

Relevance of Religious Court Decisions on Marriage to National Development Policy Directions: A Legal and Social Analysis

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Abstract

The results show that the Religious Courts play an important role in harmonising Islamic law with national development policies and international legal standards, particularly in the context of protecting the rights of women and children. However, challenges exist in harmonising interpretations of Islamic law with the principles of human rights and gender equality guaranteed by international conventions such as CEDAW. This research uses a qualitative approach with a case study method to analyse the relevance of Religious Court decisions related to marriage to national development policies as well as their relationship to international law. Primary data was obtained through analysis of Religious Court decisions in several regions of Indonesia in the last five years covering marital issues such as divorce, polygamy, child custody, and division of joint property. Secondary data included national policy documents, such as the RPJMN, as well as international legal instruments such as CEDAW. This research identifies the need for progressive reforms in the Religious Courts system, including capacity building of judges in understanding international law, revision of the Compilation of Islamic Law, and strengthening co-operation between relevant institutions. The innovative contribution of this research lies in its in-depth analysis of how the Religious Courts can serve as a bridge between religious law, national development policy, and Indonesia's international obligations.

Keywords: Religious Courts, marriage law, national development, human rights, gender equality.

1. Introduction

Marriage is a fundamental institution that affects the social, economic and political structure of every country. In Indonesia, marriage is regulated by Law No. 1/1974 on Marriage, which affirms that marriage is a physical and mental bond between a man and a woman as husband and

wife with the aim of forming a happy and lasting family (household) based on God Almighty. However, this regulation must be understood in the context of the plurality of legal systems in Indonesia, which includes religious, customary and state laws. In particular, in matters of marriage for Muslims, the Marriage Law is reinforced by the Compilation of Islamic Law (KHI), which is applied by the Religious Courts as a special jurisdiction to decide cases related to marriage, divorce, child custody, and polygamy. This regulation not only affects the legal aspects of the family, but also affects the social and moral fabric of Indonesian Muslim society (Salim, 2018).

From an international legal perspective, the regulation of marriage is also closely related to various human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which was adopted by the United Nations (UN) in 1979 and has been ratified by Indonesia through Law No. 7 of 1984. CEDAW specifically promotes the elimination of discrimination against women in the context of marriage, divorce and child custody, and ensures that women have equal rights in family life. In this context, Religious Courts' decisions on marriage are often faced with a dilemma between maintaining traditional Islamic norms and fulfilling Indonesia's international commitments to protect the rights of women and children in the family. This creates challenges in harmonisation between domestic law and international standards (Irianto & Syarif, 2020). In addition, in comparison with legal systems in other countries, Indonesia's approach to marriage law has similarities and differences with countries that apply other principles of Islamic law, such as Malaysia and Egypt. In Malaysia, Islamic family law is governed by the Islamic Family Law Act which grants similar powers to Syariah Courts in dealing with issues of marriage, divorce, and child custody, albeit with a stronger emphasis on different state arrangements. Meanwhile, Egypt, as one of the world's centres of Islamic law, has made some reforms to Islamic marriage law through Law No. 100 of 1985, which introduced stricter rules against polygamy and divorce to enhance the protection of women (Sonbol, 2003).

This comparison shows that each country with an Islamic legal base develops a unique approach in harmonising religious traditions with the challenges of modernity and international pressures. However, there is a significant research gap in relation to how Religious Court judgements in Indonesia align with developments in national development policy and international law. Most existing research focuses only on the formal aspects of Islamic law judgements without exploring their social and international legal impact. In addition, comparative research on marriage law systems in other Islamic countries is limited, particularly in understanding how different countries have overcome similar challenges in harmonising religious law with international standards. This research seeks to fill that gap by providing an in-depth analysis of the relevance of Religious Court decisions in the context of national development and international law, and comparing them with the legal experiences of other Islamic law-based countries (Feener & Cammack, 2018).

Specifically, this research will explore the main questions: (1) How do Indonesian Religious Court decisions interact with national laws and international legal standards such as CEDAW? (2) How does Indonesian marriage law compare with other countries that have similar Islamic legal arrangements? (3) To what extent do marriage-related Religious Court decisions contribute

to the achievement of social development goals and the protection of human rights in Indonesia? By answering these questions, this research seeks to provide a more comprehensive understanding of the dynamics of marriage law in Indonesia and its relevance to national development policy and compliance with international commitments (Jones, 2020).

