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Family Law Reform in The State of Kuwait Based on Fikih Perspective

Reformasi Hukum Keluarga di Negara Kuwait Berdasarkan Perspektif Fikih

Elfi Sulpiya

Imam Bonjol State Islamic University (UIN) Padang

E-mail:elfisulpiya99@gmail.com

Efrinaldi

Imam Bonjol State Islamic University (UIN) Padang

E-mail:efrinaldi@uinib.ac.id

Rahmat Hidayat

Imam Bonjol State Islamic University (UIN) Padang

E-mail:Rahmathidayat@uinib.ac.id

ABSTRACT

This research examines family law reform in Kuwait, with a focus on changes in laws governing marriage issues from a basic jurisprudence perspective. This research examines family law reform in the country of Kuwait. Kuwait is a country with a majority Muslim population and is one of the largest oil producing countries in the world so that many foreign countries are trying to control Kuwait, so that Kuwait only experienced reform regarding the Islamic family in 1982, with the name Code of Personal Status or Qanun Ahwal al-Syakhsyyah. The research method used in this research is Library Research, which is a data collection technique by reviewing various literature, such as journals, books, scientific works, the internet, etc. The results of this research examine family law reform in Kuwait, including: prohibition of marriage, skills and age of marriage, polygamy, kafaah, minimum age for marriage and registration of marriages focused on the basic perspective of fiqh.

Keywords: Reform, Family Law, Kuwait

ABSTRAK

Penelitian ini mengkaji reformasi hukum keluarga di Kuwait, dengan fokus pada perubahan undang-undang yang mengatur masalah pernikahan perspektif dasar fikih. Penelitian ini mengkaji tentang reformasi hukum keluarga di negara Kuwait, Kuwait termasuk negara dengan mayoritas penduduknya Muslim dan menjadi salah satu negara penghasil minyak bumi terbesar di dunia sehingga banyak negara luar yang berupaya untuk menguasai Kuwait, sehingga Kuwait baru mengalami pembaharuan tentang keluarga Islam pada tahun 1982, dengan nama Code of Personal Status atau Qanun Ahwal al-Syakhsyyah.



Metode penelitian yang digunakan dalam penelitian ini adalah Studi Kepustakaan (*Library Research*) yang merupakan teknik pengumpulan data dengan melakukan penelaahan terhadap berbagai literatur, seperti jurnal, buku, karya ilmiah, internet, dan lain-lain. Hasil penelitian ini mengkaji tentang reformasi hukum keluarga di negara Kuwait, di antaranya: keharaman nikah, kecakapan dan usia perkawinan, poligami, kafaah, usia minimal perkawinan dan pencatatan perkawinan difokuskan pada perspektif dasar fikih.

Kata Kunci: Reformasi, Hukum Keluarga, Kuwait

PENDAHULUAN

Kuwait is a country with a constitutional monarchy system led by an Emir. The current head of state is Emir Nawaf al-Ahmad al-Jabir al-Sabah, who ascended the throne in 2020. This system means that the Emir has significant powers, but there is also a constitution that provides the legal framework for government. Kuwait is a country with a majority Muslim population and is one of the largest oil producing countries in the world. As a country rich in agricultural products. Kuwait is considered a strategic country so that many foreign countries are trying to control Kuwait. This has also changed the life structure of Kuwaiti society, which was originally strong in religious law, but slowly began to loosen up towards Islamic religious law.¹

This event has brought about various changes, recodifications and updates to Islamic legal regulations, including the area of family law, the application of which cannot be separated from the norms of Islamic life. In principle, the area of family law is also changing. In fact, almost all Muslim groups systematize or canonize family law as essential for implementing these rules in the current existence of millennial culture, one of which is the country of family law reform is Kuwait.

The country of Kuwait is one of the countries in the Middle East region. The country is between Iraq to the north and Saudi Arabia to the south and remains in the Persian Gulf. This country is rich in petroleum. The name Kuwait comes from an Arabic word meaning "fortress built near water". Those developing in this country follow the Sunni sect of the Maliki and Hambali schools of thought as well as the Shia minority.²The main codification governing family law in Kuwait is the Personal Status

¹ Muhammad Nasir, "RENEWAL OF CONTEMPORARY ISLAMIC FAMILY LAW," *Taqnin: Journal of Sharia and Law* 04, no. 02 (2022): 51–65.

