية في المنظور الإسلامي	6- The Role of Virtual Marriage in Enhancing Economic Empowerment of Individuals as Aligned with Maqashid Al-Shari'Ah	6- Reconciliation Process of Muslim Marriage under the Islamic Family Law of Malaysia	6 Hukuman Ke atas Pesalah Muda di dalam kes-kes Jenayah Syariah di Malaysia: Satu Kajian Kes di Negeri Selangor	6 Hak-Hak Seorang Isteri Dalam Menuntut Harta Sepencarian Sebelum Pembahagian Harta Kepada Ahli Waris Dalam Konteks Malaysia
	2:25-2:45	7 تسيير صندوق الزكاة الجزائري ومجالاته الاجتماعية (دراسة فقهية تطبيقية)	7- Work-Family Balance from Policy and Religion Perspectives in Malaysia	7- Safeguarding the Best Interest of the Child in Adoption Process in Malaysia: Whether Kafala is An Alternative Option?	7 Modul Memahami Bacaan Dalam Ibadah Solat Ke Arah Membentuk Keluarga Bahagia (Mawaddah)	7 PENJANAAN EKONOMI UMMAH MENURUT PARAMETER AL-QUR'AN
	2.50- 3.10	8 الوساطة القضائية في القضايا الأسرية: تحديات التطبيق، وآفاق التطوير	8- Legislative Significance of Custom in Developing Local Fiqh of Family: An Analysis of its Conceptual Framework	8- Resolution of Child Custody Dispute: Legislative Foundation Application of Sulh in the Syariah Court of Malaysia and Contemporary	8 Istinbat Ulama Fiqh di Indonesia dalam Membentuk Insan Sejahtera "Kajian Fatwa Pembiayaan Syariah Ultra Mikro"	8- Family Islamic Education and Social Media: Challenges and Opportunities
	3:15-3:25	9 ظاهرة زواج ملايوية بصيني في ماليزيا: مشكلاتها وحلولها في إطار مقاصد الشريعة	9- Juridical Impact of `Urf on Family Law: An Applied Fiqhi Framework for Local Fiqh	9- The Role of Custom in Managing Child Custody: A Juridico-Psychological Analysis in Local Context	9 Kepentingan Hibah dalam Membantu Kesejahteraan Institusi Kekeluargaan	9 Talaq through Electronic Medium under Islamic and Malaysian Law: The Impact on 'Iddah and Ruju'
	3:30-3:50	10 الولاية في الزواج: مقاصدها في الشريعة وتحدياتها معاصرة	10- Local Family Fiqh in Malaysia : An Analysis of `Urfi Methodological Framework	10- The Role of Private Sector in Providing Foster Care Service for Children without Parental Care in Malaysia	10 Maqāsid Al-'Adl (Keadilan) Dalam Isu Tuntutan Harta Sepencarian Di Malaysia	10- Reform of Unilateral Divorce in The Malaysian Syariah Family Law

2nd NATIONAL SEMINAR ON CONTEMPORARY FIQH 2020

	3:55-4:15	11 تعدد الزوجات في قانون الأسرة الإندونيسي؛ دراسة تحليلية مقاصدية	11- The Wisdom of Polygamy in Managing Woman's Social Problems in Singapore	11- The Concept of Rahmatan Lil Alamin for HIV Screening Test in Malaysia (11- Vaccination Practices and Preferences among Muslim Parents of Young Children: Trends and Misunderstandings (G4)	11- Offences relating to Matrimony: The Application in the Syariah Courts of Malaysia
	4:20-4:30	12 ظاهرة الطالق المبكر في ماليزيا: دراسة فقهية				
	4.35- 4.55	13 اشتراط انقضاء عدة الزانية لجواز نكاحها في الفقه الإسلامي بالنظر المقاصدي: نحو الأسرة السعيدة				
5.00	5.00	CLOSING CEREMONY				

LIST OF CONFERENCE PAPERS

Arabic Papers

No	Language	Author	Title
1	Arabic	Assoc. Prof. Dr. Muhammad Laeba Asst. Prof. Dr. Mohamed Ibrahim Negasi, Assoc. Prof. Dr. Roslina Che Soh @ Yusoff	أثر العدول عن الخطبة في القانون الماليزي والشريعة الإسلامية
2	Arabic	Asst. Prof. Dr. Abdulmajid Obaid Hasan Saleh, Asst. Prof. Dr. Habeebullah Zakariyah	اقتصاديات الأسرة دراسة تحليلية وفق مقاصد الشريعة الإسلامية
3	Arabic	Missoun Kouadri, Mobaraka Oumari, Asist. Prof. Dr. Asma Akli Soualhi, Assoc. Prof. Dr. Abdul Bari Awang, Prof. Dr. Mohamed El Tahir Abu El mesawi	دور الفقه المقارن في تقنين الفقه الإسلامي، ونماذجه التطبيقية في قانون الوقف والأسرة والميراث
4	Arabic	Adam Pulle Mohamed Abbas, Assoc. Prof. Dr. Ghalia Bouhedda	تقسيم أموال الوالدين قبل وفاتهما بين الأولاد في ضوء مقاصد الشريعة
5	Arabic	Asst. Prof. Dr. Fatimah Binti Karim, Assoc. Prof. Dr. Abdul Bari Bin Awang	حقيقة الوصية الواجبة في ولاية سلانجور ماليزيا: دراسة تحليلية قانونية
6	Arabic	Lina Muhamad Abduh and Asst. Prof. Dr. Anwar Hasan Abdullah Usman	تمكين المرأة في منظومة الأسرة الماليزية والمواثيق الدولية: دراسة تحليلية في المنظور الإسلامي
7	Arabic	Missoun kouadri, Prof. Dr. Arif Ali Arif, Assoc. Prof. Dr. Azman Bin Mohd Noor, Dr. Hassan Ben Ibrahim Hendaoui, Assoc. Prof. Dr. Radwan Jamal Yousef Elatrash	تسيير صندوق الزكاة الجزائري ومجالاته الاجتماعية (دراسة فقهية تطبيقية)
8	Arabic	Asst. Prof. Dr. Hassan Suleiman	ظاهرة الطالق المبكر في ماليزيا: دراسة فقهية
9	Arabic	Bello Sani Yahuza	زواج المسيار بين المصالح والمفاسد في الواقع المعاصر: دراسة تقويمية لدولة ماليزيا أنموذجا

10	Arabic	Asst. Prof. Dr. Halimah Boukerroucha	الوساطة القضائية في القضايا الأسرية: تحديات التطبيق، وآفاق التطوير
11	Arabic	Dr Awang Mamat, Asst, Prof. Dr. Habeebullah Hassan Bature, Dr. Habeebullah Zakariyah.	ظاهرة زواج ملايوية بصيني في ماليزيا: مشكلاتها وحلولها في إطار مقاصد الشريعة
12		Assoc. Prof. Dr. Bouhedda Ghalia, Assoc. Prof. Dr. Miszairi Sitoris, Sana' Bin Sayih	الولاية في الزواج: مقاصدها في الشريعة وتحدياتها معاصرة
13	Arabic	Muhammad Taufiq, Masyithah Mardhatillah	تعدد الزوجات في قانون الأسرة الإندونيسي؛ دراسة تحليلية مقاصدية
14	Arabic	Mohamad Firdaus Bin Mohamad Sabari , Assoc. Prof. Dr. Mek Wok Mahmud	اشتراط انقضاء عدة الزانية لجواز نكاحها في الفقه الإسلامي بالنظر المقاصدي: نحو الأسرة السعيدة

Malay Papers

1	Malay	Dr. Mohammad Dhiya'ul Hafidh bin Fatah Yasin, Asst. Prof. Dr. Raudlotul Firdaus binti Fatah Yasin	Isu Nafkah untuk Ibu Tunggal dan Anak Yatim Menurut Syarak
2	Malay	Mohd Izzuddin Mohd Noor, Fatimah Nadirah Mohd Noor, Farrah Yazmin Aziz, Badriah Nordin	Konsep Pusat Asuhan Patuh Syariah dan Peranannya Dalam Menjaga Kemaslahatan Kanak-Kanak
3	Malay	Liana binti Ab Latif	Teori Masalih Mursalah Berdasarkan Pandangan Imam as-Syatibiy dan al-Ghazzali Terhadap Pengabaian Hak-Hak Wanita dalam Isu Lafaz Cerai Taklik Lisan
4	Malay	Muhamad Nadratuzzaman Hosen, Harisah	Istinbat Ulama <i>Fiqh</i> di Indonesia dalam Membentuk Insan Sejahtera "Kajian Fatwa Pembiayaan Syariah Ultra Mikro"
5	Malay	Muhammad Muthi`ul Haqq bin Fatah Yasin, Dr. Mohammad Dhiya'ul Hafidh bin Fatah Yasin	Aplikasi <i>Fiqh</i> al-Mizan Dalam Sunnah Kekeluargaan
6	Malay	Wan Zahidatul Nuha Wan Mohamad Rosdi, Assoc. Prof. Dr. Mekwok Mahmud	Kepentingan Hibah dalam Membantu Kesejahteraan Institusi Kekeluargaan
7	Malay	Nabila Farhana Yahya, Assoc. Prof. Dr. Mek Wok Mahmud	Antara Kewajipan Dan Keinginan Nafsu Berpoligami Dalam Membentuk Keluarga Bahagia
8	Malay	Ahmad Akram Mahmad Robbi, Assoc. Prof. Dr. Mek Wok Mahmud	Maqāsid Al-'Adl (Keadilan) Dalam Isu Tuntutan Harta Sepencarian Di Malaysia

9	Malay	Atiqah Hazman , Dr. Bahiyah Ahmad Dr. Norhidayah Pauzi	Kahwin Lari Tanpa Izin Wali Bagi Anak Dara Yang Masih Mempunyai Wali Nasab: Satu Analisis Ke Atas Fatwa Negeri Perlis
10	Malay	Fatin Naasihah bt Jamal Abd Nasir, Assoc. Prof. Dr. Mek Wok Mahmud	Nilai Dan Kepentingan Adat Perkahwinan Melayu Dalam Melahirkan Institusi Keluarga Yang Sejahtera
11	Malay	Mohd Amirul Hakim Bin Zainol, Dr. Nurul Ilyana Bt Muhd Adnan	Zakat Menyantuni Kanak-Kanak Gelandangan: Satu Sorotan
12	Malay	Assoc. Prof. Dr. Abdul Bari Awang, Siti Nurhidayah Md Tahir, Assoc. Prof. Dr. Miszairi Satiris	Hak-Hak Seorang Isteri Dalam Menuntut Harta Sepencarian Sebelum Pembahagian Harta Kepada Ahli Waris Dalam Konteks Malaysia
13	Malay	Assoc. Prof. Dr. Zuliza Mohd Kusrin Assoc. Prof. Dr. Mohd Al-Adib Samuri	Autisme Sebagai Mitigasi Dalam Sistem Kehakiman
14	Malay	Assoc. Prof. Dr. Ramizah wan Muhammad	Hukuman Ke atas Pesalah Muda di dalam kes-kes Jenayah Syariah di Malaysia: Satu Kajian Kes di Negeri Selangor
15	Malay	Assoc. Prof. Dr. Abdul Bari bin Awang, Muhamad Mu'izz Bin Abdullah, Muhammad Saiful Adlie Bin Misnan	Nikah Khitbah: Alternatif Penyelesaian Kes Anak Tak Sah Taraf
16	Malay	Assoc. Prof. Dr. Saupi Man	Modul Memahami Bacaan Dalam Ibadah Solat Ke Arah Membentuk Keluarga Bahagia (Mawaddah)
17	Malay	Assoc. Prof. Dr. Azman Bin Mohd. Noor, Asst. Prof. Dr. Nor Razinah Binti Mohd. Zain	PENJANAAN EKONOMI UMMAH MENURUT PARAMETER AL-QUR'AN

English Papers

1	English	Assoc. Prof. Dr. Azizah Mohd	Talaq through Electronic Medium under Islamic and Malaysian Law: The Impact on 'Iddah and Ruju'
2	English	Nadhilah A.Kadir, Assoc. Prof. Dr. Azizah Mohd	The Role Of Private Sector In Providing Foster Care Service For Children Without Parental Care In Malaysia
3	English	Assoc. Prof. Dr. Nasimah Bt Hussin	Offences relating to Matrimony: The Application in the Syariah Courts of Malaysia
4	English	Nur insyirah ismail, Asst. Prof. Dr. Nurul Jannah Zainan Nazri, Asst. Prof. Dr. Raudlotul Firdaus Fatah Yasin	The Wisdom of Polygamy in Managing Woman's Social Problems in Singapore
5	English	Adi Saifurrahman Assoc. Prof. Dr. Salina Kassim	Achieving Financial Inclusion: A Comparative Discourse between Islamic and Conventional Finances approach

