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WITHIN THE INDONESIAN INTELLECTUAL LANDSCAPE

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Hamka Siregar

Fiqh Issues in the Border Areas of West Kalimantan

Abstract: *The less prosperous condition of the community in the Indonesia-Malaysia border area in the province of West Kalimantan has resulted in several problems including those related to fiqh, such as the sale and purchase of illegal goods from Malaysia, the phenomena of illegal migrant workers from Indonesia, human trafficking, transnational marriages, double identity cards, etc. In the perspective of fiqh, there is no ban on trading between people of different nationalities. In the legislative provisions, all citizens are bound not to commit illegal trade. On the other hand, the cases of double identity cards, transnational marriages, and the issue of migrant workers, in fact, are against the fiqh. However, in the context of citizenship, people should follow the provisions of the prevailing legislation. These fiqh issues have motivated the author to analyze them from the perspective of fiqh. Hopefully, we can get a picture of the fiqh problems in the Indonesia-Malaysia border area and find solutions to them.*

Keywords: Border Area, Nationalities, Fiqh Problems, Community.

Abstrak: *Kondisi masyarakat di wilayah perbatasan Indonesia-Malaysia di Provinsi Kalimantan Barat yang kurang sejahtera mengakibatkan terjadinya beragam persoalan termasuk yang berkaitan dengan fikih, seperti praktik jual-beli barang-barang illegal dari Malaysia, fenonema pekerja migrant illegal, perdagangan manusia, pernikahan lintas-negara, dan kartu identitas kependudukan ganda. Dalam perspektif fikih, tidak ada larangan untuk melakukan perdagangan antara orang-orang yang berbeda kewarganegaraan. Namun, di dalam ketentuan perundang-undangan semua masyarakat diikat untuk tidak melakukan praktik perdagangan yang illegal. Di sisi lain, kasus kartu identitas kependudukan ganda, pernikahan lintas-negara, dan isu pekerja migrant, faktanya, itu semua belawan dengan kaidah fikih. Bagaimanapun juga, dalam konteks kewarganegaraan, masyarakat harus mengikuti ketentuan perundang-undangan yang berlaku. Masalah-masalah fikih ini mendorong penulis untuk menganalisa masalah-masalah tersebut dari perspektif fikih. Dengan harapan, kita dapat mengambil gambaran dari persoalan-persoalan fikih di wilayah perbatasan Indonesia-Malaysia and menemukan pemecahan masalah untuk masyarakat di sana.*

Kata kunci: Wilayah Perbatasan, Kewarganegaraan, Permasalahan Fikih, Masyarakat.

ملخص: لقد أدت الحالة الأقل ازدهارا التي يعانيها سكان منطقة الحدود بين إندونيسيا وماليزيا بمحافظة كاليمانتان الغربية إلى حدوث المشاكل المختلفة، بما فيها ما يتعلق بالقضايا الفقهية، مثل ممارسة تجارة السلع غير المشروعة من ماليزيا، وظاهرة العمال المهاجرين غير الشرعيين، والاتجار بالبشر، والزواج عبر الوطنية، وبطاقة الهوية المزدوجة. ومن وجهة النظر الفقهية، ليس هناك ما يمنع ممارسة التجارة بين الناس من جنسيات مختلفة، إلا أن المجتمع يجب أن يلتزم بالقوانين التي تمنع ممارسة التجارة غير المشروعة. ومن جانب آخر، فإن قضية بطاقة الهوية المزدوجة، والزواج عبر الوطنية، والعمال المهاجرين غير الشرعيين، كلها تتعارض مع القاعدة الفقهية. وفي سياق المواطنة، فإن المجتمع، كيفما كان، يجب الالتزام بجميع القوانين المعمول بها. وهذه القضية دفعت الكاتب إلى القيام بتحليلها من المنظور الفقهي من أجل الحصول على صورة حول القضايا الفقهية في منطقة الحدود الإندونيسية الماليزية وإيجاد حلول لها.

الكلمات المفتاحية: المنطقة الحدودية، المواطنة، القضايا الفقهية، المجتمع.

The Indonesia-Malaysia border area is, in fact, a strategic region. In addition to being an area where the two countries are adjacent to each other, the region has served as a “portrait of Indonesia” in the eyes of neighboring Malaysia. The state and the quality of life of the community in the border area should be understood as a portrait that affects the way Malaysia sees Indonesia. Either directly or indirectly, it concerns the dignity of Indonesia in the eyes of other countries. Therefore, the Indonesian state has an interest in prioritizing development in the Indonesia-Malaysia border while at the same time improving the quality of life in this region.

Instead of making serious efforts to develop the border area and improve the quality of life there, the Government has failed to pay attention to the prosperity of the community. The quality of life of the community in this area is similar to that of the other communities of Indonesia who live in remote areas. In fact, people in this region are faced with a variety of problems related to both social and religious issues.

West Kalimantan is a province situated in the western part of the island of Kalimantan (Borneo) with five strategic areas that directly border the eastern part of Malaysia. The five areas with crossings to the neighboring country are Entikong located in Sanggau District, Sajingan in Sambas District, Jagoi Babang in Bengkayang District, Senaning in Sintang District, and Nanga Badau in Kapuas Hulu District.

Although the above-mentioned areas could become the vanguard for the partnership or regional cooperation between Indonesia and Malaysia, in reality at present they are just like remote suburbs. Needless to say, the lack of governmental attention to the border area has resulted in underdeveloped infrastructure and human resources. Despite the fact that there is a ministerial post specifically in charge of border and underdeveloped areas, and the expectation is high, there have been insignificant changes in the region. Border areas remain suburbs and isolated corners of the country.

As one impact of low prosperity among the community in the region, a number of cases have appeared, including the issues of fiqh, such as trade of illegal goods from Malaysia, Indonesian illegal workers, human trafficking, transnational marriage, the phenomenon of dual identity cards, Friday prayer issues, and so on. In the light of these issues of fiqh, the author was interested in analyzing the growing problem

and constructing a fiqh model. Hopefully, we can get a picture of the problems of fiqh in the Indonesia-Malaysia border and find the fiqh-based solutions. Here lies the urgency of this research.

The urgency and relevance of this article also can be found in its search for alternative solutions to border area problems. By promoting fiqh approach, this article offers an Islamic Jurisprudence perspective to solve the problems. One of the ways of making this possible is through socialization by local people and local security forces. Thus, this article gives different perspective about local issues unlike *Katab Kabahn* in anthropological approach made by Prasojo (2011) or *Kitab Berladang* in philological approach made by Amin (2013).