² Rohmi Yuhani Siti Nurjanah, *Islamic Family Law Reform in the Islamic World*, ed. Rohmi yuhaniah Gesit Yudha, 2023rd ed. (Purbalingga: Eureka media Aksara, nd).

Code or Qanun al-Ahwaal al Shahsiyah Law no. 51 of 1984. The basis of this law is Islamic law and the laws of Egypt and Morocco.

Kuwait is a country with a majority Muslim population and is one of the largest oil producing countries in the world. As a country rich in agricultural products. Kuwait is considered a strategic country so many foreign countries are trying to control Kuwait. Among the countries that wanted to control Kuwait were England and Turkey, which then helped change the life system of the Kuwaiti people, so that the life of the Kuwaiti people, which was previously completely regulated by sharia, then changed to mixed laws between England, France and Egypt. This has also changed the life structure of Kuwaiti society, which was originally strong in religious law, but slowly began to loosen up towards Islamic religious law.

Family law in Kuwait plays an important role in regulating the social and personal lives of citizens. Family law in the narrow sense, namely marriage and divorce law, is found in various fiqhi books in a country.³The country's family law system is heavily influenced by Islamic Sharia principles, which form the basis for many laws and regulations governing marriage, divorce, child custody, inheritance, and other aspects of family life.

In recent decades, Kuwait has experienced significant social and economic changes. These changes have affected family dynamics and raised various legal issues that need to be addressed. The Kuwaiti government has responded by implementing various legal reforms to adapt existing regulations to the needs of modern society, while maintaining traditional Islamic values. Reform is something that is always inherent in the context of realizing improvement and progress in the country.⁴

This article aims to analyze the development of family law in Kuwait, including how the law is applied in practice, the challenges faced in the family law enforcement process in Kuwait, family law reform in Kuwait based on a fiqh perspective.

RESEARCH METHODS

The research method used in this research is Library Research, which is a data collection technique by reviewing various literature, such as journals, books, scientific

³ Eko Setiawan, "Dynamics of Islamic Family Law Reform in Indonesia," *De Jure: Journal of Law and Sharia* 6, no. 2 (2014): 139, <https://doi.org/10.18860/j-fsh.v6i2.3207>.

⁴ Ratna Ani Lestari, "Bureaucratic Reform as a Public Servant," *Governance Dynamics: Journal of State Administration Science* 9, no. 1 (2019): 62, <https://doi.org/10.33005/jdg.v9i1.1421>.

works, the internet, etc. With the aim of collecting data which will then be analyzed. This research has a descriptive nature which aims to explain and explain the reform of Islamic family law in Kuwait.

RESULTS AND DISCUSSION

History of the formation of the State of Kuwait

Kuwait is a country located in the northwest of the Persian Gulf, bordering Iraq to the west and north, the Persian Gulf to the east and Saudi Arabia to the south. This country has an area of 17,818 km² with a population of 4,805,000, the majority of whom are Muslim. Islam is the official religion of the state of Kuwait, as stated in the 1962 Kuwait constitution which was amended in 1992 article 2 which reads: "the religion of the state is Islamic Law shall be a main source of legislation".⁵

Kuwait's history begins in 1740, when a small town was settled by the Anizah tribe who left their nomadic life in the interior of the Arabian Peninsula and moved to the Persian Gulf Coast. In 1756, the Kuwaiti people elected Sabah I as their first emir, who became the founder of the dynasty. The Unaizah tribes of the Arabian Peninsula, such as Badanah, Jawah, and alJawf, are the parent tribes of Kuwait. Three descendants of the khafilah, Zayyad, and Jalahamah, form the current Shabbah tribe. The Shabbah family originates from the emir who is respected by all his descendants, Shabbah I. This family ruled from 1756 to 1772. Before that, in 1752, Sultan Sabah ibn Jarir from Bani 'Utub served as the first ruler of Kuwait. After that, the Ottoman government controlled all the tribes.

