

K.H. HASYIM ASY'ARI'S (1871-1947 AD) PERSPECTIVE ON THE SAKINAH FAMILY AND ITS RELEVANCE TO THE CONCEPT OF ISLAMIC FAMILY LAW IN INDONESIA

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Abstract, *This study aims to describe the indicators of sakinah family formation according to KH. Hasyim Asy'ari and its relevance to the Compilation of Islamic Law (KHI). This qualitative research, in the form of a literature study, uses philosophical norms. The main data source, namely the book Dhau' al-Mishbah fi Bayani Ahkam an-Nikah by KH. Hasyim Asy'ari. Several articles on the KHI are the theory of analysis in this research. The results of the study show that there is a relationship between indicators for the formation of a sakinah family, according to KH. Hasyim Asy'ari with the construction of legal provisions in Compilation of Islamic Law (KHI). First, the indicators of compliance with the legal principles, requirements, and pillars of marriage relevant to KHI Articles 4, 16, 20, and 27. It is just that the view of KH. In the first indicator, Hasyim tends to be textual. This is in contrast to the KHI, which is more contextual. Second, the recommendation indicator in choosing a life partner is relevant to KHI Articles 15, 16, 17, and 61. In this case, the criteria for the recommendation to choose a partner by the KH. Hasyim covers various aspects including religion, physical, lineage, economy, psychological, and social status. Third, the indicator understands the principles of the purpose and benefits of marriage relevant to Articles 2 and 3. Third, the indicator is to build a good partnership in carrying out the rights and obligations of husbands and wives that are relevant to KHI Article 80. However, regarding the duties or obligations of the wife, KH. Hasyim is more detailed than the KHI. The theoretical implications of this research show indicators of the formation of a sakinah family from the viewpoint of KH. Hasyim Asy'ari is relevant and can be the basis for formulas in the development and renewal of Islamic marriage laws in Indonesia. The limitation of this research is that it has not studied in depth the heurmenetic aspects of the construction of the views of KH. Hasyim is related to four indicators of sakinah family formation.*

Keywords: *Indicators, Sakinah family, KH. Hasyim Asy'ari, KHI*

A. Introduction

There are still many problems with harmony in the lives of Muslim families in Indonesia. This is often triggered by a husband or wife figure, or both being unable to properly perform their respective functions. This phenomenon makes us more aware of Muslims, especially those who have not been or have been married, to understand the essence and manifestation of the meaning of the sakinah family well (Syamsuddin and Isma Arianti, 2019). Therefore, efforts to realize sakinah family life are important necessity to manifest (Mustafa, 1999).

One of Indonesia's charismatic scholars who have great concern in the field of family law (marriage), namely KH. Hasyim Asy'ari (1847-1947 AD). It is important to note the figure for KH. Hasyim is a scholar who has contributed greatly to the history of Indonesian Muslim civilization. This is because of his great role in many ways,

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including establishing Nahdlatul Ulama (NU), establishing the Tebuireng Islamic Boarding School, and being a fighter for Indonesian independence. However, his contribution to Islamic marriage law has not been widely studied by academics in the field of Islamic family law.

Regarding the issue of efforts to form a *sakinah* family, K. H. Hasyim explained that in his book *Dhau' al-Mishbah fi Bayani Ahkam an-Nikah*, that there are four things that can be indicators in efforts to shape the life of the *Sakinah* family, among others. (1) obey the legal principles, conditions, and pillars of marriage; (2) understand the principles of the purpose and benefits of marriage; (3) provide advice in choosing a partner; and (4) build a good partnership in carrying out the rights and obligations of the husband and wife (Muhammad Hasyim Asy'ari, tt). These four indicators are interesting to study more deeply in terms of their relevance to Islamic family law in Indonesia in particular, especially in the midst of the rampant problems of family life that occur in community life.