6	English	Omar Luqman Safuani, Prof Dr. Rusni Hassan	The Intention of Muslim Young Adults to Participate in Family Takaful Scheme
7	English	Asst. Prof. Dr. Nur Farhah Mahadi, Asst. Prof. Dr. Saidatolakma Mohd Yunus	The Role of Marriage In Enhancing Economic Empowerment Of Individuals In Line With Maqasid Al-Shari`Ah
8	English	Assoc. Prof. Dr. Noraini Md Hashim, Prof. Dr. Nora Abdul Hak, Assoc. Prof. Dr. Roslina Che Soh@Yusoff, Dr. Muhamad Helmi Md Said, Ahmad Mukhlis Mansor	The Concept of Rahmatan Lil Alamin for HIV Screening Test in Malaysia
9	English	Mohammad Shihan Asst. Prof. Dr. Abdul Hamid Mohamed	Family financial management: a conceptual framework based on Maqasid al-Shariah for its enhancement
10	English	Assoc. Prof. Dr. Sharifah Hayaati Syed Ismail al-Qudsy	Work-Family Balance Policies and elements of religiosity: Evidence from Malaysia.
11	English	Assoc. Prof. Dr. Roslina Che Soh Assoc. Prof. Dr. Azizah Mohd, Prof. Dr. Nora Abdul Hak, Assoc. Prof. Dr. Noraini Mohd Hashim & Dr. Mohd Helmi Mohd Said	Safeguarding the Best Interest Of The Child In Adoption Process In Malaysia: Whether Kafala Is An Alternative Option?
12	English	Asst. Prof. Dr. Shinta Maharani Asst. Prof. Dr. Miftahul Ulum Assoc. Prof. Dr. Agus Purnomo	Family Islamic Education and Social Media: Challenges and Opportunities
13	English	Assoc. Prof. Dr. Nurazzura Mohamad Diah Asst. Prof. Dr. Suhaiza Samsudin Asst. Prof. Dr. Nerawi Sedu	Vaccination Practices and Preferences among Muslim Parents of Young Children: Trends and Challenges
14	English	Prof. Dr. Sayed Sikandar Shah Haneef, Asst. Prof. Dr. Raudlotul Firdaus Binti Fatah Yasin, Rabia Ijaz	Legislative Significance of Custom in Developing Local <i>Fiqh</i> of Family: An Analysis of its Conceptual Framework
15	English	Prof. Dr. Sayed Sikandar Shah Haneef, Asst. Prof. Dr. Mohd Abbas Abdul Razak, Asst. Prof. Dr. Mohammed Farid Ali Al-Fijawi	Juridical Impact of `Urf on Family Law: An Applied <i>Fiqhi</i> Framework for Local <i>Fiqh</i>
16	English	Prof. Dr. Nora Abdul Hak, Prof. Dr. Najibah Mohd Zin and Sarafuddin Abdul Syahid Sowell	Reconciliation Process of Muslim Marriage under the Islamic Family Law of Malaysia
17	English	Assoc. Prof. Dr. Salina Kassim Norizan Satar Asst. Prof. Dr. Habeebullah Zakariyyah	Is Malaysia in the Middle-Income Trap? Symptoms, Challenges and Remedies
18	English	Prof. Dr. Najibah Mohd Zin	Reform of Unilateral Divorce in The Malaysian Syariah Family Law
19	English	Assoc. Prof. Dr. Norliah Ibrahim, Zuhairah Ariff Abd Ghadas , Alhassane Sekou Sacko and	Harta Sepencarian In Business Interest: An Analysis of Malaysian Courts Approaches

20	English	Nor Azdilah Mohd Zaizi, Prof Dr. Rusni Hassan	Overview of The Practice of Hibah Amanah by the Islamic Banking and Financial Institution in Malaysia and Its Compliance with the Existing Legal System.
21	English	Mariam Abdul Aziz Asst. Prof. Dr. Nur Harena Redzuan Asst. Prof. Dr Habeebullah Zakariyah	A Conceptual Study on Investment-Linked Takaful Product: Protecting Life and Wealth for Family Institution
22	English	Prof. Dr. Nora Abdul Hak, Ahmad Mukhlis Mansor, Assoc. Prof. Dr. Roslina Che Soh, Assoc. Prof. Dr. Noraini Md Hashim, Dr. Muhamad Helmi Md. Said	Mediation in Resolving Child Custody Disputes: Legislative Foundation and Contemporary Application of Sulh at the Malaysian Syariah Court
23	English	Prof. Dr. Sayed Sikandar Shah Haneef, Assoc. Prof. Dr. Miszairi Bin Sitoris, Asst. Prof. Dr. Saidatolakma Binti Mohd Yunus	Local Family <i>Fiqh</i> in Malaysia: An Analysis of `Urfi Methodological Framework
24	English	Assoc. Prof. Dr. Akmal Hidayah Halim, Asst. Prof. Dr. Nor Azlina Mohd Noor Asst. Prof. Dr. Wan Noraini Mohd Salim	The Execution of Muslim's Will (Wassiyah) in Malaysia: A Way to Evade Islamic Inheritance (Faraid)?
25	English	Aulia Arifatu Diniyya, Asst. Prof. Dr. Roudlotul Firdaus Fatah Yasin Assoc. Prof. Dr. Mek Wok Mahmud	The Significant of Financial Literacy for Family Financial Management: A Critical Study from Maqasid Perspective
26	English	Asst. Prof. Dr. Mohd Abbas Abdul Razak, Prof. Dr. Sayed Sikandar Shah Haneef, Assoc. Prof. Dr. Mek Wok Mahmud	The Role of Custom in Managing Child Custody: A Juridico-Psychological Analysis in Local Context
27	English	Assoc. Prof. Dr. Badruddin Hj Ibrahim	The role of Wasi in the administration of minor's property under provisions of Islamic law inn Malaysia

MALAY ABSTRACTS

ISU NAFKAH UNTUK IBU TUNGGAL DAN ANAK YATIM MENURUT SYARAK

Mohammad Dhiya'ul Hafidh bin Fatah Yasin¹, Raudlotul Firdaus binti Fatah Yasin²

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Balu sering dibeban tanggungjawab mendidik, menafkah dan memberi kasih-sayang kepada anak-anaknya yang berstatus yatim secara bersendirian. Ini adalah isu agama dan kemanusiaan yang perlu diberi perhatian serius. Justeru kajian ini bertujuan bagi mengenal pasti mekanisme perlindungan ibu tunggal dan anak yatim menurut syariat Islam. Data dikumpul dari sumber pustaka dengan fokus pada hukum-hakam berkaitan *nafaqat* yang dianalisis semula secara holistic; iaitu dengan mengaitkannya dengan bab-bab lain seperti *wilayat al-nikah* dan faraid, selain melihat kepada tafsir ayat-ayat berkenaan dan hadis-hadis lain yang menyentuh perihal anak yatim pada zaman Nabi SAW sama ada dalam bentuk instruktif atau diskriptif. Hasil kajian mendapati ibu tunggal yang mengalami situasi tersebut sepatutnya dikecualikan daripada beban nafkah. Nafkah anak-anaknya hendaklah ditanggung oleh walinya atau penerima harta pusaka ayahnya menurut turutannya. Selain itu, Islam juga menggalakkan masyarakat membantu menjaga golongan ibu tunggal dan anak yatim ini dengan beberapa cara lain.

Kata Kunci: Tanggungjawab nafkah, ibu tunggal, anak yatim, wali nikah, pewaris *asabah*

KONSEP PUSAT ASUHAN PATUH SYARIAH DAN PERANANNYA DALAM MENJAGA KEMASLAHATAN KANAK-KANAK

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Keperluan dan permintaan terhadap pusat asuhan kanak-kanak pada hari ini terutamanya kepada para ibu bapa yang bekerjaya adalah sangat tinggi. Ianya merupakan satu institusi yang sangat membantu dalam memberikan keseimbangan kepada sesebuah keluarga antara memenuhi tuntutan mencari rezeki dengan menjaga kebajikan anak-anak sepanjang proses pembesaran mereka sebelum menjejaki alam persekolahan yang formal. Namun pada hari ini, belum terdapat satu garis panduan yang jelas berkaitan dengan pusat asuhan Patuh Syariah sama ada ianya hanya melibatkan penerapan elemen keagamaan kepada kanak-kanak semata-mata atau lebih luas daripada itu ia sepatutnya melangkaui elemen keagamaan semata-mata mencakupi juga aspek-aspek seperti keselamatan, kestabilan emosi perasaan dan lain-lain lagi. Maka penulisan ini sebagai kajian awal membincangkan akan perkara ini terutamanya dari sudut pengaplikasian konsep Patuh Syariah di pusat asuhan dalam menjamin kemaslahatan kanak-kanak kekal terpelihara. Penulisan ini berbentuk kualitatif dan pengkaji menghimpunkan maklumat daripada kitab-kitab turath dan kotemporari, artikel-artikel penulisan ilmiah yang mempunyai kaitan dengan konsep Patuh Syariah, pusat asuhan dan juga kanak-kanak. Semua maklumat ini akan dianalisis dan dicernakan untuk mendapatkan kefahaman yang sebenar tentang pusat asuhan kanak-kanak dari perspektif Syariah amnya atau lebih khusus lagi dari sudut Patuh Syariah itu sendiri. Kajian sebegini sangat relevan dalam membantu pihak yang berautoriti dan pihak yang terlibat dalam industri ini bagi memastikan perjalanan pusat asuhan kanak-kanak benar-benar mematuhi garis panduan yang ditetapkan oleh hukum syarak. Selain daripada itu, kajian ini menunjukkan bahawa konsep pusat asuhan Patuh Syariah ini mempunyai potensi yang baik untuk dikembangkan dan diperluaskan ke seluruh negara sama ada pada pusat asuhan kanak-kanak milik kerajaan mahupun milik swasta persendirian.

Kata Kunci: Pusat Asuhan, Patuh Syariah, Kemaslahatan, Kanak-Kanak.

TEORI MASALIH MURSALAH BERDASARKAN PANDANGAN IMAM AL-SYATIBIY DAN AL-GHAZZALI TERHADAP PENGABAIAN HAK-HAK WANITA DALAM ISU LAFAZ CERAI TAKLIK LISAN

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Isu lafaz cerai taklik menjadi polemik dalam kalangan masyarakat Islam di Malaysia. Ia berlaku apabila suami mengucapkan syarat tertentu terhadap isteri yang membawa maksud melakukan atau meninggalkan sesuatu perkara. Syarat-syarat tersebut mestilah melibatkan perkara-perkara yang berkemungkinan berlaku. Syarat tersebut akan menjadi sah apabila berlaku pelanggaran mengikut apa yang disyaratkan sama ada berpihak kepada suami atau isteri. Justeru, kajian ini menjelaskan konsep dan perbincangan teori *masalih mursalah* menurut pandangan Imam al-Syatibiy dan al-Ghazzali bertujuan untuk diaplikasi terhadap wanita-wanita teraniaya disebabkan oleh lafaz cerai taklik lisan. Kajian ini juga memberi penjelasan berkaitan konsep lafaz cerai taklik sama ada taklik rasmi atau tidak rasmi seperti yang diamalkan di Malaysia merujuk kepada beberapa data sampel kes daripada sebahagian mahkamah syariah di Malaysia. Kajian ini berbentuk kajian kualitatif. Data-data kajian ini diambil menggunakan metod deskriptif dan analisis kandungan buku-buku usul *fiqh*, manual undang-undang keluarga Islam, tinjauan terhadap kes-kes mahkamah, kajian-kajian lepas antaranya artikel, jurnal serta tesis yang mengupas berkaitan kajian ini. Data-data yang diperolehi tersebut dianalisis menggunakan perisian Atlas.ti versi 8 bagi melihat perkaitan teori dan isu lafaz cerai taklik lisan yang menghasilkan dapatan yang selari dengan objektif kajian. Dapatan kajian menunjukkan hubungan teori *masalih mursalah* bagi kedua-dua Imam tersebut mempunyai perkaitan yang rapat dengan isu lafaz cerai taklik lisan dari aspek kemaslahatan seorang wanita. Kajian ini diharap dapat membantu dan menyumbang idea terhadap pihak-pihak yang berautoriti seperti ahli akademik, para penyelidik, pendidik, pegawai Jabatan Agama Islam Negeri serta pengamal undang-undang dalam memberi kefahaman dan penjelasan berkaitan kesan lafaz cerai taklik lisan terhadap wanita khususnya hak dan status sebagai isteri. Kajian ini diharap dapat menambahbaik dengan lebih efisien terhadap isu lafaz cerai taklik lisan bagi pihak suami dan isteri supaya lebih bersinergi dalam menjaga hubungan perkahwinan yang dibina. Kajian ini juga diharap dapat membantu suami untuk lebih berobligasi dalam menjalankan amanah sebagai seorang suami. Oleh itu, teori *masalih mursalah* dilihat sebagai satu teori yang relevan dalam mengambil langkah ke hadapan terhadap isu lafaz cerai taklik lisan yang memberi kesan buruk terhadap wanita.

Kata Kunci: Teori *masalih mursalah*, Imam al-Syatibiy, Imam al-Ghazzali, Lafaz Cerai Taklik Lisan, Hak Wanita.