The research is also expected to provide policy recommendations that can bring Religious Court decisions closer to national development goals, as well as ensure that Indonesia remains compliant with its international commitments to protect the rights of women and children within the institution of marriage (Bowen, 2018). This will create a more inclusive and sustainable legal model, which not only supports equitable social governance, but also ensures that domestic legal developments remain aligned with globally recognised international legal standards.

2. Research Methods

This research uses a qualitative approach with a case study method to analyse the relevance of Religious Court decisions related to marriage to national development policies as well as their relationship to international law. Primary data was obtained through analysis of Religious Court decisions in several regions of Indonesia in the last five years covering marital issues such as divorce, polygamy, child custody, and division of joint property. Secondary data included national policy documents, such as the RPJMN, as well as international legal instruments such as CEDAW (Creswell, 2014). Data collection techniques included document analysis, in-depth interviews with judges, legal academics, and policy makers, as well as comparative studies with other Islamic countries such as Malaysia and Egypt (Rubin & Rubin, 2012). Data were analysed using thematic methods to identify patterns in Religious Court decisions relating to the protection of women's and children's rights, as well as contributions to national development (Braun & Clarke, 2006). Comparative studies were conducted to look at differences and similarities in the implementation of marriage law in other countries and its impact on Indonesian domestic policy (Ragin, 2014). Data validity was guaranteed through triangulation of methods and data sources, while reliability was ensured by using transparent and standardised research procedures (Yin, 2018). The research was conducted with due observance of research ethics principles, including maintaining the anonymity and confidentiality of informants and ensuring informed consent before interviews were conducted (Flick, 2018).

3. Discussion

Religious Courts in Indonesia have a very important role in resolving marriage cases for Muslims, including divorce, polygamy and child custody. This role is in accordance with the provisions of national law, especially Law No. 1 Year 1974 on Marriage and the Compilation of Islamic Law (KHI). (Nurlaelawati, E., 2010) The KHI provides guidance for Religious Courts to resolve marriage cases on the basis of Islamic law. While this system allows for the application of religious law, decisions often need to be aligned with the national legal framework, particularly in relation to the protection of women's and children's rights. (Cammack, M., Bedner, A., & van Huis, S., 2015) This is also in line with Indonesia's ratification of international

conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), which requires domestic laws to be in line with the principles of women's protection. (Irianto, S., 2004).

Religious Court decisions not only have legal consequences, but also impact on social policy and national development. (Mulia, S. M., 2007) For example, policies contained in the National Medium Term Development Plan (RPJMN) aim to improve family welfare and reduce poverty levels. (Bappenas, 2020) In this context, decisions relating to divorce, child custody, and the distribution of joint property have major implications for the economic welfare of families, especially for women and children who are often the vulnerable parties in divorce cases. (Nurmila, N., 2009). Religious Courts have a social responsibility to ensure that their judgements not only meet legal standards, but also support national efforts to create a just and prosperous society. (Huda, N., 2018).

Indonesia has ratified various international conventions relating to human rights, including CEDAW and the Convention on the Rights of the Child. (Azra, A. 2006). However, a key challenge facing the Religious Courts is how to harmonise religious legal norms that are often based on Islamic traditions and sharia with international obligations that promote gender equality and child protection. (Butt, S., 2018). In some cases, Religious Courts' decisions on divorce or polygamy have caused controversy because they are perceived to be inconsistent with the principles of gender equality guaranteed by international law. (Hooker, M. B. 2008). However, Religious Courts often attempt to strike a balance between religious law and internationally recognised human rights principles. (Lindsey, T., & Sumner, C. 2010).

To better understand the dynamics between religious law and national law in Indonesia, it is important to conduct comparative studies with countries that have Islamic-based legal systems, such as Malaysia and Egypt. (Otto, J. M. 2010). In Malaysia, the Syariah Court handles Islamic marriage cases with a similar approach to the Religious Courts in Indonesia, but there are differences in the regulation of polygamy and child custody. (Mohamad, 2011). In Egypt, the reform of the marriage law in 1985 introduced stronger protections for women, especially in terms of divorce and child custody. (Sonneveld, 2012). This comparative study provides insight into how other countries have overcome similar challenges in integrating Islamic law with the demands of modernity and human rights, and can serve as a learning tool for legal reform in Indonesia. (Mir-Hosseini, Z., Al-Sharmani, M., & Rumminger, J. 2015)

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Religious Court decisions not only have legal ramifications, but also impact social policy and national development. For example, policies listed in the National Medium-Term Development Plan (RPJMN) aim to improve family welfare and reduce poverty levels.

In this context, judgements relating to divorce, child custody and the distribution of joint property have major implications for the economic well-being of families, particularly for women and children who are often vulnerable parties in divorce cases (Salim, 2018). Religious Courts have a social responsibility to ensure that their judgements not only fulfil legal standards, but also support national efforts to create a just and prosperous society.