Due to the limitation of time and budget to reach such areas, the author has limited the object of this study to the Muslim communities living in three regions in the border areas, i.e., Entikong in Sanggau District, Jagoi Babang in Bengkayang District, and Nanga Badau in Kapuas Hulu District. Such limitation is also important since this study is related to analyzing the problems of fiqh in the border community and find the construction, which, of course, according to Bothoul (1998, 39–43) should at least include the society and environment. In fact, the environment has a crucial role in constructing the mindset of the society and its habits.

This research employed a qualitative approach and produced descriptive data in the form of the written and spoken narratives of informants or observed behavior.¹ This approach allows the author to collect, process, and analyze research data, and then to draw valid, reliable, objective, and useful conclusions. A descriptive method was used in this research to describe the characteristics of the individuals, groups, situation and symptoms related to religious issues among the community living at the Indonesia-Malaysia border area.

In order for the research to be efficient and effective, the subject of the research as a source of research data was the communities living at the border areas of Entikong in Sanggau District, Jagoi Babang in Bengkayang District and Nanga Badau in Kapuas Hulu District. Information from the guards stationed at the border crossing points also fell into in this criterion.

Meanwhile the object of the study that serves as the focal point of the research was the fiqh related problems of the border communities. The data were collected through observation, interviews, and

documentation. Meanwhile the tools used to collect data were guidelines for observation and prior to interviewing the subject, a notebook, camera, voice recorder, and other necessary instruments were prepared.

To ensure the validity of data, the following steps were taken: extension of the observation period, continuous observation, triangulation, focus group discussion, and member check. Then, the data collected were analyzed in accordance with the fiqh.

Fiqh Issues in the Indonesia-Malaysia Border Areas

*Jagoi Babang*²

Similar to other areas of the Indonesia-Malaysia border, the condition of Jagoi Babang is also relatively underdeveloped in many aspects, especially in terms of quality of people's welfare. In addition to being a remote subdistrict, the road to this place was also inadequate, and this has affected the quality of life of the people who are mostly middle- to lower-class. Lower living standards have also made it hard for the residents to find employment and at the same time given rise to irregularities especially among those in authority. This border crossing point is utilized by locals and outsiders as an alternative channel for illegal trade and human trafficking.

Trade across borders between citizens of Indonesia and Malaysia in Jagoi Babang has to comply with the agreement on Border Crossing Arrangement (BCA) or Overland Border Trade signed in Jakarta on May 26, 1967.³ Under its terms, it is clearly stated that residents living in both countries are allowed to conduct trade transactions on land with the value of MYR 600 (IDR 2.1258 million, -)/month/PLB or on sea with the value of MYR 600/each shipment/PLB, provided that the residents carry with them an Identity Card for cross-border trade purposes so that they will not have to pay extra charge. In reality, however, the provisions of this regulation are often used for smuggling Malaysian goods in large quantities to be distributed to all corners of West Kalimantan without charge.

In traditional markets, one can easily find merchandise (such as sugar, milk, rice, sausage and gas) made in Malaysia, and most of it is illegally sold.⁴ Uneven distribution of food in Indonesia has somehow contributed to the problem, since Indonesian merchandise is much more expensive than Malaysian. This condition is then used by the people of Jagoi Babang and the speculators to bring in a variety of

merchandise produced in Malaysia. Such merchandise enters the country in large quantity without customs and is traded throughout the region of West Kalimantan.

AN⁵, a sugar courier from Bengkayang District, admitted that he bought sugar in Jagoi Babang for resale to retailers/shops. AN asserted that the sale and purchase of sugar, rice, milk and sausages and even cooking gas from Malaysia are everyday activities, and the customs officers or other law enforcement officers do not forbid it.⁶ AN is not alone. He also has other friends who do the same job. According to him, he set out to buy sugar with his friends using around 7-8 motorcycles that have been modified.

TWK also confirmed that if the sugar from Malaysia is collected, then the couriers will also bring in other merchandise such as rice, milk, sausages and cooking gas. These commodities, according to them, have in fact become part of the daily needs of the community. In addition to legal goods from the Indonesian distributors being limited and scarce, the price is also very expensive. Meanwhile, the Malaysian merchandise is plentiful and the price much cheaper, so no wonder it sells well in local markets despite the fact that they are aware that what they were doing violated government regulations.

In addition to the issue of illegal goods, another problem faced by residents of Jagoi Babang is marriage between Indonesian citizen and a Malaysian. RNT ibn Khairani is a citizen of Malaysia who married an Indonesian woman, FTM. The marriage, according to RTK, FTM's father, was performed in his village. The legal papers presented by the groom were only a certificate issued by the Malaysian government at the village level stating that the groom is a citizen of Malaysia and unmarried. The letter, FTM said, was not verified prior to the marriage and was accepted as a condition for marriage administration.

Most people of Jagoi Babang do not know the rules about marriage between citizens of different countries. People here simply follow a common practice. Unfortunately, after the marriage lasted more than 3 years, the man returned to his hometown and never came back. FTM's parents do not know where to find their son-in-law because even his wife did not know the whereabouts of her husband in Malaysia.⁷

Another issue concerns citizenship. There are Jagoi Babang residents who have two identity cards. The ID cards show that these residents hold dual citizenship and thereby are free to cross the border. This is

a serious problem and should be controlled. Not only does it concern the issue of the poor administration of citizenship, but it also involves sovereignty and nationalism. Turning a blind eye to it means supporting violations that occur in the community, and when many follow suit, it will potentially erode a sense of unity among Indonesians, and the authority of the State was also at stake.

The Indonesian government seems to overlook the many problems faced by Jagoi Babang residents, such as the issue of cross-border trade that does not comply with the prevailing law. If left unresolved, almost certainly, the citizens at the border area will lose their sense of nationalism.

*Badau*⁸

As an area adjacent to the neighboring country, fiqh issues in Badau, as this study revealed, are relatively the same as those of other border areas. Yet, what is interesting to the writer is the problem of sale and purchase of illegal goods and the dual identity of the residents.