**ISTINBAHT ULAMA *FIQH* DALAM KAJIAN MANAJEMEN KEUANGAN KELUARGA
UNTUK MEMBENTUK INSAN SEJAHTERA**

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Kajian ini bertujuan membicarakan istinbat ulama dalam mendukung insan sejahtera dengan konsep manajemen kewangan keluarga yang difokuskan fatwa MUI DSN berkenaan usaha ultra mikro yang sangat berbeza dengan fatwa MUI DSN yang lain. Fatwa ini dikeluarkan berdasarkan kepada keputusan membenarkan urus niaga pembiayaan ultra mikro yang dianggap bertentangan dengan peraturan jual beli dan kaedah umum perjanjian jual beli, tetapi masalahnya adalah dari segi amalan dan kemudahan transaksi dan dibenarkan dengan pertimbangan *'urf*. Disebabkan pertimbangan tersebut adalah kunci utama masalah, kaedah kajian dilakukan dengan menyemak penggunaan usul *fiqh*, qawaid *fiqhiyyah* dan masalah. Fatwa ini ditujukan untuk usaha keluarga dimana tenaga kerja tidak dihitug sebagai biaya, fatwa inidianalisis menggunakan istinbat dan manhaj supaya ia dapat dinilai kesahihannyasecara akademik dalam menentukan keputusan kebolehannya. Kajian ini mendapati bahawa kaedah menggabungkan fatwa ultra-mikro dan kaedah *fiqh* dimasukkan dalam pertimbangan, walaupun sebelum ini telah ditambah dengan nas dari al-Qur'an dan hadith, dan ijmak. Di samping itu, fatwa ini juga ditambah dengan pertimbangan fatwa sebelumnya, surat permohonan dari institusi lain, beserta cadangan dan saranan dari peserta DSN-MUI.

Kata Kunci: Instinbat, Fatwa, Sejahtera, Masalah.

APLIKASI *FIQH AL-MĪZĀN* DALAM MEMAHAMI BEBERAPA HADIS PILIHAN TENTANG ISU KEKELUARGAAN

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Al-Mīzān bermaksud neraca timbangan untuk menyukat sesuatu. Mengetahui sukatan yang sesuai untuk jenis barang yang hendak disukat adalah sangat penting untuk memastikan ketepatan kuantiti dan jumlah. Perkara yang sama turut terpakai dalam memahami hadis. Setiap dalil-dalil yang disebutkan dalam sumber wahyu iaitu al-Quran dan Sunnah perlu disukat dari sudut yang betul untuk mengetahui maksud yang tepat. Kegagalan menimbang dalil dari sudut yang betul menimbulkan salah faham terhadap agama dan memburukkan imej Islam. Melihat kepada kontroversi dalam bab kekeluargaan yang melanda sebahagian agamawan di Malaysia menimbulkan persoalan adakah Islam mengajar umatnya untuk merendahkan hak isteri dan anak-anak? Tulisan ini bertujuan mengaplikasi kaedah *Fiqh al-Mīzān* dalam memahami Sunnah berkaitan kekeluargaan untuk mengetahui maksud dalil yang tepat. Kaedah ini dijangka dapat mengelakkan manipulasi dalil dan melaksanakan Sunnah Rasulullah S.A.W. dalam kerangka kekeluargaan yang lebih tepat. Metode yang digunakan ialah metode kualitatif. Data-data diperolehi berdasarkan analisis dokumen dengan memfokuskan kepada buku-buku Tafsir, Sunnah dan *Fiqh*. Penelitian dilakukan menggunakan kaedah *Fiqh al-Mīzān*. Dapatan kajian mendapati terdapat Sunnah kekeluargaan yang difahami dalam konteks yang dinilai kurang tepat. Dari sudut kesan, kesalahan memahami hadis tersebut boleh mencemarkan imej Islam. Kesimpulannya, memahami teks hadis dengan tepat hanya dapat dilakukan dengan melihat konteks dalil tersebut dan menimbangnyanya dengan neraca yang betul.

Kata kunci: *Fiqh al-Mīzān*, *Fiqh al-Ushrah*, Sunnah, pemahaman hadis.

**KEPENTINGAN HIBAH DALAM MEMBANTU KESEJAHTERAAN INSTITUSI
KEKELUARGAAN IMPORTANT OF HIBAH IN HARMONIZING FAMILY INSTITUTION**

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Produk hibah semakin popular dalam pengurusan harta pusaka di Malaysia. Hibah bertujuan memupuk kasih sayang dan sifat saling membantu sesama manusia sekaligus dapat memberi manfaat kepada kesejahteraan institusi kekeluargaan, kemasyarakatan dan ekonomi sesebuah negara. Artikel ini membincangkan kedudukan hibah menurut perspektif syariah, menganalisis aplikasi dan kepentingan instrumen hibah, termasuk hibah bersyarat dalam membantu kesejahteraan institusi kekeluargaan dan sejauhmana hubungkaitnya dengan maqasid syariah. Kajian ini berbentuk penyelidikan perpustakaan yang mengkaji produk hibah termasuk hibah bersyarat yang digunapakai di Malaysia menurut perspektif syariah, serta menganalisis kepentingannya dari sudut pandang maqasid agar memenuhi kemaslahatan individu, keluarga dan negara. Hasil kajian menunjukkan hibah, termasuk hibah bersyarat berpotensi membantu sistem pengurusan harta pusaka kerana lebih fleksibel di samping memulihkan kesejahteraan institusi kekeluargaan dari sudut perancangan dan pemeliharaan harta.

Kata Kunci: Hibah Bersyarat, Kesejahteraan, Keluarga, Harta Pusaka, Maqasid Syariah

**ANTARA KEWAJIPAN DAN KEINGINAN NAFSU BERPOLIGAMI DALAM
MEMBENTUK KELUARGA BAHAGIA POLYGAMY: BETWEEN OBLIGATION AND
LUST IN FORMING A HAPPY FAMILY**

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Poligami merupakan salah satu topik hangat yang sering menjadi bualan masyarakat sepanjang zaman di setiap penjuru dunia. Isu ini sering menimbulkan kontroversi dan mendapat perhatian. Ianya memiliki seribu satu cerita serta pandangan yang pelbagai yang masih tidak mencapai muafakat bersama. Islam mengharuskan poligami bagi laki-laki yang berhasrat mengamalkannya dan diiringi dengan *dhawabit* yakni aturan yang wajib dipenuhi bagi mencapai *maqasid shari'ah* bagi sesebuah perkahwinan. Namun begitu, sehingga ke hari ini poligami masih tidak dapat diterima masyarakat dengan sebaiknya. Hal ini kerana terdapat kecacatan dalam pengamalannya oleh individu-individu yang terlibat sehingga membawa dampak negatif terutama di zaman mutakhir ini. Artikel ini membincangkan tentang poligami dalam Islam, antara kewajipan dan keinginan nafsu dan peranan individu untuk membentuk keluarga bahagia dengan berpoligami. Kajian ini berbentuk penyelidikan perpustakaan yang akan mengkaji amalan poligami yang berkesan dengan berpandukan anjuran Islam agar menghasilkan tanggapan baik serta membentuk institusi keluarga bahagia dan harmoni. Hasil kajian yang dapat disimpulkan bahawasanya perihal poligami ini seharusnya tidak melibatkan pembawakan emosi, perasaan dan keinginan semata-mata baik dari lelaki mahupun wanita dek kerana ianya sukar dikawal. Namun kita hendaklah berfikir mengenainya dengan tuntutan akal yang waras meskipun seribu kali emosi membantahnya. Justeru itu, pentingnya menyuntik kesedaran bahawa mulianya amalan poligami jika dilaksanakan atas dasar kewajipan dan tanggungjawab dalam diri setiap insan bagi membentuk keluarga bahagia yang diredhai Allah SWT, bukannya demi memenuhi kerakusan nafsu semata-mata dan sekaligus merenung hikmah yang terselindung dibaliknya.

Kata Kunci: Poligami, *Dhawabit*, Kewajipan, Keinginan Nafsu, Keluarga Bahagia

MAQĀSĪD AL-‘ADL (KEADILAN) DALAM ISU TUNTUTAN HARTA SEPENCARIAN DI MALAYSIA

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Harta sepencarian ialah amalan yang diwarisi daripada adat Melayu secara turun temurun. Bahkan, amalan ini telah diangkat sebagai undang-undang yang sah dan berkuat kuasa dalam perundangan Islam di Malaysia. Amalan ini saban hari terus dipraktikkan di Mahkamah Syariah seluruh negara. Pun begitu, dalam pengamalan harta sepencarian di negara ini, timbul satu persoalan mengenai standard penetapan pembahagian hak dalam harta yang dituntut oleh pihak-pihak yang bertelingkah. Persoalan mengenai prinsip keadilan yang diterapkan semasa proses penetapan pembahagian harta sepencarian cuba dibangkitkan dalam artikel ini. Berdasarkan metode analisis dan kritikan terhadap beberapa isu yang berbangkit, artikel ini memberikan penekanan secara khusus akan penetapan nilai keadilan semasa proses pembahagian hak dalam harta sepencarian. Dengan itu, objektif di sebalik pelaksanaan harta sepencarian iaitu memelihara hak-hak wanita, kebajikan keluarga dapat diimbangkan dengan masalah lain seperti menjaga keharmonian keluarga secara berterusan dan reda-meredai.

Kata kunci: Harta sepencarian, adat, Mahkamah Syariah, keadilan, masalah.

KAHWIN LARI TANPA IZIN WALI BAGI ANAK DARA YANG MASIH MEMPUNYAI WALI NASAB: SATU ANALISIS KE ATAS FATWA NEGERI PERLIS

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Permasalahan utama bagi kajian ini adalah mengenai perbezaan pandangan fatwa antara Muzakarah Jawatankuasa Fatwa Kebangsaan dan Mesyuarat Fatwa Negeri Perlis berkaitan hukum anak dara yang berkahwin lari tanpa mendapat keizinan wali nasab. Objektif kajian adalah untuk menilai justifikasi pandangan fatwa yang diputuskan oleh Negeri Perlis bagi pasangan yang sengaja lari daripada wali untuk diakadnikah berwalikan wali hakim di Selatan Thailand. Metodologi yang telah digunakan adalah metod kepustakaan termasuk penelitian kes-kes mahkamah yang direkodkan, penelitian ke atas kertas kerja fatwa negeri-negeri serta metode lapangan seperti temu bual secara bersemuka dengan beberapa informan seperti hakim, mufti, penggubal undang-undang dan sarjana negara. Hasil kajian mendapati bahawa fatwa kawin lari Negeri Perlis yang dikeluarkan dalam aspek anak dara yang masih mempunyai wali nasab yang sengaja melarikan diri untuk berkahwin adalah tidak sah lebih menepati kehendak syarak seperti mana yang telah dibincangkan oleh fuqaha. Kajian ini diharapkan dapat membantu pihak berautoriti seperti para hakim, Jabatan Kehakiman Syariah Malaysia (JKSM), Majlis Agama Negeri-Negeri dan Institusi-Institusi Fatwa dalam menilai semula keputusan pasangan yang kahwin lari di negara ini.

Kata kunci: Kahwin lari, fatwa, dua marhalah, wali *ghaib*, wali enggan.

NILAI DAN KEPENTINGAN ADAT PERKAHWINAN MELAYU DALAM MELAHIRKAN INSTITUSI KELUARGA YANG SEJAHTERA

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Masyarakat Melayu kaya dengan adat dan tradisi yang diamalkan sejak zaman nenek moyang. Bahkan mereka dikenali sebagai masyarakat yang sangat berpegang teguh dengan amalan-amalan orang terdahulu meskipun kadangkala bercanggah dengan tuntutan agama. Adat diertikan sebagai kebiasaan, resam, lembaga, peraturan, hukum dan norma yang dijunjung oleh kelompok masyarakat. Bagi sesetengah masyarakat, adat dan tradisi lah yang akan mengekalkan identiti mereka sebagai masyarakat yang beretika dan bertamadun lebih-lebih lagi ketika melibatkan adat upacara perkahwinan. Akan tetapi, sejauh manakah pengamalan adat oleh masyarakat Melayu masakini dapat menjamin keberhasilan dalam melahirkan sesebuah institusi keluarga yang sejahtera. Ini kerana, sifat obses melampau yang wujud pada diri masyarakat Melayu menyebabkan mereka jauh tersasar dari landasan agama yang sebenar ketika melaksanakan adat tersebut. Jadi, jika perkahwinan itu sendiri bermula dengan adat yang bercanggah dari agama, adakah keluarga yang sejahtera dapat dilahirkan. Justeru tujuan kajian ini dilakukan bagi mengkaji nilai dan kepentingan adat perkahwinan Melayu dalam membentuk institusi keluarga yang sejahtera. Oleh yang demikian, kajian ini menyenaraikan beberapa adat perkahwinan masyarakat Melayu yang sering diamalkan ketika majlis perkahwinan. Kaedah kualitatif digunakan dalam kajian ini berdasarkan jurnal ilmiah yang dikeluarkan oleh para penulis sebelumnya berkaitan adat perkahwinan, disamping menerangkan lagi kefahaman tentang hukum adat dan kesejahteraan keluarga kepada masyarakat. Hasil kajian mendapati bahawa adat masyarakat Melayu masakini tidaklah terpesong jauh dari agama Islam setelah Islam datang bertapak dalam pemikiran dan jiwa mereka. Ini membuatkan adat yang diamalkan semasa majlis perkahwinan banyak membantu merealisasikan pembentukan keluarga yang bahagia dan sejahtera.

Kata Kunci: Adat, Perkahwinan, Keluarga, Kebahagiaan, Kesejahteraan

ZAKAT MENYANTUNI KANAK-KANAK GELANDANGAN DEMI MELAHIRKAN INSAN SEJAHTERA

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Kertas kerja ini bertujuan meneroka bagaimana zakat boleh membantu kanak-kanak gelandangan sedangkan mereka tidak tergolong dalam asnaf. Analisis dokumen terhadap artikel-artikel jurnal mahupun karya-karya terdahulu dibuat. Tujuannya pertama, untuk mengkaji kedudukan kanak-kanak sebagai asnaf zakat dalam konteks gelandangan. Kedua, menganalisis masalah yang dihadapi oleh mereka dan keperluan utama yang seharusnya diberikan kepada mereka. Ketiga mencadangkan bentuk bantuan yang boleh diberikan oleh institusi zakat kepada mereka. Hasil analisis kandungan mempamerkan bahawa kanak-kanak gelandangan dikategorikan di bawah asnaf ar-riqab. Pelbagai jenis bantuan boleh disalurkan kepada mereka. Misalnya, bantuan pendidikan dan kesihatan di samping bantuan makanan dan minuman serta tempat tinggal. Bantuan daripada zakat akan mengukuhkan institusi keluarga kanak-kanak tersebut. Bahkan melahirkan insan yang sejahtera.

