

HARMONIZATION OF ISLAMIC LAW IN NATIONAL LEGAL SYSTEM: A COMPARATIVE STUDY BETWEEN INDONESIAN LAW AND MALAYSIAN LAW

Yeni Salma Barlinti¹

Abstract

This article compares Indonesia legal system and Malaysian legal system. The government legalized Islamic law in national legislations, which are in effect for Muslim people. To facilitate dispute settlement, there is a religious court to solve Islamic dispute based on Islamic law. The existence of Islamic law in Indonesia and Malaysia has similarity and differentiation. The similarities among others are: the Muslim-majority in both countries pushes the government to put Islamic law into force, Islamic law must be written into constitution or legislation. It is needed to have legal basis when performing Islamic law, the existence of religious court is very important in dispute settlement related to Islamic law. The influence of western legal system is very strong in national legal system. Nevertheless, the western legal system differs substantially from Islamic legal system, and Islamic law was implemented limitedly based upon western legislation. It was limited to family law. While the differentiations are: the way of implementation of western legal system into national legal system and the form of legislation. Indonesia has one legislation, which is in effect to all of Indonesia people. On the contrary, Malaysia has many enactments, which are different from one to another in each negeri.

Keywords: Indonesia, Malaysia, Islamic law, Legal systems, Comparative study.

I. Introduction

Islamic law is the law regulates many fields. This law in some countries has become legal system such as Egypt and Saudi Arabia, but in others it is just part of national legal system. At the latter, Indonesia and Malaysia were countries use Islamic Law as part of national legal system. It can be seen in national legislations and court system. The government legalized Islamic law in national legislations, which are in effective for Muslim people. To facilitate dispute settlement, there is religious court to solve Islamic dispute based on Islamic Law.

I make comparison between Indonesian legal system and Malaysian legal system due to some reasons. First, Indonesia and Malaysia has Muslim-majority citizen. Indonesia as the world's largest Muslim-majority country has 87.2% Muslim

¹ Lecturer of Islamic Law at Faculty of Law, Universitas Indonesia. The author can be contacted at barlintiyesa@yahoo.com.

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