A very close distance between Nanga Badau subdistricts and Lubok Antu District, Sarawak, Malaysia makes the distribution of goods from both countries uncontrollable. Almost all merchandise, including snacks, detergents, cooking oil, cosmetics, etc., is purchased from local markets in Lubok Antu or Kuching, Malaysia. Some of the merchandise even still bears price tags in Malaysian Ringgit. According to a local shopkeeper, DN, goods in Malaysia tend to be priced less and of good quality, so he can get more profit than buying goods from Pontianak, Indonesia. Besides, it takes approximately 20 hours by bus from Badau to Pontianak. It is possible to take a plane from Putussibau to Pontianak, but the cost of purchasing goods in this way will be expensive.⁹

In addition to the daily needs commodity, motor vehicles with Malaysian number plates are free to roam in Badau. These vehicles do not belong to Malaysians visiting Indonesia, but to local people of Badau. The reason they bought the cars in Malaysia is that they are cheaper and do not take long to get them and bring them to Badau. They also admitted that they purchased the vehicles from Malaysia without going through proper procedures. They conducted transactions for the sale and purchase of such vehicles through special channels unknown to the security, so there is no need to pay administrative fees. Some even disclosed that they bought a car on credit from Malaysians. Malaysians

will claim that their car was stolen by an Indonesian so that they can get compensation to buy a new one from vehicle credit lenders.¹⁰

In addition to trade, an interesting phenomenon found is that a number of people of Badau migrated to Malaysia to work as farm laborers or builders. Employment as an illegal laborer is their choice because of the temptation of a bigger income compared to being legal workers in Indonesia. These illegal workers usually never dare to go to the market or other places because of their fear of being caught by the Malaysian police.¹¹

Holders of dual identity are also a problem in Badau. The Head of Nanga Badau Subdistrict, Ahmad Salafuddin, revealed that the majority of double ID cards (Indonesian and Malaysian) are owned by the older population. One of the factors is because they wanted to go to Malaysia to get medical treatment and a job. The same thing happened to Malaysians who have Indonesian ID cards. Salafuddin explained that he made a persuasive approach to them to choose between the two nationalities, Indonesia or Malaysia. As for the people of Indonesia who have double identity cards, the local government provides a socialization of the laws governing the matter of citizenship, such as Law No. 23/2006 and Law No. 24/2013 regulating the Population Administration. Meanwhile, in religious life, there are no serious problems faced by the people of Badau. However, according to Salafuddin, coaching activities to the mosque caretakers in this area are needed to ensure good management of mosques, celebration of Islamic holidays, and so on.¹²

In *munākaḥah* issues, the Head of Religious Affairs Office of Badau subdistrict, Sukiman, said that there are no significant problems in this area. Even transnational marriages between Indonesians and Malaysians are very common. This marriage is legally allowed by both countries with certain requirements as long as they embrace the same religion.¹³

*Entikong*¹⁴

Like most of the other Indonesian Islamic communities, the people of Entikong practice Islam following the Shafi'i school of jurisprudence. When the time of prayer comes, the congregation overcrowds mosques, especially during the time of Friday prayer. Socialization of religion has started early in the family environment of Entikong society. There is no difference in terms of worship between the Entikong community

and other Indonesian Islamic communities. In Hajj matters for example, Entikong people still follow the regulations stipulated by the government of Indonesia, even though geographically they can participate in the Hajj program in the neighboring country, Malaysia. Similarly, in determining the start of Ramadan and the beginning of the Shawal month, the majority of the population of Entikong Muslims also follow the decision made by the government of Indonesia.¹⁵

Religious da'wa in Entikong is often performed mainly on the Islamic holy days. Each religious activity, like in other areas of West Kalimantan, is opened or closed with the reading of prayers by a religious figure. Even so, the remnants of animism in the past are still present among the Muslim population here, such as the belief in the spirits, abstinence, and so on.¹⁶

In general, most of the people in Entikong have primary and secondary education. Only a few continue to pursue higher education, as the access to higher education is far away, i.e. in Pontianak. The residents prefer work to school to meet the needs of their everyday lives. Most of them work as farmers and traders.

People in Entikong also use many Malaysian products, such as milk, liquid soap, snacks, and so on, which are much cheaper compared with the items they can get from Pontianak. In addition, cases of illegal entry of sugar from Malaysia are not something new. An informant, DI (35), reported that he often carries sugar from Malaysia which is then sold in Pontianak or for self-consumption.¹⁷

Additionally, cases of workers without the legal administrative requirements to work, i.e. passport and the like, are commonly found in this area. SR (25), who works at the Border Crossing Inspection Post at Entikong, often encounters such cases. In the last three months of 2014, there were several cases of deportation, e.g., in September 2014 when 86 Indonesian migrant workers from Jember, Bengkulu, Cianjur, Subang, Segedong, Sambas, Mempawah, Sulawesi and East Nusa Tenggara were deported. In October 2014, there were 58 people from Sambas, Bengkayang, Gresik, Sukabumi, Bandung, Bogor, and Kuningan being deported. In November of the same year, 128 people from Sambas, Bengkayang, Surabaya, and South Sulawesi were sent home.

In fact, the Border Crossing Inspection Post at Entikong has made efforts to stop illegal workers from entering the neighboring country.

However, they always encounter such cases every year, which shows the low awareness of people in this country, including those from West Kalimantan who wish to work as migrant workers in Malaysia.

Analysis of Fiqh Issues in the Indonesia-Malaysia Border Area

Sale and Purchase of Illegal Goods from the Malaysia

Research findings indicated that illegal goods from Malaysia are often sold to Indonesia particularly in the three border areas between Indonesia and Malaysia, i.e. Jagoi Babang, Nanga Badau, and Entikong. Under Article 1337 of the Civil Code, officially people living in the two countries at the border area are allowed trade commodities that are not contrary to the law, morals and public order. In addition, on May 26, 1967, the Governments of Indonesia and Malaysia signed a Border Crossing Arrangement or Overland Border Trade. According to the agreement, the people on the border of the two countries are allowed to buy and sell commodities to a maximum value of MYR 600 or IDR 2,125,800. (MYR 1 = IDR 3,543) per month, on condition that they carry a Border Crossing Identity Card (better known as a Blue Pass).

However, the trade transactions that take place in the border area often exceed the amount set by the government. In addition to fulfilling the needs of everyday life, people also buy goods from Malaysia for resale. Undeniably, some people only buy goods from Malaysia merely to meet daily needs, so that the transaction price is still below IDR 2,125,800 - and this is legal under the applicable rules.