Kata kunci: zakat, kanak-kanak, gelandangan, asnaf, bantuan

HAK-HAK SEORANG ISTERI DALAM MENUNTUT HARTA SEPENCARIAN SEBELUM PEMBAHAGIAN HARTA KEPADA AHLI WARIS DALAM KONTEKS MALAYSIA

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Kedudukan wanita pada zaman dahulu selalu ditindas dan dihina oleh lelaki. Ia telah mempengaruhi hak seorang isteri dalam memperolehi harta. Sedangkan hak wanita dalam Islam adalah mulia dan sama taraf dengan lelaki. Selepas kedatangan Islam, prinsip keadilan telah mengangkat hak dan martabat seorang wanita. Oleh itu, kajian ini bertujuan untuk mengkaji sejauh mana hak seorang isteri dalam menuntut harta sepencarian sebelum berlakunya pembahagian harta kepada ahli waris dalam konteks di Malaysia. Penulisan ini menggunakan method kajian berbentuk analisis dokumen, dengan merujuk kepada kitab-kitab *Fiqh*, Akta atau Enakmen undang-undang keluarga Islam, fatwa negeri. Hasil kajian mendapati bahawa peruntukkan undang-undang ini memelihara hak seorang isteri dalam menuntut harta sepencarian dan sulh menjadi satu alternatif dalam meyelesaikan isu pertikaian antara pihak-pihak. Diharapkan kajian ini dapat memberi pendedahan dalam kalangan masyarakat akan kepentingan tuntutan harta sepencarian.

Kata Kunci: Hak Seorang Isteri, Harta Sepencarian, Sulh, Undang-Undang Keluarga Islam.

AUTISME SEBAGAI MITIGASI DALAM SISTEM KEHAKIMAN, KE ARAH PEMELIHARAAN HAK ANAK-ANAK OKU

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Individu autisme ialah seseorang yang mengalami masalah terhadap perkembangan neuro di bawah sejenis spektrum dinamakan Kecelaruan Spektrum Autisme (ASD). Mereka lazimnya mempunyai kecenderungan dan pola tingkah laku tersendiri bergantung kepada tahap keterukan autisme yang dimiliki. Individu autisme lazimnya mempunyai masalah kognitif dan kegagalan menguruskan emosi, masalah berinteraksi dan berkomunikasi dengan orang sekeliling, mempunyai empati yang rendah, tingkah laku agresif yang berlebihan serta lazimnya tidak memahami dan mengetahui bahawa suatu tindakan itu adalah salah. Perlakuan tersendiri mereka seringkali dikaitkan dengan faktor kecenderungan melanggar undang-undang. Artikel ini bertujuan membincangkan kesan tingkah laku individu autisme yang berkemungkinan menyebabkan mereka melakukan perkara-perkara yang melanggar undang-undang, mitigasi undang-undang jenayah terhadap individu autisme. Data terkumpul dianalisis secara diskriptif dan tematik. Kajian mendapati kesalahan melanggar undang-undang yang dilakukan oleh individu autisme dipengaruhi oleh sebahagian daripada ciri-ciri tingkah laku tersendiri mereka. Kesalahan-kesalahan tersebut termasuklah seperti melakukan serangan terhadap orang lain, pembunuhan dan bentuk-bentuk kesalahan seksual seperti pencabulan dan gangguan seksual di tempat awam dan juga jenayah melibatkan harta benda seperti pencerobohan dan pembakaran. Dari aspek pensabitan hukuman, lazimnya ASD boleh dijadikan pembelaan kepada pensabitan dan mitigasi kepada hukuman di mahkamah.

Kata kunci: Autisme, kesalahan jenayah, hukuman, pensabitan, undang-undang.

HUKUMAN KE ATAS PESALAH MUDA DI DALAM KES-KES JENAYAH SYARIAH DI MALAYSIA: SATU KAJIAN KES DI NEGERI SELANGOR

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Pesalah muda adalah antara kategori pesalah jenayah syariah di Malaysia. Secara umumnya di dalam undang-undang Islam di Malaysia, pesalah muda adalah mereka yang berumur diantara 10 sehingga 16 tahun. Di dalam kertas kerja ini, penulis ingin membicarakan tentang jenis-jenis hukuman yang dikenakan ke atas pesalah-pesalah muda di Mahkamah Syariah di Malaysia. Walaubagaimanapun, kajian kertas kerja ini lebih menjurus pada kes-kes di Negeri Selangor. Selain daripada jenis-jenis hukuman, penulis juga akan berkongsi tentang jenis-jenis jenayah yang sering dilakukan oleh pesalah-pesalah muda di Selangor. Antara objektif kertas kerja ini ialah untuk melihat sejauh manakah hukuman-hukuman alternatif yang dikenakan ke atas muda ini berkesan dalam menangani gejala sosial di kalangan pesalah muda di Malaysia secara umumnya. Objektif lain ialah ingin melihat jika perlu kepada hukuman alternatif lain untuk dimasukkan di dalam peruntukan undang-undang, selain daripada hukuman sedia ada. Keperluan kepada pelbagai hukuman alternatif dalam undang-undang tatacara jenayah syariah atau undang-undang Islam lain adalah bertujuan untuk mendapat ‘variety’ selain daripada untuk mendidik pesalah-pesalah muda mahu pun pesalah dewasa daripada mengulangi jenayah lampau.

Kata kunci: Pesalah Muda- Undang-undang Islam, Jenayah Syariah- Malaysia

NIKAH KHITBAH: ALTERNATIF PENYELESAIAN KES ANAK TAK SAH TARAF

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Perkahwinan berlandaskan syariat islam merupakan suatu perkara yang amat penting kerana boleh memberi kesan pada perjalanan hidup penganutnya dalam membentuk masyarakat muslim yang harmoni. Akan tetapi, kita menyaksikan bahawa kadar peningkatan anak tak sah taraf dalam kalangan remaja saban tahun begitu membimbangkan akibat daripada hubungan tidak sah di sisi syarak. Ini memberi kesan yang negatif terhadap institusi kekeluargaan dan juga kepada masyarakat secara amnya. Oleh itu, kajian ini bertujuan untuk mengkaji sejauh mana keberkesanan pelaksanaan nikah khitbah dalam kalangan remaja sebagai satu alternatif mengurangkan kadar zina dan anak tak sah taraf. Solusi yang dicadangkan ini adalah sebagai alternatif kepada tindakan pencegahan sedia ada. Penulis menggunakan metod kajian berbentuk analisis dokumen dengan melihat kepada kitab-kitab *fiqh*, keratan akhbar, fatwa-fatwa negeri. Hasil kajian mendapati bahawa nikah khitbah adalah relevan untuk dilaksanakan bagi mengatasi masalah ini. Walau bagaimanapun, pelaksanaannya perlu diberikan garis panduan dan pendedahan sewajarnya oleh pihak berwajib. Diharapkan kajian ini dapat memberi pendedahan dalam kalangan masyarakat akan kepentingan nikah khitbah seterusnya mengurangkan peningkatan kes anak tak sah taraf.

Kata Kunci: Nikah Khitbah, Anak Tak Sah Taraf, Remaja, Fatwa, Zina

**MODUL MEMAHAMI BACAAN DALAM IBADAH SOLAT KE ARAH MEMBENTUK
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Kesedaran masyarakat Melayu Islam dalam beribadah amat meningkat hari ini. Terdapat banyak para jamaah di masjid-masjid, khususnya di bandar-bandar. Pendidikan di masjid untuk orang awam juga bertambah maju dan meluas, dalam bidang ‘aqidah, *fiqh*, akhlak dan juga ilmu-ilmu pelengkap seperti *Tafsir*, *Hadith* dan lain-lain. Di dalam mempelajari ilmu-ilmu asas ini, masyarakat Melayu Islam masih lagi terikat dan menjadi budaya, di mana mereka menekankan aspek membaca, perbuatan (*fi’li*) dan menjaga adat-adat, tanpa memberi tumpuan yang maksimum kepada soal kefahaman dan nilai-nilai diri dari ibadah tersebut. Sebagai contoh, belajar al Quran pada aspek boleh membaca dengan *Tajwid*, kemudian hafaz, *Tarannum*, dan kepelbagaian *Qiraat*. Masalah maksud, pemahaman, tadabbur serta cara beramal dengan ayat-ayat yang dibaca tidak diberi keutamaan. Begitu juga dengan ibadah-ibadah lain seperti solat, doa dan lain-lainnya. Budaya begini kurang memberi impak perubahan kepada nilai hidup cemerlang masyarakat Melayu, sedangkan al Quran menjanjikan kecemerlangan bagi mereka yang sempurna solatnya dan ibadah-ibadahnya, seperti maksud firman Allah: “Sesungguhnya solat dapat mencegah perbuatan *fahsya*’ dan mungkar” dan juga maksud firman Allah: “Sekiranya penduduk negeri itu beriman serta bertaqwa pasti kami majukan dan lapangkan segala keperluan hidup mereka”.

Maka tulisan ini akan memberi tumpuan kaedah kaedah untuk memahami bacaan dalam ibadah solat bagi menjamin solat yang sempurna seterusnya dapat menjana sebuah keluarga bahagia dan kesannya kepada kehidupan individu, keluarga serta masyarakat seterusnya mencadangkan kaedah kaedah yang boleh digunapakai dalam memahami bacaan dalam ibadah solat untuk menghasilkan solat yang khusuk dan sempurna demi merealisasikan sebuah keluarga bahagia dan umat Islam “*Khairul Ummah*” dan “*Ummah Rahmah Lil Alamin*”.

Kata kunci: ibadah solat, modul, keluarga Bahagia, *Khairul Ummah*, dan *Rahmatan Lil Alamin* .

PENJANAAN EKONOMI UMMAH MENURUT PARAMETER AL-QUR'AN

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Ekonomi dan aktiviti perekonomian adalah penting dalam memajukan umat Islam secara total. Penjanaan ekonomi ini seharusnya dilaksanakan menurut acuan yang telah ditetapkan oleh Shariah. Dengan melihat keadaan di negara-negara anggota OIC dan Malaysia sendiri, makalah ini ditulis dalam mengkaji aktiviti penjanaan ekonomi secara moden menurut parameter yang telah ditetapkan oleh Shariah melalui perintah-perintah yang termaktub dalam Al-Qur'an. Sebagai sebuah negara yang membangun, Malaysia mempunyai peranan yang besar sebagai contoh kepada negara-negara anggota OIC yang lain. Tambahan pula, Malaysia merekodkan kejayaan yang besar sebagai negara yang terlibat dengan aktiviti perbankan dan pelaburan secara patuh Shariah. Sebagai objektif kajian yang utama, pengkaji-pengkaji cuba (i) menganalisa prinsip asas ekonomi menurut Shariah; (ii) menilai perkembangan fasa ekonomi di Malaysia, dan (iii) mengkaji kewujudan aktiviti penjanaan ekonomi secara Islam yang wujud di Malaysia. Berdasarkan kaedah kualitatif, pengkaji-pengkaji membuat pemerhatian secara naturalistik dan kefahaman dalam menjalankan kajian makalah ini. Tinjauan juga dibuat berdasarkan pemerhatian pengkaji-pengkaji dalam memahami keadaan semasa penjanaan ekonomi dan aktiviti perekonomian yang terdapat di Malaysia. Pengkaji-pengkaji membuat pemerhatian kepada amalan yang dijalankan oleh anggota-anggota negara OIC lain sebagai bandingan kepada apa yang dilaksanakan di Malaysia. Selain itu, pemahaman secara Shariah dibuat berdasarkan kepada prinsip-prinsip *Fiqh* Muamalah yang telah diterimapakai dan termaktub sebagaimana di dalam Al-Qur'an, Sunnah, dan Ijmak Ulama''. Hasil kajian ini adalah penting bagi membuktikan ekonomi dan aktiviti perekonomian menurut Shariah bukanlah sesuatu yang mustahil di abad serba moden kini. Makalah ini mendapati bahawa sudah wujud ekonomi dan aktiviti perekonomian menurut Shariah di kalangan masyarakat Muslim di Malaysia. Usaha secara berterusan adalah perlu bagi memastikan ekonomi dan aktiviti perekonomian menurut Shariah terus berkembang tanpa sebarang halangan.

Kata Kunci: Ekonomi, Aktiviti Perekonomian, Shariah, Parameter , Malaysia.

————— **ENGLISH ABSTRACTS**

LOCAL FAMILY *FIQH* IN MALAYSIA: AN ANALYSIS OF `URFI METHODOLOGICAL FRAMEWORK

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The on-going advocacy for developing local *fiqh*, among others, emphasizes an indigenous approach to evolving *fiqh* by highlighting the flaws in the dominant approach to family law reform and renewal. One of their methodological tools is to examine the existing family *fiqh* from its `urfi based content as well to explore ways of resolving new emerging usages and customs, which differ from the custom of people in other communities in the Muslim world. Critics, however, have some misgivings about this approach and see it as a kind of post-modernist thinking, the thrust of which is to raise scepticism about religious content of any intellectual argument. To rebut such an argument, following content analysis method, this paper argues by concluding that an Islamic juridical approach to insist on legislative significance of local custom in evolving a local family *fiqh* is governed by a set of methodological frameworks and parameters which can safeguard it against any suspicion for secularization.