This study intends to identify the relevance of the *sakinah* family formation indicator according to KH. Hashim for the Construction of Islamic Family Law in the KHI. Referring to literature review by the author, several previous studies were found that correlative with this study, including Abdul Wahab's research (2015) explaining the explanation of idel marriage according to KH. Hashim in his book *Dhau' al-Mishbah fi Bayani Ahkam an-Nikah* contains 3 aspects of study in the form of the realm of study, social, Hadith studies, and fiqh studies (Islamic law) (Abdul Wahab, 2015). In line with Abdul Wahab's research, research conducted by Afifah (2017) also explained that KH. Hashim's understanding of husband-wife rights could not be separated from the construction of life background, education and social conditions surrounding him at that time (Nurul Afifah, 2017). This research uses a theoretical hermeneutic approach to reveal the construction of KH. Hashim's thoughts on conjugal rights. Furthermore, research by Lauhul Mahfudz and Muttaqin Mukhlish (2021) revealed that there is a correlation between the age limit for marriage in Law No. 1 of 1974 concerning marriage and the thought of family jurisprudence in the view of KH Hashim Asy'ari (Lauhul Mahfudz and Muttaqin Mukhlish, 2022).

This study focuses on the indicators of *sakinah* family formation in KH. Hashim and its relevance to the construction of KHI. This research is important for exploring and uncovering the legacy of family law thought from one of the archipelago's scholars, who have a major flow in Islamic thought of Muslims in Indonesia. In particular, the extent of its relevance to the construction of modern Islamic family law in Indonesia is contained in the KHI.

B. Methods

This qualitative research can be classified as a literature review that uses a normative philosophical approach. The main source of data for this study is an explanation of the indicators of *sakinah* family formation by KH. Hashim Asy'ari in his book (*Dhau' al-Mishbah fi Bayani Ahkam an-Nikah*). Meanwhile, secondary data uses various scientific works that are relevant to the main focus of research. Several articles on the Compilation of Islamic Law have become analytical theories in this study. The nature of this research approach is descriptive-analytical. In the technical step, the author first documents the data that are correlated with the main object of research. Then, enter the stage of data analysis techniques, which includes the stages of data reduction, data presentation, and data verification.

C. Results and Discussion

The Existence of the Compilation of Islamic Law (KHI) in Indonesia

The products of Islamic family law reform in Indonesia can be found in the KHI. The presence of KHI was based on INPRES No. 1 of 1991. The KHI contains various formulations of legal articles related to marriage, inheritance, and wakaf (Asriati, 2012). The KHI was present in the middle of the New Order government under President Suharto's leadership (Athoillah Islamy, 178: 2021). Although it is undeniable that the formalization and transformation of Islamic law in the context of the life of a democratic state, not a theocracy, often reaps pros and cons among its citizens (Athoillah Islamy, 51-52: 2021). The problem of implementing Islamic law nationally also often affects other democratic countries (Eko Siswanto, Athoillah Islamy, 20: 2022). The plurality of sociocultural and religious backgrounds of Indonesian society can be a paradigmatic basis for realizing a moderate religious life in Indonesia (Eko Siswanto, Athoillah Islamy, 200: 2022).

There are three functions as an instrument of Islamic law in Indonesia. The first is a codification as well as a unification of Indonesian Islamic civil law. Second, it serves as a reference for Religious Court judges in deciding the law on cases. Third, it serves as a reference for the community regarding the provisions of Islamic family law (Athoillah Islamy, 164: 2021). Meanwhile, the existence of the KHI can also be a typical form of Indonesian marriage jurisprudence formulated by taking into account the needs of Indonesian Muslims. In this case, the existence of the KHI is directed toward uniting various opinions of existing Islamic legal madzhab. Therefore, the existence of the KHI is intended as a guideline for judges within the PA. However, IHL also requires revamping, refinement, and renewal. Considering that as a fiqh product that can always undergo changes due to various existing considerations, the KHI is also able to experience changes, both in terms of the content and legal products that surround it. In addition, the emergence of IHL is one of the contributions of the great role of the state in realizing the uniformity of Islamic family law in written form. The effort to present IHL as a reference for material law within the PA is a series of efforts to achieve the various ideals of the Indonesian nation that cannot be separated from the historical dynamics of PA development (Hikmatullah, 2017).

Sakinah Family Formation Indicators the Perspective of KH. Hashim Asy'ari and Its Relevance to the Compilation of Islamic Law (KHI).

KH. Hasyim Asy'ari was born on February 14, 1871, AD, in Jombang, East Java (Mukani, 2015). On August 3, 1899, A.D. and KH. Hasyim built Tebuireng Islamic Boarding School as a place for Islamic education (mad Mubarak Yasin and Fathurrahman Karyadi, 2011). KH. Hashim wrote several books: One of them, namely *Dhau'u al-Mishbah fi Bayani Ahkam an-Nikah*. In the book, he explained the laws of marriage.