In Islam, the sale and purchase transaction is known as *maṣlahah ḍarūrī* in human life, which means that humans cannot live without trading activities. The fulfillment of *ḍarūrī* needs in the form of sale and purchase transaction is legitimized by Allah in the Quran (QS. 2: 275).¹⁸

The Quranic view on sale and purchase is very open, which gives the opportunity for Muslims to conduct transactions. The Shafi'i school of jurisprudence allows all sale and purchase activities, since no theological propositions of the Quran and Hadith forbid it.¹⁹

Things that can cause a void and illegitimate purchase are non-fulfillment of the conditions of sale and purchase. Wahbah al-Zuhaylī (1998a, 347) thoroughly discussed matters related to sale and purchase. He mentioned that according to the majority of ulemas, there are four pillars of sale and purchase i.e. the seller, buyer, merchandise, and *ijāb*

qabūl (offer and acceptance). Legality of sale and purchase must also be spared from six things, i.e. a lack of clarity (*al-jahālah*), coercion (*al-ikrāh*), restriction with time (*al-tawqīt*), fraud (*al-gharar*), losses (*al-darar*), and harmful conditions (*al-shurūṭ al-muḥsidah*) and aims to satisfy the interests of one party only (al-Zuhaylī 1998a, 379).

Based on the analysis above, the sale and purchase transactions conducted by people at the Indonesia-Malaysia border area are allowed in accordance with fiqh because they meet all the conditions and pillars of sale and purchase, and factors that could annul the sale and purchase are non-existent. According to the prevailing law, transactions between the people at the border region are classified as illegal since many of the transactions exceed MYR 600. In spite of being illegal in the eyes of the government, these transactions are lawful according to fiqh.

Wa kadhālika kullu shartīn ‘urfīyin fi ayy ‘aqdin laysa mu‘arīdan li dalīlin fi al-shar‘i fahuwa shartūn ṣahīh

Each of the conditions which is urfi in any form of contract as long as it does not contradict the syara, it is a valid term (al-Juday‘ 1997, 40).

As these conditions are in accordance with fiqh, the practice of sale and purchase above MYR 600 should be viewed from the aspects of *maṣlahah* (advantage) or *mudarah* (disadvantage). In light of its *maṣlahah*, of course people can get merchandise with cheap price and good quality. However, there are also the *mudarah* aspects. One of them is that if it is allowed to continue to happen and the amount gets bigger and widespread, it will affect domestic production, and state revenues may decrease. Therefore, the government should set terms and mechanisms for circulation of commodities in the form of customs/commodity taxes.

This is relevant when given the current situation, except when the ASEAN Free Trade Area²⁰ is in effect then the entire region will become a free market, customs duties are no longer imposed and thus, certainly there is no such thing as contraband anymore.

Cars/Motorcycles without Official Documents

In addition to illegal basic need commodities, motorcycles/cars without official ownership documents are also rampant among the people at the Indonesia-Malaysia border area as the price is relatively affordable. In accordance with fiqh, sale and purchase have four pillars,

namely the seller, buyer, *ijāb qabūl*, and merchandise. Meanwhile, viewed from the aspect of the object (*ma'qūd 'alayh/mabī'*), al-Zuhaylī (1998b, 78) mentioned four conditions of sale and purchase (*shurūṭ in'iqād*), i.e.:

- a. the merchandise is available;
- b. the object has a value, meaning that the object sold should be favored by human nature and can be stored within a certain period;
- c. the object is one's own property, meaning that it is well cared for and under the authority of a person.
- d. The object can be handed over at the time of transaction.

Further, al-Zuhaylī (1998b, 78) also describes the conditions of sale and purchase (*shurūṭ al-naḥadh*), namely:

1. Ownership rights, i.e., only the person who has full authority over an item may sell it.
2. The object to be traded is not the property of others but the seller. If the object is in the possession of others, then such transaction is deferred (not yet implemented) and should not be handed over to the buyer prior to getting permission or willingness of the owner. The buyer, in this case, has the right to choose between canceling the transaction and waiting for the consent or willingness of the owner. Conditions (*shurūṭ al-naḥadh*) for validity of transaction in addition associated with the object (*mabī'*), is also commonly related to the transaction itself, such as the sale and purchase done by children.

Using this information, one can analyze if the sale and purchase of vehicles among the border communities are valid since the vehicles are purchased from the owner despite a lack of vehicle registration. Seen from the fiqh, such buying and selling fall into the category of validity (*naḥadh*) and are valid on the basis of fiqh because they have met the pillars of sale and purchase and the conditions for validity of transaction. However, if the vehicle purchased is still in the process of paying installments (on credit), such transaction falls into the category *bay' al-fudūlī* in which, according to scholars of Ḥanafī and Malikī schools, the sale and purchase is valid but deferred (*mawquf*) because it requires permission/willingness of the owner who has the authority over the item. However, according to Shāfi'ī and Zahirī ulemas, such transaction is invalid and the item should not be handed over in order to maintain the rights of both parties.

This is based on the Hadith of the Prophet that prohibits a person from selling goods belonging to others without permission from the owner.

Nahānī Rasūlullāh ṣallallāhu ‘alayh wa sallam an abī’a mā laysa ‘indī aw abī’a sil’atan laysat ‘indī

The Messenger of Allah (peace be upon him) forbade me to sell something which is not mine or sell an object which is not mine.²¹

If the vehicle is purchased from a person who stole it, it is obvious that such transaction is forbidden.

Man ishṭarā sariqah wa huwa ya‘lamu annahā sariqah fa qad shurika fi ‘āribā wa ithmihā.

Whoever buys stolen goods, knowing such goods to have been stolen, becomes a party to the act of theft.²²

However, if one has no idea whether or not the item to be purchased is stolen, one must first look at the seller. If the seller is a righteous person, then it is acceptable and lawful to purchase the item. However, if the seller is not a good person, the transaction remains valid but is regarded as a disliked and offensive act (*makrūh*). The buyer will be sued in the hereafter if later known that the goods purchased are stolen (al-Suyūṭī 1979, 54).

Similarly, if later it turns out there is a rightful owner who claims the ownership of the item purchased, then the buyer is obliged to return it to the owner, and the buyer can ask for compensation from the seller. This is based on the saying of the Prophet Muhammad:

Man wajada ‘ayna mālihi ‘inda rajulin fa huwa aḥaqqu bih wa yattabi’u al-bayyi’u man bā’ahu.

If a man loses something, or it is stolen from him, and he finds it in the possession of a man who bought it, then he has more right to it, and the one who bought it should ask for his money back from the one who sold it to him.²³

Illegal Indonesian Migrant Workers

Conceptually, Islam respects the fundamental rights of human beings (*ḥuqūq al-inṣān*). Islam does not force people to work in a specific job.²⁴ Such freedom of labor has been exemplified by several of the prophets. The Prophet David worked as an armor maker,²⁵ the

Prophet Zakariya as a carpenter.²⁶ Islam forbids Muslims to be passive and simply to be beggars. This means that Islam respects all forms of work as long as it is permitted.²⁷

As the Hadith says:

Wa alladhī nafsi bi yadīhi la'an ya'khubha aḥadukum ḥablahu fa yaḥtatiba 'alā ḡabribi khayrun labu min an ya'tiya rajulan fa ya'alahu a'tāhu aw mana'ahu.