Keywords: family *fiqh*, local, methodological framework, reform.

LEGISLATIVE SIGNIFICANCE OF CUSTOM IN DEVELOPING LOCAL *FIQH* OF FAMILY: AN ANALYSIS OF ITS CONCEPTUAL FRAMEWORK

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Islamic jurisprudence though originates in divine revelation is elastic enough to assimilate local customs and social norms in accordance with its own terms and conditions to preserve its divinity (sanctity). With the advent of new trends of thought in the field of legal hermeneutics and advocacy for historical–cum-sociological approaches to study religious texts, an erroneous conclusion has been made that Islamic law is nothing but a set of rules concocted by juristic conniving to rubber stamp social realities of their times. In this context, any overemphasis on the legislative place of *`urf* by Muslim legal scholars is also cited as evidences to cast more scepticisms about the revealed genre, content and structure of Islamic law. The advocacy for local *fiqh* with its pious intention needs to take notice of such dangers so as not to fall into such traps by going overboard and regarding the bulk of the *fiqh* corpus as historical and time-space bound. To avert such a folly, it is deemed to reflect back on true meaning and correct use of *`urf* as a tool for local *fiqh* construction. According, this study by adopting a content analysis method argues that *`urf* in the Islamic legal thought supplements revealed laws and never abdicates them.

Keywords: conceptual framework, divine sanctity, tool, *`urf*.

**JURIDICAL IMPACT OF `URF ON FAMILY LAW: AN APPLIED JURISTIC
FRAMEWORK FOR LOCAL FIQH**

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Fiqh of family in the classical literature is the most interesting area where one can clearly see how our legal thinkers of the bygone days pragmatically negotiated the way for the absorption of their local customs to establish and sustain family and manage marriage and the aftermath of its dissolution. Their foresight in reconciling `urf with textual laws, and their genius in formulating operational rules for complying with the dictates of Shariah commands in tandem with time-space requirements of their local environment are illustrative of the fact that consideration of local factors (`urf and `adat) are part and parcel of grounding divine law into human reality, whether family or wider society. Accordingly, this study by adopting an inductive reading of the classical jurists' discourse on assimilating custom into the corpus of Islamic family *fiqh* on selected topical issues proves this to be case. Its compact analysis of this thesis provides useful juridical lessons for developing local family *fiqh* in Malaysia.

Keywords: applied *fiqh*, classical framework, family *fiqh*, `Urf.

WORK-FAMILY BALANCE FROM POLICY AND RELIGION PERSPECTIVES IN MALAYSIA

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Work-family balance (hereafter, WFB) is the degree to which an individual can simultaneously balance the emotional and behavioral demands of both paid work and family responsibilities. (Moazami-Goodarzi 2018, 39; Clark 2017, 1520-1545) Balancing work and family are delicate tasks especially for married women because they are closely associated with household cares and chores (Geetha Subramaniam & Doris Padmini Selvaratnam 2010, 43-55). Among the causes of stress among couples was their race to balance career and home responsibilities. The situation if not rightly balanced family and work can contribute to social and work-family conflict (WFC) (Sugumar 2013). WFC can also lead to several negative externalities such as stress, poor job performance, loss of motivation, mental illness, burn out, and social problems. (Sugumar 2013; Mahpul et.al 2011 Hassan et.al 2010) Generally, people with family and work problems are also associated with mental stress and dissatisfaction in the workplace. Thus, this paper aims to provide local insight on how Malaysia governs for WFB and what is the potential of religiosity in national policy in enhancing WFB efforts. By using literature review and official documents analysis, WFB is discussed from the perspective of Malaysian policy and religion.

Keywords: religiosity, policy, Work-Family Balance, Work-Family Conflict, Malaysia.

**RECONCILIATION PROCESS OF MUSLIM MARRIAGE UNDER THE ISLAMIC
FAMILY LAW OF MALAYSIA**

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Reconciliation should be viewed as a positive effort towards assisting the couple to resolve their conflict and to preserve their marriage life. However, in practice, the couple simply refuse to go through reconciliation effort and argue that the proceeding is not effective and time-consuming. Part of the blame goes to the inefficiency of the officers in conducting reconciliation proceedings and the representatives for the parties who do not have sufficient skills in handling the disputes. With the divorce rate steadily increasing every year, it is reasonable to observe that the reconciliatory process is not effective to save Muslim marriages in Malaysia. In response to the above concern, two Malaysian states, namely Selangor and Federal Territories, have officially appointed arbitrators to serve in the arbitration proceedings as officers of the court. However, from a random survey that has been conducted with appointed arbitrators, there is no significant improvement in reducing the number of divorces. This is due to the fact that most couples that were attending reconciliation process believed that the marriage is over once the application for divorce is filed. Thus, the study proposes a shortened procedure managed by professional mediators.

Keywords: arbitrator, divorce, ineffectiveness, reconciliation.

THE WISDOM OF POLYGAMY IN MANAGING WOMAN'S SOCIAL PROBLEMS IN SINGAPORE

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In Singapore, as of the year 2017, the number of female Singaporeans has reached two million while the number of male Singaporeans ranges at one million nine hundred thousand. The misconception in the minds of a large number of people is that the act of sharing a husband with another woman is unjust and unfair to women. This mind set seems to be prevalent in the community even though Allah S.W.T has allowed men to marry not more than four wives at a time. Islam has guided us with the practical application of the legislation which came in the form first with our Prophet Muhammad (peace be upon Him). He has showed us that it is possible for a man to have more than one wife while being just. However, it is only possible if we follow the proper way as stated in the Qur'an and Sunnah. Even the Prophet's companions and their successors who followed this practice became successful. From this premise, this research aims to unveil the pursued justice in the light of verses relating to polygamy in the Qur'an. This study attempts to reconcile between theory and practice of polygamy in the light of the *Shari'ah* objectives. The study draws its conclusion using both inductive and analytical methods so as to collect, analyse and evaluate the relevant materials in order to build an objective and balanced position about the subject matter.

Keywords: Polygamy, Singapore, Social problem, Woman.

REFORM OF UNILATERAL DIVORCE IN THE MALAYSIAN SYARIAH FAMILY LAW

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This paper examines the effectiveness of the law governing unilateral divorce under the Malaysian Islamic Family law by using qualitative analysis. The law requires that talaq divorce be instituted through a formal application before the Syariah courts and subject to the prescribed divorce proceedings. The objective of such legal regime is to curb unjustified divorces pronounced by the husband out of court, as the integrity of the marriage is safeguarded by the Qadi and court procedures. However, the present law also permits a procedure for recognition and registration of divorce by a process of validation (confirmation of divorce), even if the husband pronounces talaq out of court. Researches show that this form of validated divorce has contributed significantly to the higher rate of divorce throughout the country. The validated divorce procedure has been heavily criticized for discriminating women due to certain disadvantages, triple talaq and the fact that validation of out of court divorce does not require proof of the wife's consent to the same. The current practice shows that the courts favour textual interpretation of the law at the expense of practical realities and social implications of such validated out of court divorce. This study adopts both doctrinal and non-doctrinal study in which statutory law serves as primary data, supported by an in-depth analysis of relevant decided cases from Malaysian legal periodicals in examining the application of the law. Statistical data on the number of all types of divorce and divorce outside the court from 14 states' Malaysian Shariah courts will be analysed. This study recommends reform of the law governing unilateral divorce by abolishing the recognition and validation of divorce out of court as a control measure against unjustified divorce.

Keywords: reform, unilateral divorce, validation.

**TALAQ THROUGH ELECTRONIC MEDIUM UNDER ISLAMIC AND MALAYSIAN LAW:
THE IMPACT ON ‘IDDAH AND RUJU’**

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In Islam, talaq is permissible, especially whenever harm is perceived if the marriage continues or the couple fears that they cannot observe the limitation ordained by Allah swt. In Malaysia, the pronouncement of talaq is regulated in the sense that a husband should pronounce a talaq in court or otherwise he can be guilty of fine and imprisonment. Such a regulation to a certain extent controls the husband's power and authority to pronounce talaq even though the husband's pronouncement of talaq is still counted as effective if it took place outside the court. The rapid growth of digitalization seems to open a floodgate for more pronouncement of divorce outside the court. Various electronic means of social communication like Facebook, WhatsApp, email, Instagram, telegram, twitter etc., will become the mediums of divorce communication between the husband and the wife. This becomes problematic especially if the talaq is pronounced by a layman husband who might have no idea at all that the talaq is effective. Furthermore, there are no clear provisions on this in the law. This paper intends to examine the position of talaq through electronic medium under the *Shari'ah* and the Islamic law as codified in Malaysia. Examination will include the effect of such pronouncement to '*iddah* and *ruju*' especially when the husband is not a knowledgeable person on the rules of Islamic law. Finally, the paper will provide recommendation where necessary, especially to improve the law on the pronouncement of talaq in Malaysia where the talaq is uttered through electronic mediums outside court, such as providing additional provisions on such talaq outside court.

Keywords: Divorce, 'Iddah, Ruju', Islamic law Talaq Outside Court.

THE ROLE OF CUSTOM IN MANAGING CHILD CUSTODY: A JURIDICO-PSYCHOLOGICAL ANALYSIS IN LOCAL CONTEXT

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Child custody is one of most important matters in managing the aftereffects of divorce as far as their impact on the child is concerned. Guided by the general principles of the Qur`an and Sunnah on parenting and parental role, classical jurists developed their own theory of managing such impacts in tandem with what was realistically working for their times and environment. With the changes in the pattern of parenting and traditional family structure in societies like Malaysia, it is suggested that the *fiqh* of child custody has to be contextualised so as to result in minimizing the debilitating aftereffects of parental separation on the children. The current practice of mostly awarding the custody to the mother is not a full remedy, thus this study using juridico-psychological methods of analysis argues for locating juridical basis for joint-custody.

Keywords: child custody, juridico, joint custody, psychological.

RESOLUTION OF CHILD CUSTODY DISPUTE: LEGISLATIVE FOUNDATION AND CONTEMPORARY APPLICATION OF *SULH* IN THE SYARIAH COURT OF MALAYSIA

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Mediation or *sulh* at the Malaysian Syariah Court deals with a variety of issues relating to Islamic family law including the child custody issues. Disputes that exist between the parties can be resolved through litigation (court) and non-litigation (outside court). *Sulh* is one of the non-litigation methods in settling disputes in peace and harmony. The Government initiative by introducing *sulh* since 2001 helps in reducing the backlog of cases, speeds up settlement of disputes and it has become a very constructive method of resolving disputes amicably. The aim of this paper is to discuss and analyse the principles of *sulh* in Islamic Law, its foundations and its implementation in Malaysia particularly in child custody disputes. The paper also will look at how *sulh* interacts with the new implementation of the Special Court of *Hadhanah* established in the Syariah Court of Federal Territories (MSWP). The methodology adopted, is a library-based study to collect information, data and theories involved, from selected materials including journal articles, textbooks, statutes, as well as interview method. The data were analysed using the content analysis method. The study concludes that the practice of *sulh* in the child custody disputes is not only in line with the Islamic Law but also plays a vital role in protecting the children's rights as envisioned by the *Maqasid Shariah*.

Keywords: child custody dispute, mediation, *sulh*, Syariah court.

SAFEGUARDING THE BEST INTEREST OF THE CHILD IN ADOPTION PROCESS IN MALAYSIA: WHETHER KAFALA IS AN ALTERNATIVE OPTION?

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Adoption is one of the means to protect children who have been deprived of parental care. The United Nation Convention on Rights of Child guarantees such protection and as another measure, in which the principle of best interest of the child must be primarily considered by the State parties when dealing with the process of adoption. In Islam adoption is not legally recognized and does not create similar legal status as in common law adoption. The creation of legal relationship is totally prohibited on the basis that it disrupts the pattern of family relationships that Islamic law recognizes and invests with legal rights and duties, as it emphasizes on lineage and filial continuity. But Islam offers the practice of *kafalah* in safeguarding the best interest of these vulnerable children. This paper specifically focuses on the concept of best interest of the child in adoption and whether *kafalah* is one of the best alternatives in safeguarding the best interest of children deprived of parental care. A brief discussion on the concept of best interest of the child will be made, the concept and application of kafala in Islam will be discussed and whether the practice of kafala is an option to be implemented in Malaysia in ensuring the best interest of these vulnerable children. The relevant laws and decided cases in Malaysia will also be examined. Finally, the paper discusses some possible recommendations that may spur improvement to the present legislation in ensuring that the best interest of the child is duly guaranteed in the adoption process. The paper employs doctrinal and statutory methods of analysis.