In 1776, during the war between Iran and Türkiye, Iran controlled Basrah, and Kuwait came under its control. Britain and the East Indian countries had changed their trade routes from Basrah to Kuwait. They knew this route because of Türkiye's control of Kuwait, as Kuwait was an important trade center. This is all done to ensure that trade in the Mediterranean Sea and India remains safe through the Arabian Gulf. Since then, Abdullah ibn Shabbah was appointed mayor of Basrah as a representative of the Turkish government. Then Sheikh Mubarak Al-Shabbah (1896–1915), who took over this position in 1871, then changed the government system from Masyaikhah to Imarah. He collaborated with Britain because he was afraid of his area being occupied

⁵ Zulfan M. Kamil Alhakimi, Asasriwarni, "ANALYSIS OF THE RELIGIOUS JUSTICE SYSTEM IN THE STATE OF KUWAIT AND ITS IMPLEMENTATION," *Islamic Research Journal* 17, no. 1 (2023).

by Turkey, and in 1899 Kuwait came under British supervision. In 1914, Kuwait was British territory. Kuwait was under British jurisdiction from 1925 until it became an independent country in 1961. However, technically, Great Britain did not colonize Kuwait. Instead, Great Britain entered into the Anglo Kuwaiti Agreement, which stipulated that Britain would provide protection but would not interfere in Kuwait's internal affairs. This agreement was also signed with several other countries, such as Bahrain. The agreement had an impact on the Gulf states' external politics, but not on their internal affairs. When the British controlled Kuwait, they had to adopt Western legal and administrative systems such as British law (British-Indian Law), including the Indian Penal Law of 1980. Meanwhile, Muslims still follow Islamic law, especially in matters of law. family.⁶

Kuwait became an independent country on June 19, 1961, and in 1962, they issued the Kuwait Constitution, which became the country's Constitution based on Islamic law. To protect Kuwait's sovereignty, Arab countries asked it to join so that in 1962, Kuwait officially became a member of the alliance after 20 members of the Representative Assembly established the UUDS. After independence, Kuwait officially became a member of the United Nations in 1963. The government structure was also continuously updated with the formation of a consultative assembly and ministers. In the same year, namely 1963, Kuwait formed the Kuwaiti national committee, which drafted and updated several existing laws. One of the new laws created was the Wasiat Wajibah law, also known as Qanun Wasiyyah al-Wajibah, which was enacted in 1971.

Many new laws were born during the reign of Amir Sheikh Abdullah al Salim al-Sabah. Some of them are: 1) Sharia Law on Waqf 1951, which prohibits family waqf under certain conditions (terniebel in certain specified circumstances). 2) Civil and Commercial Procedure 1960. 3) Civil Code 1961. 4) Commercial Code 1961. 5) Criminal Procedure Code 1961. 6) Law on Damage 1961. The Amir of Kuwait has the opportunity to codify the law, and for two years, many laws are based on AgloEgyptian and French legal material. Kuwait's protectorate status against Great Britain ended with its independence on June 19 1961, and in 1962 the country's Constitution was adopted, which made Islam its legal basis. This invitation established Islam as the

⁶ Hikmatur Ridha Zarli, Asasriwarni, and Zulfan, "APPLICATION OF ISLAMIC LAW IN THE JUDICIAL SYSTEM IN KUWAIT" 4, no. 2 (2024): 286–93.

state religion and Sharia as the main legal system. Based on the provisions of this Constitution, the Kuwait National Committee succeeded in making several new laws and changing several laws that were in effect before independence in 1963.

Kuwait has a family court system that handles KPSA, especially for the Sunni community and applies fiqh (Islamic jurisprudence) rules. Unlike the Shiite minority, non-Muslims apply their own customary or religious laws in court. In 2015, Kuwait enacted a law establishing Family Courts as independent judicial institutions in each governorate. These courts handle personal status issues such as inheritance, custody, divorce, marriage, and maintenance. On the other hand, the Kuwaiti legal system consists of two systems: the Islamic legal system which regulates personal matters such as marriage, divorce, and inheritance, and the Egyptian or French legal system which regulates other matters. However, the Islamic legal system does not only affect personal provisions; it also affects banking, investments, insurance, and other financial services, including some tax laws. Then Kuwait's civil law was also promulgated in 1980, and since then, Islamic law has become the official law in the daily lives of Kuwaitis. In addition, it can be understood that both problems can be seen from the perspective of their rules: the Maliki, Hanbali, and Shia minority schools. The government is involved in resolving waqf and wasiyyat obligatory issues because they relate to assets.⁷