By the One in Whose Hand my soul is! It is better for anyone of you to take a rope and bring a bundle of wood over his back and sell it than to ask the people who may or may not give.²⁸

Zayn al-Dīn ibn 'Alī ibn Aḥmad al-Shāfi'ī (n.d., 12) made four classification of the legal status of work:

- a. Compulsory, i.e. working whose purpose is to meet personal, family and religious needs.
- b. Sunnah, i.e. working to earn more, where some of the resulting wealth will help the poor or rebuild good relationships.
- c. *Mubāḥ*, i.e. working to earn more with a purpose of getting pleasure.
- d. *Ḥarām*, i.e. working as hard as possible aimed at building one's pride.

Islam does not prohibit Muslims from work in any place, be it in their own country or overseas. The religion even does not forbid working for the "infidels."³⁰ This is important with regard to the view of fiqh for illegal Indonesian migrant workers, especially in the border areas. In this context, the author has yet to find texts that directly mention migrant workers. In order to get a proper legal status in Islamic law, one must turn to the *maṣlahah* (advantage) and *mudārah* (disadvantage) of government policy regulating migrant workers.

In accordance with Article 1 section (1) of Law Number 39/2004 concerning the Placement and Protection of Indonesian Workers Abroad (*Tenaga Kerja Indonesia*, TKI), TKI is any Indonesian citizen who is eligible to work abroad in an employment relation for a given period of time and to receive wages for that work. In order to maintain and protect migrant workers abroad, the government is required to organize, coach, implement, and supervise the placement and protection of migrant workers abroad, which in carrying out this responsibility, the Government may delegate its authority and/or duty

to local governments in accordance with applicable laws and ensure the fulfillment of the rights of migrant workers pursuant to the legislation, including before, during, and after the work.³¹

In fact, Indonesian migrant workers have the right to choose and get jobs wherever they want, including overseas³² and the right to social security that is the right of every citizen as stipulated in the 1945 Constitution.³³ Therefore, the state should regulate matters related to migrant workers so as to provide them with protection and social security.

From the fiqh viewpoint, government policies that clearly provide *al-maṣlahah al-‘ammah* are mandatory to be obeyed. Therefore, illegal migrant workers are religiously proscribed, as they reflect defiance over government policies that clearly aim to realize *maṣlahah* for the community itself. Moreover, Malaysia has the Migration Act 2002 (Act A1154) passed on August 1, 2002 which mentions that foreign workers who entered the country illegally shall be fined MYR 10,000 or jailed a maximum of five years, or both, and subjected to flogging a maximum of six times.

However, in fact, the reason for an Indonesian migrant worker to find employment abroad can be understood due to a lack of opportunity to improve their welfare in their own country, Indonesia. The large number of illegal Indonesian migrant workers working overseas should also be a criticism for the government to be more serious in improving welfare at home.

Human Trafficking

According to the Article 2 of Law Number 21/2007 on Eradication of Human Trafficking, human trafficking concerns anyone who does recruitment, transportation, harboring, shipment, transfer, or receipt of persons through threat of violence, use of force, abduction, confinement, forgery, fraud, abuse of power, debt trap, or giving payments or benefits despite obtaining the consent of a person having control over another, for the purpose of exploiting the person in the territory of the Republic of Indonesia, which carries the penalties of imprisonment of a minimum 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000 (one hundred and twenty million rupiah) and at most IDR 600,000,000 (six hundred million rupiah).

In Islam, man is a creature of God on earth that was created with “glory”.³⁴ Every human being is a creature that is independent and free to do what he or she pleases. All forms of control over that freedom are prohibited by Shari’ah. An ideal society desired by Islamic law is one that is characterized by justice, egalitarianism, and the absence of oppression. This is evidenced by the Prophet in his stance against slavery. It is true that the Prophet did not abolish slavery at once, considering it had become part of a deeply rooted tradition in the society of *jāhiliyyah* (ignorance). The *jāhiliyyah* society benefited from slavery because they were not accustomed to living independently and finding the means of life by themselves. Therefore, the Prophet’s strategy to abolish slavery was by narrowing the recruitment of new slaves and opening the door wide for the liberation of slaves (Nasr 2003, 218). Thus, we often encounter fiqh provisions concerning sanctions for certain violations that require a person to free slaves, as a penalty for murder (*qatl al-khatā*), *zihār* (insulting one’s own wife), fasting expiation, etc.

In this light, it is obvious that the sale and purchase of human beings in the perspective of fiqh is forbidden (*ḥarām*). As Abū al-‘Abbās Aḥmad ibn Idrīs al-Ṣanhāji al-Qarāfi (1998, 197) says:

It has never be the sharia and it is invalid if it occurs, therefore it is forbidden to sell a free man, to sell a slave who bears her master’s child, and to marry close relatives, since the goal of such contract will never be reached.

From the perspective of fiqh, the sale and purchase of human beings falls into the category of *jarīmah*. Wahbah al-Zuhayli (1998c, 215) defines *jarīmah* as follows:

A sinful act or wickedness or anything inflicted on a person as a result of his/her wrongdoings.

Jarīmah in the discussion of Islamic criminal law aims to maintain the rights of Allah (*al-muḥāfazah ‘an ḥuqūqillāh*), create kindness and prevent harm (*jalb al-maṣāliḥ dar’ wa al-mafāsīd*), maintain unity and prevent division of society (*ḥimāyat al-mujtama‘ min intishār al-radḥīlah*), ensure security and create ‘*ummah*’ unity (*taḥqīq al-amni wa al-istiqrār li al-mujtama‘*) (Ghawth n.d., 87–90). Thus, it can be concluded that the sale and purchase of human beings is a crime (*jarīmah*) that in the perspective of fiqh, and thereby is haram and must be brought to an end. The sale and purchase of human beings is inhumane and against the teachings of Allah and His Prophet:

The Prophet said: “Allah said: there are three groups in the Day of Judgment that will be my great enemy. First, those who have held faithful to me and then destroy it; second, those who sell a free man then consume from it; and third, those who do not pay workers who have completed their jobs.”³⁵