Keywords: child adoption, kafala, best interest of the child, Malaysian legislation

THE ROLE OF WASI IN THE ADMINISTRATION OF MINOR'S PROPERTY UNDER PROVISIONS OF ISLAMIC LAW IN MALAYSIA

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This paper deals with the role of *wasi* in the administration of minor's property under the provisions of codified Islamic law in Malaysia. The focus of the discussion is on the power of *wasi* in managing minor's property under his legal authority. The question is: To what extent the provision of Islamic law that is codified in Malaysia prescribes the duties and powers of *wasi* in relation to the management of minor's property? Further, what are the safeguards that have been taken by the legal provisions in order to ensure that the minor's property is well managed and is not infringed and embezzled by the *wasi*? The research adopts qualitative research methodology which focuses on examination of the statutory provisions on the role of *wasi* including his duties and powers and control in the administration of minor's property. The paper also discusses the appointment of *wasi*, his position and his condition in administering minor's property and the situation where the *wasi* can be removed from his office. It is found that there is inadequacy of the law in relation to the role of *wasi* in the administration of minor's property. In addition to that some provisions require further clarification and elaboration. Finally, the research found that there are still rooms for improvement in the codified Islamic law relating to the role of *wasi* in the administration of minor's property.

Keywords: Administration, Islamic law, Malaysia, Minor's property, *wasi*.

THE EXECUTION OF MUSLIM'S WILL (*WASSIYYAH*) IN MALAYSIA: A WAY TO EVADE ISLAMIC INHERITANCE (*FARAID*)

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The area of administration of estates in Malaysia is governed by various laws and statutes of general application, depending on the types of estates left by the deceased. In cases where a Muslim dies and leaves a will (*wasiyyah*), the jurisdiction to deal with the deceased's estate lies with the Civil High Court and Syariah Court as far as the procedural and substantive laws are concerned respectively. The existence of the dual jurisdiction has given rise to the conflict of jurisdiction between the High Court and the Syariah Court especially when the *wasiyyah* is executed in the form of *wisayah* which contains the appointment of *wasi*/executor. In such a case, an application for the grant of probate from the High Court is required in order to formalize the appointment of the *wasi* to deal with the execution of the *wasiyyah*. In this context, the law is silent on the requirement for such a will to be firstly validated by the Syariah Court before a probate could be granted to the *wasi*. This situation could result in the execution of a *wasiyyah* which is inconsistent with the Islamic law on will and inheritance (*faraid*). Thus, this paper seeks to analyse the jurisdiction of the High Court and Syariah Court in order to examine the law and procedure relating to the execution of the Muslim's will in Malaysia. The study adopts the doctrinal analysis by examining the existing primary and secondary materials including statutory provisions as provided in the Probate and Administration Act 1959, Wills Act 1959, Rules of Court 2012, Muslim Will Enactments and case law. The outcome of the study shows that the absence of the legal provision relating to the requirement for the reference of Muslim's will to the Syariah Court before the issuance of the grant of probate may lead to the execution of a *wasiyyah* which could be used as an instrument to distribute the deceased's estate even though it goes against the Islamic law on will and inheritance in Malaysia.

Keywords: Estate administration, High Court, Islamic inheritance, Syariah Court, Muslim's will, Malaysia.

HARTA SEPENCARIAN IN BUSINESS INTEREST: AN ANALYSIS OF MALAYSIAN COURTS APPROACHES

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In Malaysia, there are four types of business entities which can be formed to carry out business, namely; sole proprietorship, partnership, company and limited liability partnerships. Among these business entities, only company and limited liability partnership are recognized as legal entities whilst the sole proprietorship and partnership are not recognized as legal entities. The legal status of the business entities is the most important attribute which affect rights of the owners in the businesses. In a divorce proceeding, assets and liabilities will have to be divided between the parties generally through a process called equitable distribution. Essentially, the court will classify property as either marital or separate, place a value on the property, and then distribute amongst the spouses. The value used will be the fair market value as of the date of separation. For some items, the fair market value will be easy to determine while others will be more complicated. The marital home is fairly easy to value but it would be more difficult if the assets are in the form of business interests. This paper discusses the concept of ownership in different business entities in Malaysia and analyses the approach of the Shariah courts in deciding and distributing matrimonial property in business interest. Focus of the discussion will be on the Shariah courts' precedents and the principles of *Fiqh* on matrimonial property.

Keywords: Business Interest, *Fiqh*, Matrimonial Property, Shariah.

OVERVIEW OF THE PRACTICE OF HIBAH AMANAH BY ISLAMIC BANKING AND FINANCIAL INSTITUTIONS IN MALAYSIA AND ITS COMPLIANCE WITH ISLAMIC LEGAL SYSTEM

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In Malaysia, by tradition most Muslims are aware of and understand the existence of the practice of *hibah* cum trust or *hibah amanah* when it comes to the issue related to the Muslim wealth management under the Islamic law of administration. As time goes by, with the modernization of Islamic finance, the practice of *hibah amanah* has further been extended to be applied within the Islamic financial institutions' products and services as one of their financial instruments. In this context, the Islamic banks and financial institutions are using the *hibah amanah* contract as one of their financial instruments to be matched up with other existing products and services. This kind of *hibah* became a new trend as the Islamic and financial banking services offer flexible and guaranteed management of the *hibah* asset on top of the will services which they offer. Due to that reason, this paper intends to explore the application of *hibah amanah* by them towards the Muslim family wealth management, whether the practice is similar to the original concept of *hibah amanah* and always compatible with the Shariah principles. This paper also will study and analyze some relevant Shariah and legal issues on the application of *hibah amanah* in the Islamic financial instruments, which are currently practiced by the Malaysian Islamic financial institutions, through looking at some relevant statutes and court cases. At the end of the paper, it proposes some practical recommendations to safeguard its execution within the Islamic principles.

Keywords: *hibah*, trust, *hibah amanah*, Islamic finance, Islamic financial instrument, legal, Shariah.

OFFENCES RELATING TO MATRIMONY: THE APPLICATION IN THE SYARIAH COURTS OF MALAYSIA

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In Malaysia, a number of criminal offences which may be tried in the Syariah courts are listed in the State Enactments, among of which are offences relating to matrimony. Many Muslims assume that all matters pertaining to matrimony are civil matters though in fact there are many Syariah court cases taken against those who commit the offences relating to matrimony. These types of offences can be considered as religious disobedience according to Islamic law. Nevertheless, there are many instances of which the acts are punishable since they are against public interest. Hence, this paper will discuss the issue of matrimonial offences and the extent of which they are applied in the Syariah courts of Malaysia by analyzing relevant cases and statutes. Shariah texts and juristic views will also be examined to determine the position of matrimonial offences and the relevant punishment from the Islamic law perspective. It seeks to highlight the objectives of Shariah (*Maqasid al-Shari'ah*) to uphold justice and ensure peace and harmony in the society. It also clarifies the misconception that arises concerning the above issues.

Keywords: Islamic Law, Matrimony, Offence, Syariah Court.

THE SIGNIFICANCE OF FINANCIAL LITERACY FOR FAMILY WEALTH MANAGEMENT: A CRITICAL STUDY FROM MAQASID PERSPECTIVE

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Financial literacy has a tremendous impact on sustaining family financial management. Lack of financial knowledge may lead to financial problems within the family, which also may affect the personal relationship and working performance of its members. Given the increasing number of bankruptcy cases and indebtedness, the Malaysian financial association and intuitions urge the importance of financial literacy and education. Managing wealth is part of *Maqasid Shariah* of “*hifz al-mal*” - preservation of wealth to ensure the sustainable life of every individual which comes within the purview of *maqasid* of “*hifz al-nafs*” - preservation of life. This study proposes to discuss the importance of financial literacy in the dynamic environment of household financial management to avoid numerous family problems emanating from mismanagement of family wealth, such as divorce, financial arguments and broken family etc. The literature on financial literacy and family financial management were critically reviewed and used in an attempt to highlight the financial issues within the family. By employing inductive and deductive methods via qualitative approach, this paper explores financial literacy in family financial management as well as the conflicts that arise from financial problems. It is intended the findings of this paper would contribute to the awareness amongst Malaysians on the importance of prudent financial management of family wealth as anticipated by *Maqasid al-Shariah*.

Keywords: Family Financial, Management Financial Literacy, *Maqasid Shariah*.

FAMILY FINANCIAL MANAGEMENT: ORGANIZING THE FINANCIAL ASPECTS OF THE FAMILY BASED ON MAQASID AL-SHARI'AH

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This paper looks into the family financial management in the light of *maqasid al-Shari'ah*. Islam pays higher attention to the preservation of the family institution. The financial stability of the family is considered a significant way of its preservation because, the finance of a family relates to all other elements such as education, security, health, and prosperous life. Lack of knowledge about managing financial activities may lead to many disorders and problems in the family. The researchers employed qualitative method to analyze literature on *maqasid Shari'ah* in relation to family financial aspects. The research findings propose principles such as prioritizing the financial needs against the three levels of *Maqasid*, namely essential, exigencies and enhancements, instilling the culture of consultation (Shura) among the family members for prioritizing the needs, moderation and future plans for the financial wellbeing of the family.

Keywords: Distribution, Family Institution, Higher objectives, Management and Priority.

THE INTENTION OF MUSLIM YOUNG ADULTS TO PARTICIPATE IN FAMILY TAKAFUL SCHEME

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This paper applies the Theory of Planned Behaviour (TPB) to predict the intention of young adults to participate in family takaful scheme (FTS). The factors under TPB model is composed of attitude (AT), subjective norm (SN) and perceived behavioural control (PBC). The respondents consist of 108 Muslims who are currently working in the Greater-KL (Klang Valley), Malaysia. Data were collected using an online survey and structural analysis is employed by using Structural Equation Modeling Partial Least Squares (PLS-SEM) approach. The results reveal that attitude (AT) factor has a significant relationship towards the behavioural intention by its contribution up to 14.3% while subjective norm (SN) and perceived behavioural control (PBC) appears to be insignificant, to predict the intention of family takaful scheme (FTS) participation. Thus, this study suggests that attitude (AT) factor is an important element that can influence the intention of young adults to participate in family takaful scheme (FTS). The findings of this study provide a useful information for researchers and stakeholders in takaful industry to improve their marketing strategies and is able to increase the participation from young adults.

Keywords: Takaful subscription, family takaful scheme (FTS), young adults, Theory of Planned Behaviour (TPB), attitude, subjective norm, perceived behavioural control.

**THE ROLE OF MARRIAGE IN ENHANCING ECONOMIC EMPOWERMENT OF
INDIVIDUALS IN LINE WITH MAQASID AL-SHARI'AH**

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This research attempts to shed some light on the concept and the application of *Maqāṣid al-Sharī'ah* (the objectives of Islamic Law) in marriage and materializing virtual marriage in enhancing economic empowerment. This study uses the library study method. Among the reading materials that have been referred include those materials related to the marriage, *Maqāṣid al-Sharī'ah*, and economic empowerment. Qualitative approach is used in this study to collect information, documents and data related to the topic discussed. By understanding the importance of commencing virtual marriage especially during Covid19, we can further enhance the Islamic family law to ensure its positive impact on the enhancement of economic empowerment. Findings of this research show that the theory of *Maqāṣid al-Sharī'ah* is extremely relevant in addressing the current practices of Islamic family law in terms of Muslim marriage in materializing positive economic impact.

Keywords: Marriage, Virtual marriage, *Maqāṣid al-Sharī'ah*, Economic empowerment, COVID-19.

**A CONCEPTUAL STUDY ON INVESTMENT-LINKED TAKAFUL PRODUCT:
PROTECTING LIFE AND WEALTH FOR FAMILY INSTITUTION**

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The variety of products offered by financial institutions could overwhelm individuals in their decision making. For financially savvy people, decision making is easier, but some do need guidance. Therefore, this research aims to assess the Shariah-compliant investment-linked plan takaful product that can help investors in choosing an alternative plan. An investment-linked takaful is a family takaful plan that combines investment and takaful cover. This product offers participants the freedom to choose the type and amount of takaful on the protection they need as well as the freedom to invest based on their risk appetite, financial objectives and the length of time they are willing to invest. The study also discusses the wealth protection and financial investment based on *maqasid* of *Shariah* relating to family institutions. The study would Asst the individuals in their investment decisions since this study provides information and prior knowledge for them to make informed decisions of better takaful plans which comply with Islamic law. Besides, the undertaken research enables the public, investors, participants, and other stakeholders to better understand the nature, features, and structures associated with the investment-linked takaful product.

Keywords: Investment-linked plan, takaful, wealth protection, financial investment, *maqasid* *Shariah*.

IS MALAYSIA IN THE MIDDLE-INCOME TRAP? SYMPTOMS, CHALLENGES AND REMEDIES

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While Malaysia, an upper middle-income country, can be proud of its achievement with strong economic growth year after year, many of its citizens can barely cope with the increasing cost of living in the country. Middle income trap (MIT) is defined as a situation where a country has achieved the middle-income level such as Malaysia, yet is unable to attain high-income status, where the citizens are facing the burden of the increasing cost of living due to the mismatch between the increase in income and that of the cost of living, thus affecting the standard of living of the citizens. In 2008, the World Bank suggested that only 13 out of the 101 middle-income nations have actually evolved to become high-income economies. This paper aims to explore the symptoms and challenges facing Malaysia as a middle-income country in its efforts towards a high-income nation. Is Malaysia facing the middle-income trap? If so, how can Malaysia fully utilise its economic potentials using the rich economic resources and places itself at the same level as countries such as South Korea, Singapore and Hong Kong? This paper finds that the factors that hinder the progress towards high-income nation include low total factor productivity due to no transition from input-driven to productivity-driven, lopsided execution of the new economic policy and brain drain.

Keywords: brain drain, high cost of living, input-driven, middle-income trap (MIT), productivity-driven, total factor productivity (TFP).