Dhau'u al-Mishbah fi Bayani Ahkam an-Nikah book was compiled when KH. Hashim returned from his scholarly travel to Mecca. It was also written during colonialism, which discriminated against the women. Not surprisingly, therefore, he tried to answer the situation of the local population, who knew little about jurisprudence at that time, especially about marriage, including the reciprocal obligations between husband and wife (Nurul Afifah, 2017). This shows that the emergence of the book is not in a vacuum, but has a setting of social problems surrounding it.

However, in *Dhau'u al-Mishbah fi Bayani Ahkam an-Nikah's* book, KH. Hashim does not clearly explain *sakinah's* villages. However, based on the author's observations, there is much information about indicators in the formation of the *sakinah* family, as

outlined in the book. In this section, we describe the indicators of sakinah family formation from the perspective of KH. Hashim and its correlation with the KHI. A further explanation is as follows:

First, they obey legal principles, conditions, and pillars of marriage. In the book *Dhau'u al-Mishbah fi Bayani al-Ahkam an-Nikah*, KH. Hashim explains the various laws of marriage. He explains that the law of marriage depends on its purpose and conditions. He mentioned five marriage laws. First, the law of sunnah marriage, that is, if the intention is to follow the sunnah, to regenerate, and to preserve the aurat or eyes, then marriage becomes an afterlife charity that brings rewards. He added a person who, when he attains the lust of shahwat and has the ability to provide a living and *dowry*, marries Sunnah. For those who have not been able to, saying that it is not sunnah to be able to marry first, this is because of the reality that must be faced and can cause busyness so that it can interfere with their worship activities. If not marrying first can make him worship quietly, then leaving marriage first is a much safer option for him, for the sake of religion (Muhammad Hasyim Asy'ari, 4: tt).

Furthermore, KH. Hashim explained that marriage would become compulsory if it were positioned as a preventive measure against adultery and divorce for wives who could be polygamous. Even so, the law of marriage can sometimes be *khilaful aula* or violate something more important, such as someone who already has the desire to marry and is ready but actually withholds it through fasting or through other practices that can restrain lust or lust. Someone who does not have the desire to marry and is actually ready but has a disease that can hinder marriage, so that the law is *makruh*, even sometimes in certain circumstances it can be *haram*, such as marrying someone who is forbidden to marry, or from himself is forbidden to marry like a mentally ill person and still a child. He explained the conditions under which a person could marry. For example, it is sunnah for men not to marry, except for women who have good religious observances.

In the second chapter, KH. Hashim explained the pillars of marriage. As explained earlier, efforts to realize a harmonious household start from premarital matters, such as finding women who conform to religious teachings and marriage procedures that are in accordance with sharia and the guidance of the Prophet Muhammad. Therefore, in the second chapter, KH. Hasyim explains that the pillars of marriage are an absolute matter for prospective couples to know who can build a perfect household. The explanation of the pillars, as generally stated by other scholars, is that there are five pillars of marriage: shahada, future husband, future wife, guardian, contract, and two witnesses (Muhammad Hasyim Asy'ari, 11: tt).

Regarding the redaction of *shighat* or *ijab kabul*, K. H. Hashim quoted from the Book of Sharh al-Ihya, which does not require *lafadh* compatibility from both parties (prospective husbands and guardians). For example, one party uses *lafadh zawwajtuka*, whereas the future husband wears *qabiltu nikahaha*. However, there are conditions that must be fulfilled, such as the continuation of *ijab kabul*, and there must be no long gap between the guardian's creed and the prospective husband. For prospective wives, K. H. Hasyim gave provisions so that the fulfillment of the four matters is *halal*, clearly selected in the sense that the person to be married has been selected, not someone else's wife or still in the *iddah* period, a real woman. There are also five provisions for husbands, which are *halal*, own options (not coercion), and clearly selected. Furthermore, K. H. Hasyim shared the qualifications (provisions) of guardians with nine subjects: not being a guardian because it is forced, mature, smart, independent, male, just, Muslim, and not hindered by ignorance. Make the provision of two witnesses: Muslim, mature, smart, independent, male, fair, not deaf or deaf, not blind or blind, and not mute or speech impaired. If viewed from the

perspective of the IHL, the first indicator above is in line with Article 4 paragraph (1) of the IHL, which states that marriage is valid if it is carried out based on Islamic law in accordance with Article 2 of Law No. 1 of 1974, explaining that marriage is valid if it is implemented according to the laws of each religion (belief). In this context, Islamic marriage law applies to Muslims, while for non-Muslims, marriage law is applied according to the rules of their religion. From KH. Hashim's point of view it is the same, Muslims who want to get married must abide by the Islamic Sharia law on marriage.