Transnational Marriage

Another issue to address from the fiqh perspective among people at the border areas is marriage between an Indonesian and a Malaysian citizen. It is the law of Allah that all creatures reproduce, and it applies to both humans and animals (Sābiq 1983, 48–49). In fiqh, marriage between citizens of different nationalities is valid as long as all requirements are met.³⁶ In terms of a harmonious concept of marriage, according to Islamic law, a difference of citizenship will never invalidate a marriage. The government rules and regulations refer to marriage between two people of different nationalities as a “mixed marriage.”³⁷

It seems that the state assumes the importance of regulating the procedures of “mixed marriages” to be deemed legal by the state. Rules and procedures that are set for a transnational marriage also concern relations between the two countries. If such marriage is in trouble, it may affect the relations between the two countries.³⁸

An interesting case was found where a Malaysian man, married to an Indonesian woman, left home 3 years ago and until now is nowhere to be found. In the concept of fiqh, the husband in domestic life is the backbone of the family and should be responsible for the integrity and life of the household. When the husband is not with his wife for an uncertain period of time, many things will be disrupted. This is called *mafqūd* (al-Zuhaylī 1998c, 7187), a condition in which the husband is gone, and it is unknown whether or not he is still alive.

With regard to the status of a wife who is uncertain about the whereabouts of her husband (*mafqūd*), the Prophet recommends that she remain patient until it news about her husband comes to her.³⁹

In the case of the woman at the border area whose husband went missing three years ago and never came back since then, according to Imam Shafi'i, she can file for divorce and remarry when the period of her husband's absence is 4 years, 4 months, and 10 days. However, if in such circumstances she remains patient until there is certainty about the whereabouts of her husband, it would complicate the life of the

wife, because she needs a husband to protect and provide for her as ordered by Islamic law.⁴⁰

If the husband ignores her continuously, he has committed a sinful act. In addition to disobeying religious mandates to protect and provide for his wife, he has also created a state of uncertainty for his wife, making her unable to accept a marriage proposal from another man. Moreover the Compilation of Islamic Law regulating marriage for Muslims in Indonesia gives a period of two years for a *maqfūd* husband/wife, and thus it is appropriate for anyone in Jagoi Babang in such situation to file for *khul'*/divorce at the Religious Court.⁴¹

Double Identity Cards

Another issue to address here is dual citizenship. Among the reasons for some people to have double identities are related to medical treatment and employment in Malaysia. In fiqh, there are no technical rules about when or how a resident of a country should have an ID card.

The identity card, better known locally as the *Kartu Tanda Penduduk* (KTP- Resident Identity Card), is one of the documents an Indonesian citizen is required to have. The requirement to obtain ID cards for residents of Indonesian citizens or foreigners who have permanent residence permits is required the age of 17 (seventeen) years and older or upon marriage. Each resident is only allowed to have one (1) ID card.⁴² When Joko Widodo became president, he then introduced an electronic system, known as e-KTP.

The Indonesian Government made policies necessary to perpetuate the existence of the state. One of the government's policies to regulate population administration is the Law of the Republic of Indonesia Number 23/2006 concerning Population Administration. How does fiqh view the law?

There is a Hadith related to this case, in which 'Abd al-Qādir 'Awdah (1977, 181) said:

Li'anna al-sharī'ah tu'ṭī li ūlī al-amr haqq al-tashrī' fi mā yamassu maṣlaḥat al-afrād wa maṣlaḥat al-jamā'ah bi al-naf'i.

Surely the sharia gives the right to the government to make policies concerning the interests of individuals and groups.

None of the state policies has no purpose. Besides, there are also no texts contrary to the state policies on the ID card. In regard to this

issue, the opinion of ‘Abd al-Raḥmān ibn Muḥammad ibn Ḥusayn ibn ‘Umar Bā ‘Alawī (n.d., 91) can be taken into consideration.

Wa al-ḥāṣil annahu tajibu tā‘atu al-īmām fi mā umira bihi ḡābiran wa bāṭinan mim mā laysa bi ḥarāmin aw makrūhin.

In fact, it is obligatory to comply with government policies as long as the policies are not contrary to the Sharia.

If public policies contain no *al-maṣlaḥah al-‘ammah* (public interests), then there is no obligation to obey them. It was also the decision of the Indonesian Ulama Council through the Decision of Commission A for *Ijtima’ Ulama* in the Fatwa of All Indonesia Ulema Council IV of 2012 on *Masā’il Asāsīyah Waṭānīyah* (National Strategic Issues). So in this light, having double identity cards should be avoided as the rules and policies of the state administration prohibit it.

Closing Remarks

The government needs to give priority and pay attention to the community at the border regions, as these areas serve as the image of the country. A lack of governmental attention in many respects has indirectly generated many problems among people living at the border area.

Among the crucial measures the government can take is to renegotiate a new agreement with Malaysia to increase the minimum price of transactions between border communities, which was MYR 600 to adjust to the current circumstances. In addition, it would be better if government can lead and ensure the application of the ASEAN Free Trade Area so that people will not get stuck in illegal transactions. As described in the above discussion, in the perspective of fiqh, there is no ban on trading between people of different nationalities. However, in the provisions of legislation, all citizens are bound not to commit illegal trade.

Similarly, the security forces (Army/Police) need to strictly regulate cross border traffic of merchandise, especially the sale and purchase of vehicles without official documents. Their current negligence facilitates the phenomenon and implies approval of illegal trade by the security officials, which has resulted in the notion that such transactions pose no problems at all. Buying stolen vehicles is forbidden according to fiqh and the community at the border area must know it. One of the ways of making this possible is through socialization by local security forces.

The issues of double identity cards, marriage between citizens of the two countries, Indonesian migrant workers and human trafficking need to be resolved immediately. The cases of double identity cards, transnational marriages, and the issue of migrant workers in fact are against the fiqh. However, in the context of citizenship, people should follow the provisions of the prevailing legislation. With regard to human trafficking, both in the perspective of fiqh and provisions of legislation, it is a crime that is not supposed to happen, and it has to be resolved right away.