Indonesia has ratified various international conventions relating to human rights, including CEDAW and the Convention on the Rights of the Child. However, a key challenge facing the Religious Courts is how to harmonise religious legal norms that are often based on Islamic tradition and sharia with international obligations that promote gender equality and child protection. In some cases, Religious Courts' decisions on divorce or polygamy have generated controversy because they are perceived to be inconsistent with the principles of gender equality guaranteed by international law. However, Religious Courts often attempt to strike a balance between religious law and internationally recognised human rights principles (Jones, 2020). For example, in the case of polygamy, although permissible in Islam, the strict requirements imposed by Religious Courts can be seen as an attempt to conform to international norms that promote gender equality.

To better understand the dynamics between religious law and national law in Indonesia, it is important to conduct comparative studies with countries that have Islam-based legal systems, such as Malaysia and Egypt. In Malaysia, the Syariah Court handles Islamic marriage cases with a similar approach to the Religious Courts in Indonesia, but there are differences in the regulation of polygamy and child custody. In Egypt, the marriage law reform of 1985 introduced stronger protections for women, especially in divorce and child custody matters (Sonbol, 2003). This comparative study provides insights into how other countries are addressing similar challenges in integrating Islamic law with the demands of modernity and human rights, and can serve as learning material for legal reform in Indonesia.

The social and economic impact of Religious Court judgements on marriage is significant, especially for women and children. Divorce, for example, often places women in a more economically vulnerable position, especially if they do not have adequate access to gono-gini property or child support. In addition, the distribution of gono-gini property is often a complicated issue as it is influenced by different interpretations of religious law in different regions. In this context, Religious Courts decisions should be viewed as tools that not only enforce the law, but also as instruments to ensure greater social welfare, in line with the national development agenda (Bowen, 2018). Religious Courts also have an important role in driving social change, particularly in terms of strengthening the role of women in the family and society.

Despite the important role of the Religious Courts in resolving matrimonial cases, there have been criticisms of their performance. This criticism relates primarily to the protection of the rights of women and children in legal proceedings. Some argue that the Religious Courts are often still too tied to traditional interpretations of Islamic law which can limit women's access to

justice. On the other hand, there are challenges in adapting Islamic law to the demands of international law and modernity without neglecting the religious values that underpin Indonesia's legal system (Hefner, 2016). Therefore, more progressive reforms are needed to ensure that the Religious Courts can deliver decisions that are more inclusive, just and in line with Indonesia's national development policies and international commitments.

Based on the above analysis, policy recommendations are needed to strengthen the role of the Religious Courts in supporting national development, particularly in relation to the protection of human rights, gender equality and social welfare. Firstly, increased training and education is required for Religious Court judges to understand more about international law and its implications for domestic legal decisions. Second, there is a need to revise certain regulations in the KHI that are considered incompatible with the principles of gender equality, particularly in terms of divorce and polygamy (Nurlaelawati, 2019). Third, cooperation between relevant institutions, such as Komnas Perempuan and the Ministry of Women's Empowerment and Child Protection, needs to be enhanced to ensure that Religious Court decisions are in line with development policies that focus on strengthening the role of women and children in the family.

4. Conclusion

Religious Courts in Indonesia have a pivotal role in resolving marital matters among Muslims, including divorce, polygamy, and child custody. These courts operate under a national legal framework governed by Law No. 1 Year 1974 on Marriage and the Compilation of Islamic Law (KHI). Although the KHI provides Islamic Shari'ah-based guidance, decisions taken by the Religious Courts often have to conform to national and international legal principles, particularly in terms of the protection of women's and children's rights. The innovative contribution of the role of the Religious Courts lies in the attempt to harmonise between religious law and internationally recognised human rights principles. The Religious Courts serve not only as religious law enforcement agencies but also as a bridge between Islamic sharia and international obligations that uphold gender equality and child protection. By ratifying conventions such as CEDAW, Indonesia facilitates domestic legal reforms that not only strengthen the application of religious principles but also support global efforts to guarantee human rights.

These innovations reflect efforts to build bridges between Islamic legal traditions and the demands of modernity, which require integration between sharia law and international standards. The Religious Courts, with their capacity to apply religious norms within a broader national legal framework, demonstrate how legal systems can adapt and evolve to reflect social change and human rights. This approach provides a model for other countries with faith-based legal systems in navigating similar challenges, while opening up space for continuous improvement in the delivery of social justice and the protection of individual rights.

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