ACHIEVING FINANCIAL INCLUSION: A COMPARATIVE DISCOURSE BETWEEN ISLAMIC AND CONVENTIONAL FINANCE APPROACHES

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The achievement of financial inclusion is deemed essential due to its positive linkage with economic development. Once the notion was viewed as a means to alleviate poverty and reduce income inequality. Recently, the concept has developed into an essential pre-requisite for financial stability and economic growth. Inclusive financial systems allow producers and households to smoothen their production and consumption of goods and services in the economy; and thus, generating more income in the society. Due to this constructive characteristic, financial inclusion mechanism is encouraged by the Islamic views on economic development and poverty alleviation. However, the implementation of this mechanism must refer to how Islam regulates the transaction and treats the risk. Hence, the implication and the result of the inclusive financial system will have distinctive features and quality compared to conventional financial inclusion. The core objective of this study is to explore and investigate how the financial inclusion process should be conducted and attained based on the Islamic finance concept when compared with the conventional finance system. The study suggests that Islam has a different characteristic in achieving financial inclusion, and it was reflected on how the risk is discerned and the primary goal of spiritual and material balance being considered as the ultimate objective of economic development in Islamic finance perspective.

Keywords: Financial Inclusion, Islamic Finance, Conventional Finance, Risk-Sharing, Economic Development.

VACCINATION PRACTICES AND PREFERENCES AMONG MUSLIM PARENTS OF YOUNG CHILDREN: TRENDS AND MISUNDERSTANDINGS

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Vaccination is a preventive measure to protect children from infectious diseases. Although it is good immunization for children, some parents are reluctant about having their children immunized. The study attempts to identify patterns of vaccination practice among parents, preferences and sources of vaccine information. This is a descriptive survey conducted via online platform through a survey link. A sample of 80 parents including both mothers and fathers who have children between the ages of one to 12 years old were recruited via convenient sampling method. The survey link was distributed through email and on social media. Data were analyzed using SPSS. The results indicate that 75% of the parents do vaccinate their children although 59% of the parents have no preference towards vaccines. However, the majority of parents (75%) do not complete the immunization schedule. Their main sources of vaccination are from reading materials and social media. There is a significant association between parents who have preference for vaccination and children who receive vaccination. Identification of parents who have no preference for vaccination is imperative in order to improve vaccination coverage. Healthcare personnel should take action to be the main source of information on vaccinations for parents as messages from other information sources can be misleading.

Keywords: Health, Immunization, *Maqasid al Shari'ah*, Social Media, Vaccine Practise, Wellbeing

THE ROLE OF PRIVATE SECTOR IN PROVIDING FOSTER CARE SERVICE FOR CHILDREN WITHOUT PARENTAL CARE IN MALAYSIA

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The paper deals with the role of private sector or non-governmental organisation in providing foster care as an alternative care for children without parental care. These children may include orphans as well as abandoned, abused and neglected children who basically have been deprived of their family environment. According to the United Nations Convention on the Rights of the Child 1989, alternative care options may consist of foster placement, *kafālah* of Islamic law, adoption and institutional care. In this regard, this paper aims to discuss the notion of foster care as substitute care for children without parental care as well as from the Islamic perspective. The paper further examines the role of private sector in providing foster care service and the importance of family-based care for the children. In addition, the paper highlights the cooperation between the government, Malaysian Social Welfare Department and a non-governmental organisation, OrphanCare, in transitioning children from institutional care to foster care through the deinstitutionalisation process. Finally, the paper investigates the shortcomings of private sector in arranging family-based care for children without parental care through foster care. These may include raising awareness of the importance of a family setting and the willingness of institutions to participate in the deinstitutionalisation process. This study adopts a qualitative research method which is mainly based on library research. This paper found that family-based care through foster care is preferred over institutional care. However, the shortcomings need to be addressed before children without parental care and institutionalised children can be effectively placed in foster care. Significantly, the private sector welfare plays an important role in the transition of the institutionalised children to a family setting.

Keywords: Alternative care, Family based care, Foster care, *Kafālah*, Private sector.

FAMILY ISLAMIC EDUCATION AND SOCIAL MEDIA: CHALLENGES AND OPPORTUNITIES

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A long time ago as traditionally, Islamic teaching has been transmitted through a face-to-face direct interaction between parents and their children, and this mode of transmission has guaranteed the reliability of the teaching transmitted. During the contact in the process of the study, parents also transmit to children the hidden living values. In the digital era, social media, such as Facebook, Whatsapp, Twitter, and Instagram, YouTube, have been transformed to be one of the main mediums of information transmission. Social media provides so many things instantly on their smartphone. However, the content might be more fragmented for the limited space and time to access the information in social media. Yet, the value has also changed for less human contact. It brings opportunities and challenges to family wellbeing. There is a lack of research trying to relate family role to social media. The purposes of this paper are: First, to analyze that the social media does not only change the vision of the family but also increase challenges to family harmonization itself. Second, is to examine how social media instantly affects the millennial generation. This paper uses a qualitative method for data analysis. The findings of the paper showed that family members today certainly read print kinds of literature, including the Islamic ones, but they find them mostly on the internet for the first time. Thus, good communication between family members is highly recommended to protect children against negative effects of social media.

Keywords: Islamic Teaching, Family, Social Media, Millennial Generation.

THE CONCEPT OF RAHMATAN LIL ALAMIN FOR HIV SCREENING TEST IN MALAYSIA

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HIV screening test for Muslims living in Malaysia is compulsory in regulating the procedure for solemnization of marriage. Nevertheless, for non-Muslims living in Malaysia, it is only an option. This paper will examine and address the overview of legal issues pertaining to HIV screening test that should be imposed on non-Muslim couples too. The study undertakes a library-based study as a selected research method through the analysis of selected materials including journal articles, textbooks and statutes. Findings from this paper indicate that there is lacuna in law regarding the imposition of HIV screening test in Malaysia. Apart from that, HIV screening test must be applied to all Malaysian regardless of their religion. It is suggested that primarily, the relevant administrative bodies in government sector, should start to take the initiative in introducing and promoting HIV screening test for Non-Muslims as an effort of *Rahmatan lil alamin* to protect the family institution in Malaysia.

Keywords: family, HIV screening test, marriage, Muslim and non-Muslim parties, protection.

ARABIC ABSTRACTS

تسيير صندوق الزكاة الجزائري ومجالاته الاجتماعية (دراسة فقهية تطبيقية)

طالبة دكتوراه: ميسون قوادري، أستاذ دكتور: عارف علي عارف، أستاذ مشارك: عزمان محمد نور،

أستاذ مشارك: حسن بن إبراهيم هنداي، أستاذ مشارك: رضوان جمال يوسف الأطرش

ملخص البحث

لما كانت ظاهرة الفقر ولا تزال من أبرز المشكلات الاجتماعية والاقتصادية التي تنتشر في المجتمعات البشرية، كان لا بد من إيجاد سبل لمواجهتها ومكافحتها، و قد عدّ ذلك من أهم التحديات الأساسية التي تقوم بها الحكومات في الدول المسلمة وغير المسلمة، فعلى مستوى الجزائر وباجتهاد من وزارة الشؤون الدينية والأوقاف محاولة المساهمة في التخفيض من نسبة الفقر، تم إنشاء صندوق الزكاة وتعميمه على مستوى التراب الوطني سنة 2003 معتمدة على تجارب بعض الدول العربية والإسلامية التي سبقتها في هذا المجال ولا سيما التجربة الماليزية، وبفضله تم التصدي للكثير من مشكلات الفقر في الجزائر. ويأتي هذا البحث لدراسة كيفية توزيع حصيلة الزكاة من (صندوق الزكاة)، وكيفية دعم الصندوق للأنشطة الاستثمارية، وبيان مدى مطابقته لأحكام الشريعة الإسلامية. وإلى أي حد وفق صندوق الزكاة في تحقيق أهدافه التنموية منذ إنشائه. ويهدف البحث إلى التعريف بالزكاة باعتبارها مصدرا وموردا ماليا هاما للمجتمع، ومعرفة بعض طرق حسابها وتحصيلها. وإبراز أهم الآليات التي يسير وفقها الصندوق ومدى مصداقية هيكله التنظيمية، وتكمن أهميته في تجلية الدور الذي حققه صندوق الزكاة الجزائري كمورد مالي في إطار تنظيمي يعود على الاقتصاد الجزائري بالنمو، وعلى المحتاجين للزكاة بتحصيل منفعة الزكاة، ولا سيما إذا فعل بطرق أكثر تطورا. وقد توصل البحث إلى أنه بالرغم من الهدف السامي لإنشاء صندوق الزكاة، ومحققه من إنجازات معتبرة في المجال الاجتماعي والاقتصادي، إلا أنه يؤخذ على القائمين عليه توجيه القروض الحسنة إلى غير المستحقين لأموال الزكاة الذين حصرتهم نصوص آيات القرآن الكريم، من دون مراعاة الأولوية في صرف وإقراض الأموال المحصلة لأهل الزكاة، كما توصل إلى ضرورة منح أولوية الإقراض للأصناف الثمانية من أهل الزكاة، وعدم صرفها لغيرهم من المحتاجين إلا بعد التحقق من اكتفائهم، تحقيقا لمقاصد الشريعة الإسلامية، كما حث البحث على الاقتداء بالتجربة الناجعة لصندوق الزكاة الماليزي في إعطاء أولوية صرف أموال الزكاة لمصارف الزكاة الثمانية، وضرورة تطوير مجالاته الاجتماعية ليشمل فئات أخرى تندرج تحت الأصناف، ومنها فئة اللاجئين المسلمين من أهل الزكاة.

حقيقة الوصية الواجبة في ولاية سلانجور ماليزيا: دراسة تحليلية قانونية

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ملخص البحث

هدفت هذه الدراسة إلى توضيح حقيقة الوصية الواجبة في ولاية سلانجور بماليزيا، وإبراز تحليلات المواد القانونية المتعلقة بالوصية الواجبة تحت البند السابع والعشرين (27) قانون الوصايا للمسلمين بولاية سلانجور 1999م، والتأكد من مدى توافقه مع الشريعة الإسلامية. ويمثل هذا البحث محاولة لوضع التحليلات القانونية المتعلقة بالوصية الواجبة؛ وتوصل الباحثان إلى بعض النتائج القيمة بأن هناك حاجة ماسة للمجلس الديني الإسلامي بولاية سلانجور (MAIS) لتصحيح المواد القانونية المتعلقة بالوصية الواجبة تحت البند (27) من حيث تعيين المصطلحات الخاصة بين "الأحفاد" أو "الأطفال"، والسن المنصوص عليها للموصى له.

الكلمات الدالة: الوصية الواجبة، سلانجور، قانون، تحليل، الأحفاد.

تقسيم أموال الميراث قبل وفاة المورث: دراسة تحليلية في ضوء مقاصد الشريعة

محور: إدارة المال في الأسرة

أستاذ مشارك دكتور غالية بوهيدة و آدم بولا محمد عباس

ملخص البحث

يتناول هذا البحث دراسة مشكلة تتعلق بحفظ الحقوق في الميراث بين الورثة لدى مسلمي سريلانكا في ضوء مقارنتها مع التجربة الماليزية. فبالرغم من أن نصوص القرآن الكريم والسنة النبوية قد أولت عناية بالغة من أجل أن يصل الميراث إلى مستحقيه، وأن أحكام الأحوال الشخصية للمسلمين في البلد تسمح بأن يقسم الميراث بين ورثته المستحقين، لكن واقع التقسيم أظهر أن الميراث لا يصل إلى مستحقيه على الوجه المشروع في كثير من الأحيان. فهذا البحث محاولة لبحث الأسباب الاجتماعية العرفية والقانونية لذلك، تكمن أهمية البحث في اقتراح حلول تعالج هذه المشكلة في ضوء مقاصد الشريعة الخاصة بالميراث وبعض التجارب في ماليزيا، اعتمد البحث على المنهجين الاستقرائي في تتبع وجمع المادة العلمية للموضوع، والتحليلي في الشرح والمقارنة لأحكام الميراث في الإسلام وواقعه في سريلانكا، مع اعتبار مقاصد الإرث في الشريعة، وآراء العلماء في قسمة أموال الإرث قبل وفاة المورثين بين الورثة عمومًا وفي مجتمعات الأقليات المسلمة على وجه الخصوص. وبناءً على مقاصد الشريعة الخاصة بالأسرة في الإرث خلصت الدراسة إلى ترجيح القول بتقسيم المورث لأمواله بين الورثة قبل موته مع المحافظة على أحكام وشروط الإرث الثابتة في النصوص، وذلك سدًا لذريعة ضرر حرمان الورثة من حقوقهم في التقسيم بعد ممات المورث، ويستفاد في ذلك من تجربة ماليزيا التي لها مراكز خاصة (مثل: هبة أمانة، ووصية شافي) تُعنى بتسجيل وصايا التركة التي يقسمها المورث في حياته على ورثته.

كلمات مفتاحية: تقسيم الميراث، سريلانكا، مقاصد الشريعة، حياة المورث.