Endnotes

1. See Moleong (2004, 3).
2. This border area is located in Bengkayang District of West Kalimantan Province. Jagoi Babang is one of the official border crossing points between Indonesia and Malaysia. This area is bordered on the east by Serikin (Sarawak), Malaysia, on the north by Lundu (Sarawak), Malaysia, on the south by Seluas and Siding Sub-Districts, Indonesia. Administratively, the government has divided Bengkayang into many sub-districts and villages. Currently, there are 17 sub-districts and 122 villages. Of the 17 sub-districts there are three near the border, i.e.: Jagoi Babang, Siding and Seluas (Government of Bengkayang 2013). Of the 17 sub-districts, Jagoi Babang is the largest in area and the third farthest from the city and the district after Siding and Sungai Raya. Currently Jagoi Babang consists of 6 villages i.e. Gersik, Semunying Jaya, Jagoi, Sekida, Kumba, and Sinar Baru. Of these villages, Sinar Baru is the farthest from the District Administration Office of Jagoi Babang, while the nearest village is Desa Jagoi located in center of the subdistricts. Geographically Jagoi Babang is located at 1°15'16" - 1°30'00"N and 109°34'35" - 109°59'27"E. Jagoi Babang is also the largest subdistrict in Bengkayang, with an area of 655.00 km², or approximately 12.14% of the total area of Bengkayang. From a number of villages in Jagoi Babang, the largest is the village of Sinar Baru which covers 250 km², while the smallest is the village Jagoi which covers 21.69 km². Demographically, the population in the Jagoi Babang Subdistrict in 2013 was 8,836, consisting of 4,876 males and 3,960 females. Density is second lowest after the Siding subdistrict, ie 13 inhabitants per square kilometer. Jagoi Babang had a relatively fast population growth, which is 3.31% in 2000-2010. In this subdistrict, there are eight mosques and one surau for Muslims, 6 Catholic churches, and 6 Protestant churches (Government of Bengkayang 2013).
3. In addition to Border Crossing Arrangement, the Government of Indonesia and Malaysia on October 16, 1973 also approved the Agreement on Travel Facilities for Sea Border Trade between the Government of the Republic of Indonesia and Malaysia. The BTA 1970 has regulated several principle matters including the definition of cross-border trade, cross-border actors as well as the types and values of goods/products. Cross-border trade itself can be traded by land or sea. Those allowed to conduct cross-border trade are persons (residents) who reside in the border areas of both countries and have a passport issued by either country or the border crossing point issued under the terms of the BCA. The most recent was the BCA 2006, while the agreement BTA 1970 referred to BCA 1967.
4. In addition to being illegal, because the value goes beyond the provisions allowed, the goods pass the border point without import duties as stipulated in the Customs Law number 17/2006 amendment of Law 10/1995.
5. This respondent has been anonymized using his initials for his safety.
6. According to AN, sugar, milk, rice, sausage, and gas are traded freely in Jagoi Babang, and these items are even hoarded in a very large quantity. According to AN, the warehouse in Jagoi Babang is known by customs officers and law enforcement officials but nonetheless it is still in operation. Not everyone could access the warehouse as it is guarded by thugs. As for the couriers, they are free to buy goods they need. To avoid trouble, AN said that he pays IDR 10,000 to the customs officers and security officials – at each security checkpoint (Interviewed on October 12, 2014).
7. Interview with RTK (FTM's father) October 15, 2014.
8. Administratively Subdistrict of Badau is one of the 23 Subdistricts in Kapuas Hulu Regency or commonly known as the Land of Uncak Kapuas. This Subdistrict is located

at 00 50'30" - 10 01'00" NL dan 1110 47'30" - 1120 04'30" EL. This Subdistrict is bordered by the State of Sarawak, Malaysia to the north, Subdistrict of Suhaid in the south, Subdistrict of Empanang in the west, and Subdistrict of Batang Lupar in the east. The distance between Subdistrict of Badau and Malaysia is 10 km, while the distance from Badau to Putussibau, the capital of Kapuas Hulu, is 171 km, and to Pontianak city, the capital of West Kalimantan province, is up to 100 times the distance from Badau to Malaysia. Badau sub-Subdistrict has an area of 573.49 km², equivalent to 2.35% of the total area of Kapuas Hulu, which reaches 29,842 km². Badau is divided into nine villages, i.e. Pulau Majang, Semuntik, Kekurak, Janting, Seriang, Badau, Sebindang, Tinting Seligi, Tajum with Badau as the capital of the Subdistrict. Of the nine villages located in the Subdistrict of Badau, Tinting Seligi village is the largest with an area of 118.61 km², while the village with the smallest area is Seriang village with an area of 63.65 km². The population of Subdistrict of Badau in 2013 was 6,544 with the composition of the population consisting of 3,434 men and 3,110 women. Residents in the Subdistrict of Badau spread over nine villages, the largest population is in the village of Badau with 2,670 people consisting of 1,471 men and 1,199 women. meanwhile the village with the smallest population is Semuntik with 233 people consisting of 116 men and 117 women. With an area of 573.49 km² and a population of 6,544, population density of Subdistrict of Badau is 11 people per km². The village with the highest density is Badau village with 39.80 inhabitants per km², whereas the lowest was Tinting Seligi village with 2.99 inhabitants per km² (Government of Kapuas Hulu District 2013). As a region of West Kalimantan, Dayak and Malay are the majority ethnic groups inhabiting Badau. In addition, there are other ethnic groups who inhabit the region of Badau, such as Batak, Bugis, Minangkabau and Javanese. According to the statistics, Dayak Iban reaches approximately 60% of the total population, while ethnic Malay 31%, and other tribes such as Kantuk, Javanese, and Minang making up only 9%. The residents of Badau predominantly embrace the religion of Islam, with 3,153 followers, while Catholicism 2,927 followers, Protestantism 462 followers and Buddhism with 2 followers. There are 3 mosques, 7 surau, and 13 churches.

9. Interview with DN, Badau resident, October 20, 2014.
10. Interview with RH, Badau resident, October 30, 2014.
11. Interview with RH, Badau resident, October 30, 2014.
12. Interview with Ahmad Salafuddin, Badau subdistrict head, October 28, 2014.
13. Interview with Sukiman, Badau Religious Affairs Office, October 29, 2014.
14. Entikong is one of the 15 subdistricts in Sanggau District with an area of 506.89 km². Entikong is bordered on the west by Landak District, on the east and south by Sekayam, and on the north by Sarawak, East Malaysia. In general, climatic conditions of Entikong are not much different from other areas in West Kalimantan. The rainy season ranges from September to December, while the dry season is usually between July and September. The population of Entikong based on information obtained from Entikong Police is 15,307. The population is made up of 7,682 males and 7,265 females. Generally, the means of transportation used by the public are cars and motorcycles. Most people in Entikong are farmers, and some also work as traders, laborers, civil servants, military/police officers etc.
15. Interview with SR, Entikong resident, November 25, 2014.
16. Interview with SR, Entikong resident, November 25, 2014.
17. Interview with DI, a cross border driver, October 20, 2014.
18. According to the commentators, this verse is of a general nature. There are verses and hadiths that provide the *takhsīs* for the verse (Ḥawā 1985, 644; al-Jaṣas n.d., 568; al-

