

Implementation of Maqasid Syari'ah in the Concept of Reforming the Indonesian Marriage Law Based on Gender Equality: Study of the Counter Legal Draft Compilation of Islamic Law

Authors : Nirmalasanti Pramesi

Abstract : In 2004 the CLD KHI Team offered several new ideas in the field of Islamic family law, such as marriage, inheritance (waris), and waqf. The new idea is based on six main principles; pluralism, nationality, human rights, democracy, masalah, and gender equality. However, the existence of this has actually caused various criticisms, appreciations, and controversies. For this reason, CLD-KHI, as the idea of reforming family law, especially in the field of marriage, really needs to be studied academically with a comprehensive method as an unfinished problem. The main issues examined in this study are what are the ideas for reforming the law of marriage that have been formulated by the CLD KHI team, as well as how to implement Maqasid Sharia in legal reform. The methodology used in this research is a qualitative method with a normative-empirical-sociological approach. The results of this research show every substance of the idea considers aspects of locality, nationality, and global ethics. The Maqasid approach used in most of the legal provisions is moderate (wasati). Meanwhile, in matters of wali niqah and inheritance, it is adjusted to the context of Indonesian society.

Keywords : Maqasid syari'ah, CLD KHI, marriage law reform, moderate

Conference Title : ICIPIS 2021 : International Conference on Islamic Philosophy and Islamic Studies

Conference Location : Amsterdam, Netherlands

Conference Dates : February 08-09, 2021