KH explains the existence of Rukun Nikah. Hasyim also has a connection with the formulation of the Article KHI. He mentioned that there were five pillars of marriage: martyrdom, future husband, future wife, guardian, and two witnesses (Muhammad Hasyim Asy'ari, 11: tt). In the KHI language, the word *sighat nikah* is interpreted as *ijab kabul* and *kabul*. Article 16, paragraph (1), states that marriage is carried out on the basis of the consent of the prospective bride. Meanwhile, in the book, if viewed from the perspective of the KHI (Tim Permata Press, tt), the first indicator above is in line with Article 4 paragraph (1) of the KHI which states that marriage is valid if it is carried out based on Islamic law in accordance with Article 2 of Law No. 1 of 1974 concerning marriage confirms that marriage is legal if it is carried out in accordance with the laws of each religion and belief. However, it can be affirmed that for Muslims, Islamic marriage law is applied, while for religions other than Islam, marriage law is applied, which is also regulated by their religion. In the thought of K. H. Hashim also said that Muslims who want to marry must obey Islamic laws regarding marriage.

KH. Hashim was also included in the conditions of a prospective husband, *kaumuhu mukhtaran* (his existence is his own choice), without coercion and not based on valid reasons. According to KH., even the guardian Hashim does not have the right to coerce. As a wife, she explained that there are four things: *halal* is not a woman who is forbidden to marry, clearly chosen because of her charm, not someone else's wife or is in the *iddah* period, and she is really a woman, not a wife. a hermaphrodite. For prospective husbands, the conditions are the same, but there is an additional condition, namely, *mukhtar*, meaning that it is chosen of its own volition, not due to the element of coercion without a valid reason (Muhammad Hasyim Asy'ari, 13: tt). This is in line with the Marriage Law, which states that women who cannot be married are incestuous in a lineage or straight line, incestuous relationships in a sideways lineage between siblings, between one and a parent's brother and between one and his grandmother's brother, sexual relations namely son-in-law, stepdaughter, daughter-in-law and mother/stepfather, breastfeeding, breastfeeding children, siblings and nursing aunts/uncles, blood relatives with the wife or as aunts or nieces of the wife, in the case of a husband with more than one wife.

Meanwhile, in the context of legal provisions for the existence of a marriage guardian, in the KHI Article 20 paragraph (1), which requires the guardian to be a man, *Muslim, aqil, and baligh* (Tim Permata Press, tt). In this regard, KH. Hashim increased these conditions to nine, namely, the four conditions above, plus not by coercion, independence, being able to act justly, not being disabled, such as senile dementia and mental disabilities, or stupid. In *ijab kabul*, he also provided conditions for the existence of the *ittishalu al-qabul bi al-ijab* or *ijab ijab advance* (Muhammad Hasyim Asy'ari, 14: tt). This is exactly as explained by the KHI in Article 27 that the consent and acceptance between the guardian and the prospective husband must be successively clear and there is no grace period. For two witnesses, the KHI requires Muslims, men, *aqil*, puberty, no memory impairment and no deafness (Tim Permata Press, 7-8: tt). Kiai Hashim added that they are independent, can act justly, are neither blind nor blind, and are not mute or mute.

Based on the above description, there is no conflict between the concept of *sakinah* households described in the Marriage Law and the KHI parallel to that described by KH. Hasyim. It is just that the thought of KH. Hashim tends to be textual in nature. KH. Hashim, in explaining laws and fatwas, tended to use thematic studies and familiarize themselves with the situation of citizens at that time, with reference to the *nash-nash* of the Quran and hadith. In contrast to the KHI, which tends to be more contextual because it was brought through an in-depth study of the four schools available and adapted to the situation of Muslims in Indonesia today.