بين تمكين المرأة في منظومة الأسرة الماليزية والمواثيق الدولية: دراسة تحليلية من المنظور الإسلامي

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ملخص البحث

مازال العالم يعاني من التحديات والعراقيل في تمكين المرأة، بالرغم من المواثيق الدولية وخاصة تلك الصادرة من الأمم المتحدة، التي تسعى جاهدة إلى ردم فجوة عدم المساواة بين الرجل والمرأة، وإنهاء كافة أشكال التمييز ضد المرأة، متناسين المعتقدات الدينية للمجتمعات وما يترتب من تضليل وتخريب لكيان تلك المجتمعات. لذا تهدف هذه الدراسة إلى معرفة هل المواثيق الدولية الصادرة من الأمم المتحدة، استطاعت أن تردم تلك الفجوة أو حتى تقلص منها وتنهى كل أشكال التمييز ضد المرأة عموماً والمرأة الماليزية خاصة، أم أنها فقط تسعى إلى تخريب منظومة الأسرة المسلمة تحت مسميات زائفة ومسمومة. ولأجل ذلك استخدمت الدراسة المنهج الوصفي التحليلي بالاعتماد على البيانات الثانوية التي تم جمعها من خلال الأبحاث، والتقارير الرسمية، والمواقع الإلكترونية وغيرها من المصادر ذات الصلة بموضوع البحث. وتم التوصل إلى أن معاناة النساء في جميع أنحاء العالم مازالت مستمرة، ولا تزال المرأة بعيدة كل البعد عن حقوقها في جميع أمور الحياة. وفي ماليزيا وبالرغم من المبادرات المنبثقة من المواثيق الدولية التي تقوم بها الحكومة الماليزية لتمكين المرأة، ولاسيما في مجال التعليم والقوى العاملة، إلا أن سيطرة الذكور مازالت مستمرة في معظم القطاعات في البلاد وفي الوظائف الرئيسية خاصة. ومازالت المرأة الماليزية تعاني من التمييز في جوانب مختلفة، ولاسيما في مكان العمل. لهذا تؤكد هذه الدراسة على أهمية التمكين للمرأة الماليزية، بعدم إقحامها في كل المجالات التي تناسب الرجال، والعمل على ردم فجوة المشاحنات المنادية بالمساواة لأن المرأة هي التي سوف تدفع ضريبتها. وعلى المجتمع الدولي استيعاب المجتمعات بمختلف عقائدهم وتقاليدهم وعاداتهم عند طرح مفاهيم حقوق المرأة والعمل بها وليس بنقيضها. وضرورة إغناء المرأة من العوز والحاجة المالية والاقتصادية، الذي يعتبر من الأهداف السامية المفترض تسعى له كل الحكومات والمجتمعات المدنية.

اقتصاديات الأسرة دراسة تحليلية وفق مقاصد الشريعة الإسلامية.

د.عبد المجيد عبيد حسن صالح ود.حبيب الله زكريا

معهد المصرفية والمالية الإسلامية

الجامعة الإسلامية العالمية بماليزيا

ملخص البحث:

يعالج البحث مفهوم الاقتصاد المنزلي وعلاقته بمقاصد الشريعة، فالاقتصاد المنزلي علم يختص بدراسة الأسرة واحتياجاتها ومقوماتها على مستوى المنزل والبيئة الاجتماعية . فهو يهدف إلى جعل كل منزل مريحاً ومناسباً من الناحية المعيشية ، وسليماً من الناحية الاقتصادية والصحية ومن الناحية العقلية والجسمية ، وهذا الامر يتوافق مع مقاصد الشريعة في حفظ الأسرة وتنميتها وبناءها، والحفاظ على النفس والدّين وتنشئة جيل جديد قوي ومنتج، وقد استخدم في البحث المنهج الوصفي والتحليلي بتحليل النصوص والمفاهيم ذات العلاقة، وخلص البحث إلى التأكيد على العلاقة الوثيقة بين إدارة الاسرة اقتصاديا، وتحقيق مقاصد الشريعة الكبرى، في الحفاظ على النفس والدين والعرض والعقل.

كلمات البحث: الاقتصاد المنزلي، اقتصاديات الأسرة، مقاصد الشريعة.

دور الفقه المقارن في تقنين الفقه الإسلامي، ونماذجه التطبيقية في قانون الوقف والأسرة والميراث

طالبة دكتوراه: ميسون قوادري، طالبة ماستر: مباركة عوماري، أستاذة دكتور: عارف علي عارف، أستاذة

مساعدة: أسماء أكلي صوالحي، أستاذ مشارك: عبد الباري بن أونج

الجامعة الإسلامية العالمية ماليزيا

ملخص البحث

لقد مر الفقه الإسلامي بعدة مراحل منذ عهد النبي صلى الله عليه وسلم إلى وقتنا، ومن مراحلهم المزهرة المرحلة ما قبل الأخيرة وهي مرحلة النهضة وتحديد الفقه، والتي كان أبرز ملامحها هو الدعوة إلى تقنين الفقه الإسلامي، وقد كانت هناك استجابات ناجحة لهذه الدعوة، بدءًا من ظهور مجلة الأحكام العدلية سنة (1286هـ)، وكان من بين العوامل المساعدة في هذه النهضة إضافة إلى توالي التأليف في المجال، هو ثراء الفقه الإسلامي بمذاهبه الفقهية المختلفة والمتنوعة، ونظرًا للأهمية البالغة للفقه المقارن في نجاح عملية تقنين الفقه الإسلامي، جاء هذا البحث لإبراز هذا الدور من خلال الوقوف على جوانب من التطورات الحاصلة في بعض حقبة التاريخية. ومحاولة للإجابة عن التساؤل المطروح حول مدى مساهمته في نجاح عملية تقنين الفقه الإسلامي، وكيفية توظيف أصحاب القانون في الدول الإسلامية لخصائص الفقه المقارن في عملية التقنين، والنماذج التطبيقية لهذا التقنين في جوانب من قانون الوقف والأسرة والميراث، انتهج البحث المنهج الاستقرائي المناسب لجمع المادة العلمية المتناثرة في ثنايا الكتب والتي لم يوجد في الغالب منها عنوان خاص بالموضوع، والتحليلي المناسب لتحليل النماذج التطبيقية والآراء الفقهية والقانونية في الموضوع. وقد قسم البحث إلى مبحثين: الأول للتعريف بمصطلحات الموضوع، والثاني لذكر دور الفقه المقارن في التقنين، وبيان نماذج تطبيقية لبعض النصوص المتعلقة بقانون الوقف والأسرة والميراث في عدد من الدول الإسلامية. وقد خلص البحث إلى بيان دور وإسهام الفقه المقارن في نجاح عملية تقنين الفقه الإسلامي ولاسيما في قانون الوقف والأسرة والميراث، والذي أبرز مدى إمكانية اعتماد القضاء في الدول الإسلامية على ثروتهم الفقهية، والاستغناء بها عن غيرها من القوانين الوضعية لما تمتاز به من مميزات قد لا تتوفر في القوانين الوضعية تمكنها من الوفاء بحاجات أفراد المجتمع المسلم، وتلبيتها لمتطلبات تغيير الأحداث، وتحقيق المصلحة العامة.

الوساطة القضائية في القضايا الأسرية في ماليزيا: تحديات التطبيق، وآفاق التطوير

الأستاذة المساعدة الدكتورة حليلة بوكروشة، والأستاذة المساعدة الدكتورة أسماء أكلي

كلية أحمد إبراهيم للحقوق، الجامعة الإسلامية العالمية ماليزيا

ملخص البحث

تهدف هذه الورقة إلى بحث موضوع الوساطة القضائية في القضايا الأسرية في ماليزيا من خلال فحص تحديات التطبيق في السلطة القضائية الماليزية، وآفاق تطوير هذه الوساطة لتضطلع بمهامها على أكمل وجه. وإشكالية الورقة المحورية هي بحث مدى شمولية وفاعلية القوانين المنظمة للوساطة القضائية في القضايا الأسرية في دولة ماليزيا، ومدى إمكانية استفادتها من التطبيقات المعاصرة لاسيما في الدولة القضائية. ولبحث هذه الإشكالية تناولت الورقة الجانب المفاهيمي من خلال تعريف الوساطة القضائية والألفاظ ذات الصلة بها لاسيما لفظ الصلح. ثم تناولت أبرز تحديات التطبيق التي تتوزع على تحديات التأطير القانوني، وتحديات تأهيل رأس المال البشري لاسيما الوسيط القضائي، وتحديات ضبط الجوانب الإجرائية وتطويرها. وبحث بعدها آفاق التطوير معتمدة من خلال الاستفادة من تجارب الدول الغربية والدول الإسلامية. وختمت الدراسة بتقديم مجموعة من الاقتراحات والتوصيات لتطوير هذه الوساطة والارتقاء بها لخدمة الأسرة والمحافظة على نسيجها في ماليزيا وغيرها من الدول الإسلامية من أهمها: تطوير مستوى وعي المجتمع المسلم بأهمية الوساطة ودورها في حلحلة النزاعات لاسيما المتعلقة بالقضايا الزوجية، واضطلاع القائمين على شؤون القضاء الشرعي ببذل قصارى جهدهم لتطوير آليات الصلح والاستفادة من آخر ما وصلت إليه ابتكارات الوساطة وتقنياتها لتفعيلها في القضاء الشرعي الأسري، وتأهيل القائمين على الوساطة في قضايا الأسرة لاسيما المكلفين بالصلح في المحكمة الشرعية من خلال تدريبهم وتمكينهم من أحدث الابتكارات والمهارات في مجال الوساطة لينتقل عملهم من حيث المهنية والنجاعة نقلة نوعية تسهم في التقليل من النزاعات بين الخصوم، وتحقيق صلحا أكثر استدامة مما يحققه الصلح أو الحكم، وتوحيد ممارسة الوساطة على مستوى الولايات من خلال توحيد الشروط التأهيلية والإجراءات التنفيذية، وهو ما يضمن ممارسة موحدة منضبطة في كل الولايات الماليزية ومن ثم يحقق الانضباط والفعالية.

الكلمات المفتاحية : الوساطة القضائية، قانون الأسرة، المحكمة الشرعية، السلطات القضائية، الدول الإسلامية.

الولاية في الزواج: مقاصدها في الشريعة وتحدياتها المعاصرة

الدكتورة غالية بوهدة، الدكتور ميسزيري بن سيتريس، سناء بن سايح.

ملخص البحث

تأتي هذه الورقة البحثية في معالجة ما ساء من الأفهام وانتشر حول موقف الإسلام من الحريات الفردية في اتخاذ القرارات والمواقف، إذ تتعالى في ذلك بعض الأصوات من دعاة حقوق الإنسان في تصوير الإسلام أنه حجّر على الحريات الفردية وقيدها (الموسى: 2019، مقدمة الكتاب) بصورة تلغي حق الإنسان في اختياراته الخاصة، وفي إطار ذلك الإشكال تدرس هذه الورقة قضية الولاية على المرأة في عقد الزواج، إذ تعمل على إظهار بعض الممارسات التي كرستها الكثير من الأعراف في أن الولاية سلطة مطلقة للولي (الأب، الأخ...) تمنع حق البنت في حرية الاختيار وهذا ما جعل بعض المنظمات الحقوقية النسوية تدعو بالرفع المطلق للولاية في الزواج، وأن الاختيار في الزواج حق محض ومطلق للبنت. وتستند الدراسة إلى منهجين: المنهج الاستقرائي في تتبع وجمع المادة العلمية من المصادر والمراجع ذات العلاقة بالموضوع، والمنهج التحليلي في بيان المفاهيم الصحيحة للولاية وممارستها في المجتمع، وفي إظهار أوجه الخطورة على حفظ الأسرة المسلمة من دعوات الحقوقيين في إلغائها. تهدف هذه الورقة إلى بيان المفهوم الصحيح للولاية في الزواج وأحكامها وشروطها في ضوء مقاصد الشريعة من حيث أنها تعمل على جلب ما فيه نفع للأسرة وضمان استقرارها واستمرارها، ودرء كل ما فيه ضرر متوقع على زواج البنت دون ولاية وليها من حيث بيان مفسدها في الإخلال بمقاصد الزواج والأسرة باعتبار المآل. وتهدف في نتائجها أيضاً إلى بيان وسائل غرس ثقافة أسرية أصيلة وسليمة لمواجهة التحديات المعاصرة التي تترتب بالأسرة المسلمة في الأمة.

الكلمات المفتاحية: الولاية، عقد الزواج، مقاصد الأسرة، التحديات المعاصرة.

تعدد الزوجات في قانون الأسرة الإندونيسي: دراسة تحليلية مقاصدية

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ملخص البحث

لكثرة الحوادث والوقائع المتوقعة بسبب تعدد الزوجات في إندونيسيا، أصدرت الحكومة الإندونيسية القانون الأسري الذي يحتوي على شروط تعدد الزوجات وضوابطها. فالهدف الأساسي من هذا القانون لتقليل المفسد المتوقعة بسبب تعدد الزوجات ودرئها. فكانت هذه الشروط والضوابط ليست إلا لحماية الأسرة من المفسد الأسرية وحفظ الأسرة لجلب مصالحها. لأن مصلحة الأسرة تتأثر بمصالح المجتمع والوطن التي تعتبر المصلحة العامة. وهذا الذي سألته في هذه الورقة، ألا وهو تحليل ضوابط تعدد الزوجات وشروطها في قانون الأسرة الإندونيسي على ضوء مقاصد الشريعة.

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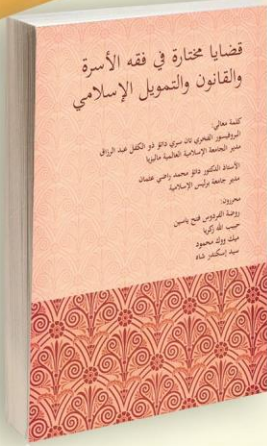
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