Reform of family law in the State of Kuwait

The development of law in Kuwait experienced significant development (legal products in 1951-1961). During the reign of Amir Syaikh Abdullah al-Salim al-Sabah many new laws were drafted, including: 1) Sharia Law on waqf 1951 which made family waqf prohibited in certain circumstances (terriable in certain specified circumstances) 2) Civil and Commercial Procedure CodeLaw.⁸

If you look at the history of the Kuwaiti state constitution, adopted on November 11, 1962, the Kuwaiti state will begin to Islamize the law and enact laws that are fully in accordance with sharia, Article 2 states that "the state religion is Islam, and Islamic Sharia must be the main source of law". Islamic law is the law that regulates human life in the world in order to achieve happiness in this world and the

⁷ siti nurjanah, Islamic Family Law Reform in the Islamic World.

⁸ M. Kamil Alhakimi, Asasriwarni, "ANALYSIS OF THE RELIGIOUS JUSTICE SYSTEM IN THE STATE OF KUWAIT AND ITS IMPLEMENTATION."

hereafter. Therefore, Islamic law includes rules that regulate human behavior in the world. Islamic law covers all aspects of human life, both as individuals and members of society in relation to themselves, other humans, the natural environment and their relationship with God.⁹

Kuwait's family law, which regulates matters such as marriage, divorce, child custody, and inheritance, was enacted in 1984 and contains 347 articles. It has been changed only slightly since 1984 and is based on the Maliki school of Islamic law. This law is known as the Kuwait Personal Status Law No. 51 of 1984. Kuwait Family Law No. 51 of 1984, also known as the Family Law Act, is a law that regulates various civil aspects of family relationships in Kuwait. This law covers various important aspects such as marriage, divorce, child custody, child maintenance, and recognition of the father of biological children. This law provides a legal framework that regulates the rights and obligations of the parties involved in family relationships, with the aim of protecting the interests and happiness of family members and maintaining the stability of the family as a whole.¹⁰

Kuwait regarding the Islamic family only underwent reform in 1982, with the name Code of Personal Status or Qanun Ahwal al-Syakhsiyyah. This was after Kuwait's head of state stated in 1978 that the country's legal system would gradually be adapted to sharia. Kuwait's Islamic family law is based on Egyptian, Moroccan and Islamic law. Family law reforms in Kuwait include:¹¹

a. Prohibition of Marriage

Regarding the prohibition of marriage, specifically in religious aspects, the Kuwait Family Law Law Number 51 of 1984 article 145 determines that a marriage is invalid or void if:

- 1) Marriages are carried out with non-Muslim women or men.
- 2) Marriage of Muslim men with non-biblical people.
- 3) Marriage of a person who has apostatized from Islam, male or female, or one of them.

⁹ erpita Dewi Hasibuan, "Islamic Legal Science," Galang Tanjung, 2015, 2–3.

¹⁰ Muhammad Handika Suryanto, "COMPARISON OF CIVIL RELATIONS BETWEEN BIOLOGICAL FATHER AND CHILDREN: A COMPARATIVE STUDY OF INDONESIA, MALAYSIA, AND KUWAIT" 4, no. 3 (2023): 571–88, <https://doi.org/10.36701/bustanul.v4i3.1086>.INTRODUCTION.

¹¹ Ahmad Tholabi Kharlie, Asep Syarifuddin Hidayat, and Muhammad Hafiz, Codification of Contemporary Islamic Family Law (Renewal, Approach and Elasticity of Legal Application) (Jakarta: Kencana, 2020).

From these provisions it can be seen that the Kuwait Family Law fully implements the legal principles outlined by previous scholars, as well as as stated in the Al-Qur'an. This law allows the marriage of a Muslim to a woman who is an expert on the book, although in terms of discourse this is still a matter of debate among Muslims or contemporary ulama.