Second is advice on choosing a life partner. KH. Hasyim believes that establishing a relationship of love to lead to a *sakinah* family begins long before the marriage takes place, since both parties choose the appropriate partner to build a household. One of the concepts of choosing is the hadith of the Prophet (peace be upon him) from the companions of Abu Hurairah(ra). Regarding the selection of partners with four qualifications, namely, finances, position, beauty, and religious qualities. In this case, religion was the first priority.

In addition to finding a soulmate, KH. Hasyim said that the chosen wife was a virgin, except for reasons of weakness in revealing virginity. The woman must also have good offspring, not be an adulterous child, nor a wicked child, or the like, nor a woman whose father is obscure, and in a *state of kufu*. It is also sunnah not to marry but for those who can do good to their wives. KH. Hashim also explained the sunnah of seeing the face and palms of prospective wives who wanted to be married and forbidden to see other parts of the body. Hasyim also gave a message not to choose six female characters as wives, including easy to complain and complain about, easy to bring up kindness, easy to tell stories and brag about people in their past, easy to be extravagant, like to decorate, and talk a lot. Six were women who should not be chosen as wives.

Although explicit, the legal provisions regarding *kafaah* are not discussed in detail in the KHI. However, several articles show the value of *kafaah* emphasized by the KHI, including Article 15, which states that marriage can only be carried out by candidates with criteria of at least 19 years old and prospective wives at least 16 years old. Article 16 states that marriage is carried out with the consent of the bride and groom. Approval of the bride-to-be can be in the form of a firm statement through oral or written gestures. Similarly, Article 17 states that the Marriage Registration Officer first asks for the approval of the bride and groom in front of two marriage witnesses. If it turns out that it is not approved by one of the brides and groom, then marriage cannot be carried out (Andri, 2021). Furthermore, the value of *kafaah* in the KHI can also be seen in Article 61 in discussing the prevention of marriage due to *insekufu* in the form of religious differences.”

Based on the above description, related to the *sakinah* indicator in terms of the recommendation to choose a partner, in the view of KH. Hashim, it can be said to be in line with the legal provisions in the KHI. However, criticism of the recommendation to choose a partner in the concept of *kafaah* advocated by KH. Hashim is described in detail. This is because, in the KHI there is no Article explicitly explaining the concept of *Kafaah*. In the KHI, only a few articles emphasize the conditions that must be met related to the minimum age of marriage, the consent of the bride and groom, and the absence of religious differences. The advice of *Kafaah* in the view of KH. Hashim covers various aspects including religion, physical, lineage, economy, psychic, and social status.

Third, we understand the principles of the purposes and benefits of marriage. KH. Hasyim revealed five benefits of marriage: getting children, solving sexual desire problems, taking care of the household, expanding the family, fighting lust with tasks in the family, and being patient in doing. On the other hand, KH. Hashim also wrote that there are three dangers of marriage: the inability to seek lawfulness, failure, and frivolity in supporting the

family, and children who can be an obstacle to obedience to Allah and attract excessive efforts to seek the world by accumulating wealth. Sunnah for married people is intended as a practice of following the sunnah of the Prophet Muhammad SAW, to maintain his religion, to continue and seek offspring, and to obtain the benefits described by KH. Hashim above (Muhammad Hasyim Asy'ari, 4-8: tt).

The existence of the principle of the purpose and benefits of marriage in the view of KH. Hasyim Asy'ari, as explained earlier, is in line with the provisions of Article 1 of Law No. 1 of 1974, which states that marriage is a form of commitment to the birth and mind relationship of the two prospective bridegrooms and prospective brides as legal companions, with the intention of making a harmonious and eternal family based on the Almighty Godhead. This matter can be understood that households formed the concept of the Supreme Godhead, in addition to Law No. 1 of 1974, we can also see the rules of marriage in articles 2 and 3 of the KH stating that marriage is a form of a strong surrender agreement (*mitsaqon ghalidzan*) by the guardian of the bride-to-be to the man with an orientation to obey God's commands and practice it into charity. In addition, the existence of marriage is also intended to build a *sakinah* home life, the *mawadah wa rahmah* (Khoirul Anam, 2019). Based on this, it is not an exaggeration of the principle and purpose of marriage in the view of KH. Hashim is parallel to the legal provisions of the KHI.