- Qurṭūbī 2002, 356).
19. This argument is slightly different from the arguments among the followers of Abū Ḥanīfah who said that the origin of everything is forbidden, as long as there are no arguments that show its permissibility. Both Shāfi'ī and Abū Ḥanīfah reinforce their own opinion with arguments from the Quran and Hadith. Jalāl al-Dīn Raḥmān ibn Abū Bakr al-Suyūṭī explains this contradiction thoroughly in his book *Al-Asbbāh wa al-Nazā'ir fī Qawā'id wa Furū' Fiqh al-Shāfi'iyah* (1979, 43).
 20. In December 2015 the countries of ASEAN entered a new era of the implementation of the free trade region, namely the ASEAN Free Trade Area (AFTA) which is a form of agreement of the ASEAN countries to establish a zone for free trade in order to enhance the competitiveness of regional economies to create a regional market for 500 million people. AFTA was established at the Fourth Summit of ASEAN in Singapore 1992.
 21. This hadith in full can be found in the Musnad of Aḥmad ibn Hanbal, No. 15015; *al-Mu'jam al-Awsaṭ al-Ṭabarī*, No. 2530; the book of *Hadīth of Abū Fadl al-Zuhri*, No. 583; and *ʿAmalī al-Jurjānī*, No. 245.
 22. This Hadith in full can be found in *al-Mustadrak al-Ṣaḥīḥayn*, No. 2190; *al-Sunan al-Kubrā of al-Bayhaqī*, No. 10018; the *Musnad of Ishad ibn Rohawiyah*, No. 357; and the *Muṣannaḥ of Ibn Abī Shaybah*, No. 21467.
 23. This hadith in full can be found in the *Sunan of Abī Dāwud*, No. 3067; the *Sunan of Aḥmad ibn Ḥanbal*, No. 6948; the *Sunan of al-Dāruquṭnī*, No. 2541; and the *Musnad of Abī Ya'la*, No. 6433.
 24. QS. 17: 84.
 25. The Prophet (peace be upon him) once said, "There is no better food for a person except the food which he acquires with money from his own sweat. The Prophet of Allah, David ate from the results of his own sweat." This hadith can be found in *Ṣaḥīḥ al-Bukhārī*, No. 1940; *Ṣaḥīḥ Ibn Ḥibbān*, No. 6362; and *Mu'jam al-Kabīr li al-Ṭabarānī*, No. 17049.
 26. As per the Hadith in which the Messenger of Allah (peace be upon him) said: "That Prophet Zachariah was a carpenter." This Hadith is only found in *Ṣaḥīḥ al-Muslim*, No. 4391.
 27. QS. 2: 168.
 28. This hadith can be found in the *Ṣaḥīḥ al-Bukhārī* No. 1383; the *Sunan al-Nasā'ī Ṣughrā* No. 2555; *Al-Muwaṭṭa'ā* No. 1816; and the *al-Sunan al-Nasā'ī al-Kubrā* No. 2353.
 29. *Al-Nadwī* (2000, 113) in his book mentions that: "*Al-'aqdu yur'a ma'a al-kāfir kamā yur'a ma'a al-muslim*".
 30. Work to get salary or fee is referred to in fiqh as *ijārah*. This differs from a slave, because the slave is concerned with mastery, possession forever, and free use. Abū Bakr ibn al-Dīmāyī Shatā (1999, 403) says: "*yajūzu an yastājira al-kāfir musliman 'ala 'amalin fī al-dhimmah wa yajūzu an yastājirahu bi 'aynihi 'ala al-aṣaḥḥ ḥurran kāna 'aw 'abdan*".
 31. See Article 1 section (1), section (2), and section (4) of Law Number 39/2004 regarding the Placement and Protection of Indonesian Workers Abroad.
 32. Article 31 of Law Number 13/2003.
 33. Article 27 section 2 and Article 28 D section 2 of the 1945 Constitution.
 34. QS. 17: 70.
 35. This Hadith can be found in the *Ṣaḥīḥ al-Bukhārī*, No. 2085; the *Sunan of Ibn Mājah*, No. 2435; and the *Musnad of Aḥmad ibn Ḥanbal*, No. 8491.
 36. *Jumhūr 'ulamā'* agreed that the marriage pillars consist of: 1) a man and woman; 2) the guardian of the prospective wife; 3) the presence of two witnesses; and 4) *ijāb qabūl* (Qudāmah 1984, 337).

37. Mixed marriage is not an interfaith marriage, as perceived by many people over the years, but a marriage of people of different countries. Article 57 of Law No. 1/1974 on Marriage explains: "That the meaning of mixed marriages in this Act is a marriage between two people in Indonesia which is subject to different laws, because of differences in nationality and one party is an Indonesian citizen."
38. The laws governing mixed marriages are Law No. 1/1974 concerning marriage along with the implementation regulations i.e. Government Regulation No. 9/1975 on the Implementation of the Marriage Law.
39. This hadith can be found in the *Sunan al-Kubrā of al-Bayhaqī*, No. 14312 and *al-Juz' al-Thānī min Ḥadīth of Abī al-Bakr Daqqāq*, No. 35.
40. See QS. 2: 233.
41. Compilation of Islamic Law Article 116 paragraph 2 states that a divorce can occur in cases where "one party has left the other for two (2) consecutive years without the consent of the other party and without valid reason or because of other things beyond their competence."
42. See Law of the Republic of Indonesia Number 23/2006 concerning Population Administration chapter 2, section 63. See also Law of the Republic of Indonesia Number 24/2013 on the Amendment of Law Number 23/2006 concerning Population Administration.

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6. Ms. *Undhang-Undhang Banten*, L.Or.5598, Leiden University.
7. Interview with K.H. Sahal Mahfudz, Kajen, Pati, June 11th, 2007.

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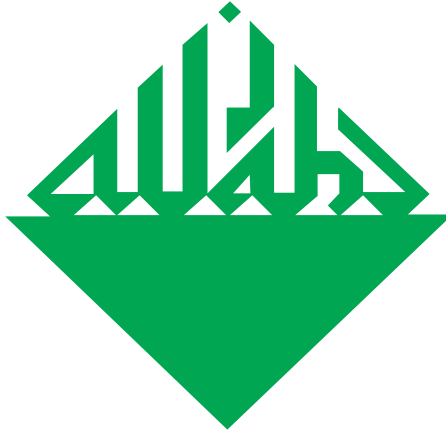
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