Contemporary scholars look at the development of current religious beliefs. On the basis of Surah Al-Hajj verse 17, contemporary scholars view that the people who are classified as people of the book are Jews, Shabi'in, Christians and Magians. In the view of the Hanafi school of thought, the people of the book are Jews and Christians, even though they believe in the trinity, because the most important thing is that they have the divine book. Ahul kitab is anyone who believes in a prophet and a book that was revealed by Allah SWT, including people who believe in Prophet Ibrahim AS and his Suhuf, and people who believe in Prophet Musa AS and his Zabur book.¹²

b. Polygamy

As family laws in other Muslim countries do not explicitly state the permissibility of polygamy. Polygamy is a man having more than one to four wives. In the Islamic view, polygamy is permissible if it meets the conditions that are clear in the Koran, namely, being able to act fairly.¹³ The Prophet's practice of polygamy. clearly not based on biological need, or simply to produce offspring. In the Prophet's marriage, he carried out polygamy by marrying an elderly woman except Aisyah, and polygamy was also carried out not in normal conditions or situations, but in situations of jihad war, struggle and service whose main aim was to preach and uphold the message of Islam. The polygamy carried out by the Prophet, even more than four wives, in the Qur'an also explicitly provides specifics and restrictions on the Prophet's polygamy, so that it is not imitated by Muslims carelessly.¹⁴ Polygamy in the Kuwait Family Law Law also stipulates something similar. There are only a few articles that implicitly allow polygamy to be carried

¹² Meliyani Sidiqah, "Women from the People of the Book and the Law of Marrying Them in Indonesia," *Usm Law Review Journal* 6, no. 3 (2023): 1157, <https://doi.org/10.26623/julr.v6i3.7823>.

¹³ Andi Intan Cahyani, "Polygamy in the Perspective of Islamic Law," *Al-Qadau Islamic Justice and Family Law*, 2018, 271–80.

¹⁴ Cahyani.

out, including Article 21 of this Law which prohibits the marriage of a man who has had four wives to other women before he gives up one of them or the period of his idah expires.¹⁵ From these provisions, as in several other Muslim countries, Kuwait's family law still seems to open up opportunities for polygamous marriages, without providing strict requirements or even completely prohibiting them. However, the Kuwaiti Law also gives women the right to make a marriage contract or agreement at the time the contract is carried out stating that the husband cannot carry out polygamy with other women.

In the relationship between women and men in marriage, Egypt applying the concept of equality (al-Musâwah) in Islam was then developed by Huda Sya'rawi, Malak Hifni Nashir, Zainab Fawaz, Fatima Mernissi, Nawwal Sa'dawi, Asghar Ali Engineer and so on with the aim of improving the status of women in the Muslim world. Qasim Amin's contribution contained eleven articles (related to issues of polygamy and divorce) that he made to Egyptian family law and even became the main reference by judges in Egypt contained in Amin's work in al-Mar'ah al-Jadîdah with the title *Hâlat al-Afkâr al-ân fî Mishr bi an-Nisbât li an-Nisâ'*. Abduh's thoughts contained in al-Mar'ah al-Jadîdah by Qasim Amin are related to the issue of the practice of polygamy that occurs in Egypt, which is detrimental to women because they do not receive fair treatment from Arab men.¹⁶

This means that Egyptian women's movements also contributed to Arab reform, as Qasim Amin wrote in *Tahrîr al-Mar'ah* who called for Muslim women to be freed from domination by men. Egyptian law is influenced by the thoughts of Abduh, (Qasim Amin's teacher), so that its contribution is very large in the Islamic world, even to Southeast Asia such as Malaysia, Singapore, Burnei, and the Philippines which has the Philippines Family Law (Code of Muslim Personal Law of the Philippines) No. 1083 of 1977, punishing polygamy must be done with the consent of the judge (kathi) as stated in Anderson's notes *The Administration of Muslim Law Act of 1968*.¹⁷

¹⁵ Al-Maami, "Personal Status Law of Kuwait Law Number 51 of 1984" (Kuwait: Department of Arab Laws and Regulations, 2017).

¹⁶ Ahmad Zayyadi, "LEGAL REFORM IN TURKEY AND EGYPT (Historical-Sociological Review)," *Al-Mazaahib: Journal of Comparative Law* 2, no. 1 (2014): 167–68, <https://doi.org/10.14421/al-mazaahib.v2i1.1402>.

¹⁷ Zayyadi, "REFORMASI HUKUM DI TURKI DAN MESIR (Tinjauan Historis-Sosiologis)."