Fourth, build a good partnership to carry out the rights and obligations of the husband and wife. KH. Hasyim explained the rights and obligations of the husband and wife, including building a *sakinah* household. The partnership relationship between husband and wife is explained in the Qur'an, namely surah al-Baqarah verse 187 and an-Nisa verse 19, that husbands and wives are like clothes that warm and cover each other, so they must be able to get along with the couple well because it is an important foundation in the formation of a *sakinah* household. Therefore, it is mandatory for the husband to have good relations with his wife, namely by understanding the wife's rights, including dowry, living expenses, bread, kindness, good speech, patience with the wife's bad behavior, inviting her to the path of goodness and worship, and teaching religion (Muhammad Hasyim Asy'ari, 16: tt).

Similarly, as a wife, KH. Hashim argues that the wife must carry out her obligation to always obey her husband, not too fast, and not to leave too house unless she gets her husband's permission and pleasure. He added that a wife is also obliged not to brag about her beauty, obey her husband's orders, be silent when he speaks, stand when he leaves or returns, not to betray when he is away, especially regarding his property and room, to use fragrances, and to keep his mouth smelling good. In addition, according to KH. Hasyim, first, states that the household should be built on the basis of togetherness and a harmonious relationship between husband and wife. As a result, each of the rights and obligations between the husband and wife become the main basis that determines success in the continuity of the household. In the book *Dhauu al-Misbah fi Bayani Ahkam an-Nikah*, there is commentary on the obligations of the husband. First, we have sex with your wife by using a good method. Second, giving of dowry. The dowry must be handed over to the wife at a wedding. Third, make a living. Fourth, appropriate clothing was provided. Fifth, they speak gentle and steadfast words when guiding the wife, especially if the wife has a bad temper. Sixth, invites his wife to goodness and obey worship. Seventh, teach religious laws, and list those related to purification (*taharah*), menstruation, and prayer (Muhammad Hasyim Asy'ari, 16: tt).

KH. Hashim's view on the rights and obligations of husbands as described above is not much different from KHI Article 80 paragraph (1), that a husband is a guide for the wife and household, but in important matters must be decided together. This matter is

complemented by paragraph (2), which states that a husband must take care of his wife and provide all the needs of household life in accordance with his abilities. In paragraph (3), it is explained that the husband also has the obligation to share religious learning with his wife and opportunities to pursue useful knowledge, both for religion, homeland, and nation. In accordance with his income, in Article 80, paragraph (4), the husband must also bear, maintain, kiswa and his wife's residence, household fees, maintenance payments, and healing fees for his wife and children.

Furthermore, regarding the obligations (duties) of a wife, KH. Hasyim said that the wife's obligation was the husband's right. In this case, among other things, a wife is obliged to obey her husband, except for various things that are prohibited by religion. The wife is also not allowed to fasten the sunnah and leave the house but at the pleasure of the husband. The wife prepares and takes care of the household so that it is always clean, does not brag about her beauty, does not speak ill of her husband, keeps disgrace, bows her eyes in front of the husband, is silent when the husband is talking, stands when her husband comes and goes, offers herself to her husband when he wants to sleep, leaves treason when the husband is away, especially in his room and property, uses perfume for her husband, keeps an appearance in front of her husband and leaves him when he is away, respects her family and relatives, and accepts what she is by seeing something (gifts). Various forms of duties (obligations) in view of KH. Hashim is in line with the KHI, especially Article 83, which states that the wife must obey her husband outwardly and mentally, as long as it does not go outside the limits allowed by Islamic law. The wife is also obliged to manage and address household needs (Tim Permata Press, 27: tt). On this basis, it is not an exaggeration to say that both the obligations of husband and wife are in the view of KH. Hasyim, parallel to the explanation in Government Regulation No. 21 In 1994, the existence of family life functioned as a vehicle for internalizing various values of Islamic teachings in married life (family) (Apik Anitasari Intan Saputri and Athoillah Islamy, 2021).