Based on the explanation above, it is necessary to review the maqashid of sharia in the issue of polygamy, so that no one is harmed. In this case, maqashid tahsiniyat is more appropriate to determine, namely maslahat which is muru'ah (moral) demands, and it is intended for goodness and glory. If it doesn't exist, it won't damage or complicate human life. The benefit of tahsiniyat is needed as a tertiary need to improve the quality of human life.¹⁸ Making it difficult or even prohibiting polygamy is a benefit for men and women, so that they don't only think about lust in the family, but also think about their family and descendants so that there are no mistakes in their rights and obligations.

c. Skills and Marriage Age

Apart from being a matter of worship (ubudiyah), marriage issues also include issues of relationships between humans and humans (mua'malah), which in religion are only regulated in the form of general (universal) principles. Therefore, the issue of maturity or the age limit for marriage must be understood as a matter of ijtihādiyyah. Regarding the age limit for marriage, scholars have different opinions, this is due to differences in understanding of the texts of the Koran and Hadith.¹⁹ Regarding capacity, the Kuwait Family Law Law has similarities with the principles of jurisprudence established by the ulama, such as the prohibition of a marriage contract for someone who is immature, unreasonable, crazy or under pardon, even in cases of insanity and a judge's pardon. can give permission. The marriage contract is also invalid in a forced or drunken marriage.

In Islam there are strictly no rules that determine the age limit for marriage, based on Islamic law basically all age levels can enter into marriage.²⁰ In terms of marriage age or maturity, Article 26 of the Kuwait Family Law Law stipulates that a contract is considered legally void or contrary to law when the prospective bride has not reached the age of 15 years and the groom has reached 17 years at the time of the marriage contract. Compared with family laws in other Muslim countries, Kuwait is one of the countries that sets the youngest marriage age.

¹⁸ Ghofar Shidiq, "Maqashid Al-Syari'Ah Theory in Islamic Law," Sultan Agung Scientific Magazine 44, no. 118 (1970): 124.

¹⁹ Akhmad Shodikin, "Views of Islamic Law and National Law Regarding the Age Limit for Marriage," Court: Journal of Islamic Law Studies 9, no. 1 (2015): 114–24.

²⁰ Nur Ihdatul Musyarrafa, "Age Limit for Marriage in Islam; Analysis of Islamic School Ulama on the Age Limit for Marriage," Universitas Nisantara PGRI Kediri 01 (2017): 705.

For a widow or woman who has reached the age of 25, she has the right to determine her marriage, but she cannot marry herself directly and must go through her guardian. This provision is very different when compared to the Jordanian family law above which allows someone who is an adult or widow to marry themselves as long as there is equality between both parties. Kuwait's regulations regarding the age of marriage are also followed by several other Muslim countries, as can be seen from the family laws of Oman and Qatar. Oman's 1997 Family Law stipulates that men can only enter into marriage after reaching the age of 18 years and under that age the bridal couple must ask for approval or permission from a judge in court.

Based on the problem above, if it is connected to the issue of *ijtihad*, KH Ali Yafie means a serious effort to confirm a strong presumption (*zhann*) based on a guideline applied in the matter concerned.²¹ Restricting the age at which marriage can occur so that fundamental problems do not arise in the household, namely those who are underage are not yet fully capable of carrying out their rights and obligations, because their thinking maturity is still immature or can be said to be still unstable. To avoid quarrels and resolve that is easily shaken through *ijtihad*, one must limit the age at which one can marry so that a *sakinah mawaddah warahmah* family can be established.

d. Kafa'ah

Kafa'ah in the meaning of Islamic marriage means that there is harmony between the prospective husband and his future wife. The husband has an equal position with his wife in society, with the same good morals and wealth. The emphasis in terms of kafa'ah is the existence of balance, harmony and harmony, especially in terms of religion, namely morals and worship. The issue of kafa'ah in marriage is an important factor in fostering harmony in the lives of husband and wife. It is hoped that an equal position between husband and wife will be able to minimize disputes which have fatal consequences for the longevity of the

²¹ Muh. Jazuli Amrullah, "IJTIHAD METHOD IN ISLAMIC LAW: Study of the Thoughts of KH Ali Yafie and HM Atho' Mudzhar," *Al-Mazaahib: Journal of Comparative Law* 2, no. 2 (2014): 306, <https://doi.org/10.14421/al-mazaahib.v2i2.1371>.

household relationship. So with the existence of kafa'ah (equality), there is no opportunity to denigrate each other.²²

Judging from the maqashid of sharia, hajiyyat is the need of the people to fulfill their benefits and maintain their order of life, but if it is not fulfilled it does not result in the destruction of the existing order.²³ Marriages carried out in sekafaah do not destroy the existing order because there are many benefits that can be obtained if a marriage is carried out with a partner who is equal, both in terms of assets, thoughts and religion.²⁴

Kuwaiti Family Law stipulates equivalence as a condition for the realization of a contract, which is determined by the prospective bride and her guardian, but the measure of equivalence is only the religious element, not property as in Jordanian law.

e. Marriage Registration

Article 41 of the Kuwait Family Law stipulates that a marriage contract must be recorded in official records. However, this law does not specify any sanctions for couples who marry without being registered. Marriage registration is one form of family law reform carried out by Muslim countries in the world. The aim is to achieve legal certainty, legal order and legal protection for a marriage. Therefore, various countries in the Islamic world have made marriage registration an obligation which is legalized in legislation.²⁵

Marriage registration is not a requirement for the validity of a marriage, but only as a requirement for the completeness of marriage administration. A valid marriage is carried out in a manner based on the religious rules and beliefs of both parties to the marriage.²⁶ The act of registering a marriage does not determine whether a marriage is valid or not. Administrative registration, which states that

²² Ahmad Royani, "Kafa'ah in Islamic Marriage (Study of Religious and Social Equality)," *Al-Ahwal* 5, no. 1 (2013): 103.

²³ Husni Fauzan, "The Thought of Maqashid Syariah Al-Tahir Ibn Asyur," *Al-Mawarid Journal of Sharia and Law (JSYH)* 5, no. 1 (2023): 110, <https://doi.org/10.20885/mawarid.vol5.iss1.art7>.

²⁴ Nashrun Jauhari and Ratna Suraiya, "MAQASID AL-SHARI'AH SEBAGAI PENDEKATAN IJTIHAD PERSPEKTIF NUR ALDIN AL-KHADIMI," *Al-'Adalah: Jurnal Syariah Dan Hukum Islam* 2, no. 1 (2017): 51–64, <https://e-journal.uac.ac.id/index.php/adlh/article/view/417/313>.

²⁵ Dian Mustika, "REGISTRATION OF MARRIAGES IN FAMILY LAW IN THE ISLAMIC WORLD," 2003.

²⁶ Muhammad Romli, Aspandi, and Nurul Huda, "Pencatatan Perkawinan Beda Agama Di Indonesia," *Al-'Adalah: Jurnal Syariah Dan Hukum Islam* 7, no. 2 (2022): 377–405, <https://e-journal.uac.ac.id/index.php/adlh/article/view/2877>.

the marriage event actually existed and occurred. By registering the marriage, it becomes clear, both for the person concerned and the other parties. A marriage that is not registered in the Marriage Certificate is considered non-existent by the state and does not receive legal certainty.²⁷

CONCLUSION

Kuwait is a country located in the northwest of the Persian Gulf, bordering Iraq to the west and north, the Persian Gulf to the east and Saudi Arabia to the south. This country has an area of 17,818 km² with a population of 4,805,000, the majority of whom are Muslim. Islam is the official religion of the state of Kuwait, as stated in the 1962 Kuwait constitution which was amended in 1992 article 2 which reads: "the religion of the state is Islamic Law shall be a main source of legislation".

Kuwait regarding the Islamic family only underwent reform in 1982, with the name Code of Personal Status or Qanun Ahwal al-Syakhsiyyah. This was after Kuwait's head of state stated in 1978 that the country's legal system would gradually be adapted to sharia. Kuwait's Islamic family law is based on Egyptian, Moroccan and Islamic law. Family law reforms in Kuwait include: prohibition of marriage, skills and age of marriage, polygamy, kafaah, minimum age for marriage and marriage registration.

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²⁷ Rachmadi Usman, "The Meaning of Marriage Registration in Marriage Legislation in Indonesia," *Indonesian Legislation Journal* 14, no. 3 (2017): 256.

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