D. Conclusion

Referring to the main description of this study, it can be concluded that there is a relationship between the indicators of sakinah family formation in the view of KH. Hashim Asy'ari and Islamic Family Law in KHI. Such a large conclusion can be explained as follows. First, the indicators of compliance with the legal principles, conditions, and pillars of marriage are relevant to IHL Article 4 on the validity of marriage, 16 on the consent of the bride and groom, 20 on the existence of a marriage guardian, and 27 on the consent and acceptance between the marriage guardian and the prospective husband. It's just that KH. Hashim's views in this theme indicator tend to be textual, because it is possible to adjust to the social conditions of society at that time. In contrast, the KHI tends to be more contextual. Second, the recommended indicators in choosing a life partner are relevant to KHI articles that show the value of kafaah, including Article 15, which explains the criteria for a minimum age of 19 years for the groom and a minimum age of 16 years for the bride. Article 16 states that marriage is based on the consent of the bride and the groom. Similarly, Article 17 states that the Marriage Registration Officer must inquire about the consent of the bride and groom in the presence of two marriage witnesses. Article 61 prohibits marriage because of religious differences. In this case, the criteria for choosing a partner by the KH. Hashim is more detailed and covers various aspects including religious, physical, lineage, economic, psychological, and social status. Third, the indicator of understanding the principle of the purpose and benefits of marriage is relevant to KHI Articles 2 and 3, which state that marriage is a form of a strong surrender agreement (*Mitsaqon ghalidzan*) with an orientation to obey Allah's commandments and practice it in

holih charity, and also realize *sakinah* home life, *mawadah*, and *warahmah*. Third, indicators of building good partnerships in the implementation of husband-wife rights and obligations relevant to Article 80 of the IHL affirm that husbands are guides, protectors, and providers of support for their wives and home lives according to their abilities. However, in this case, regarding the duties or obligations of the wife, KH. Hashim's view is more elaborated in detail than the KHI.

The theoretical implications of this study show that the idea of family law inherited by Nusantara ulama is related to the indicator of *sakinah* family formation in the view of KH. Hasyim Asy'ari is relevant and can form the basis for the development and renewal of Islamic marriage law in Indonesia. The limitations of this study have not been studied in depth in relation to the heuristic aspects of KH. Hashim's thought construction related to indicators of *sakinah* family formation. This is important to study in order to understand more deeply the factors of the occurrence of its distinctive aspects with the construction of legal provisions in the KHI.

Bibliography

- Afifah, Nurul. "Hak Suami-Istri Perspektif Hadis (Pemahaman Hasyim Asy'ari Dalam Dha'u Al-Misbah Fi Bayan Ahkam Al-Nikah)." *Jurnal Living Hadis* 2, no. 1 (2017): 19–47.
- ANAM, KHOIRUL. "STUDI MAKNA PERKAWINAN DALAM PERSEPEKTIF HUKUM DI INDONESIA." *Yustitiabelen* 5, no. 1 (2019): 59–67.
- Andri, Andri. "Urgensi Kafaah Dalam Kompilasi Hukum Islam (KHI) Pada Pasal 15 Ayat 1." *Jurnal An-Nahl* 8, no. 1 (2021): 1–7.
- Asriati, Asriati. "Pembaruan Hukum Islam Dalam Terapan Dan Perundang-Undangan Di Indonesia." *DIKTUM: Jurnal Syariah Dan Hukum* 10, no. 1 (2012): 23–39.
- Asy'ari, Muhammad Hasyim. *Dhau'ul Mishbah Fi Bayani Ahkamin Nikah*. Jombang: Dhau'ul Mishbah fi Bayani Ahkamin Nikah, n.d.
- Aziz, Muhammad, Maftuh Maftuh, Bayu Mujrimin, Moh. Agus Sifa', Sandro Wahyu Permadi. Providing Incentive Guarantees and Privileges for Health Services in the Implementation of Legal Protection for Health Workers During the Covid-19 Pandemic, *De Jure: Jurnal Hukum dan Syar'iah*, Vol 14, No 1 (2022), 111-124. Program Studi Hukum Keluarga Islam, Fakultas Syariah UIN Maulana Malik Ibrahim Malang, <https://doi.org/10.18860/j-fsh.v14i1.15280>.
- Aziz, M. (2021). SIGNIFIKANSI PERANGKAT IJTIHAD DALAM KAJIAN UŞHŪL FIQH. *Al Hikmah: Jurnal Studi Keislaman*, 11(2), 123-140. <https://doi.org/10.36835/hjsk.v11i2.3658>.
- Aziz, Muhammad, Abdul Ghofur dan Niswatin Nurul Hidayati, Regulation on the Implementation of Halal Product Assurance in Indonesia: Statute Approaches Study, *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam*, LPPM UNISSULA, Vol. 4, No. 1, 2021.
- Aziz, M., & Harahap, A. A. (2022). Keluarga Sakinah dalam Pandangan K.H. Hasyim Asy'ari (1871-1947 M) dan Relevansinya dengan Hukum Keluarga Islam di Indonesia: The Sakinah Family In The View of K.H. Hasyim Asy'ari (1871-1947 AD) And Its Relevance To Islamic Family Law In Indonesia. *AL-AQWAL: Jurnal Kajian Hukum Islam*, 1(2), 116-127. <https://doi.org/10.53491/alaqwal.v1i2.342>.
- Hikmatullah, Hikmatullah. "Selayang Pandang Sejarah Penyusunan Kompilasi Hukum Islam Di Indonesia." *Ajudikasi: Jurnal Ilmu Hukum* 1, no. 2 (2017).

- Islamy, Athoillah. "Eksistensi Hukum Keluarga Islam Di Indonesia Dalam Kontestasi Politik Hukum Dan Liberalisme Pemikiran Islam." *Al-Istinbath: Jurnal Hukum Islam* 4, no. 2 (2019): 161–76.
- . "Landasan Filosofis Dan Corak Pendekatan Abdurrahman Wahid Tentang Implementasi Hukum Islam Di Indonesia." *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (2021): 51–73.
- . "Pemikiran Hukum Islam Nurcholish Madjid." Disertasi, Pascasarjana Universitas Islam Negeri Walisongo, 2021.
- Mahfudz, Lauhul, and Muttaqin Mukhlis. "RELEVANSI PEMIKIRAN KH. HASYIM ASY'ARI DAN PEMBatasan USIA KAWIN DALAM MENCApAI TUJUAN." *PERKAWINAN | Jurnal Hukum Keluarga Islam El-Qisth* 4, no. 1. Accessed August 24, 2022. <http://ejournal.iauluwiyah.ac.id/index.php/qisth/article/view/272>.
- Masyhur, Mustafa. *Qudwah Di Jalan Dakwah, Terjemah Oleh Ali Hasan*. Jakarta: Citra Islami Press, 1999.
- Mukani. *Biografi Dan Nasihat Hadratussyaikh KH.M. Hasyim Asy'ari : Sebagai Salah Satu Ulama Terkemuka Penyebar Agama Islam Nusantara*. Jombang: Pustaka Tebuireng, 2015.
- Nafis, M. Cholil. *Fikih Keluarga: Menuju Keluarga Sakinah, Mawaddah, Wa Rahmah, Keluarga Sehat, Sejahtera, Dan Berkualitas*. Mitra Abadi Press, 2009.
- Saputri, Apik Anitasari Intan, and Athoillah Islamy. "Nilai-Nilai Maqasid Syariah Dalam Fungsi Keluarga Di Tengah Pandemi Covid-19." *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 19, no. 1 (2021): 1–14.
- Siswanto, Eko, and Athoillah Islamy. "Fikih Moderasi Beragama Dalam Kehidupan Bernegara Di Indonesia." *Al-Adalah: Jurnal Hukum Dan Politik Islam* 7, no. 2 (2022): 198–217.
- . Eko, and Athoillah Islamy, "Meninjau Ulang Polemik Formalisasi Hukum Islam di Indonesia Perspektif Demokrasi Pancasila : Analisis SWOT," *Miyah : Jurnal Studi Islam* 18, no.1(2022):20
- Syamsuddin, A. B., and Isma Arianti. "PEMBINAAN KELUARGA SAKINAH TERHADAP PREVENTIF PERCERAIAN DI KANTOR URUSAN AGAMA KECAMATAN SOMBA OPU KABUPATEN GOWA," 2019.
- Tim Permata Press. *Kompilasi Hukum Islam: Hukum Perkawinan, Kewarisan, Dan Perwakafan*. Jakarta: Permata Press, n.d.
- Wahab, Abdul Wahab. "Konsep Pernikahan Dan Keluarga Ideal Dalam Pandangan Hadratusy Syaikh KH. Hasyim Asyari; Telaah Terhadap Risalah Dlual-Mishbah Fi Bayani Ahkam al-Nikah." *Istidal: Jurnal Studi Hukum Islam* 2, no. 2 (2015): 102–11.
- Yasin, Ahmad Mubarak, and Fathurrahman Karyadi. *Profil Pesantren Tebuireng*. Pustaka Tebuireng, Pondok Pesantren Tebuireng, 2011.