

Fikih Aborsi Alternatif Untuk Penguatan Hak Reproduksi Perempuan di Indonesia

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Abstrak

Penelitian ini dilatarbelakangi oleh kondisi bahwa perempuan yang mengalami Kehamilan Tak Dikehendaki (KTD) yang berakhir dengan aborsi selalu berada dalam posisi yang dipersalahkan secara hukum, agama maupun norma masyarakat. Kondisi tersebut mencerminkan adanya diskriminasi terhadap perempuan bahkan mengisolir persoalan aborsi hanya kepada perempuan. Kehamilan tak dapat dilepaskan dari partisipasi laki-laki, seharusnya ketika terjadi KTD menjadi tanggung jawab bersama antara perempuan dan pasangannya.

Penelitian diawali dengan penelitian kepustakaan guna mengumpulkan pandangan ulama fikih mengenai aborsi dari madzhab Hanafi, Syafi'i, Hambali dan Maliki. Pandangan aborsi clan empat madzhab tersebut dianalisis menggunakan metode hermeneutika, membandingkan konteks sosio-historis ketika fikih tersebut ditulis dengan konteks sosial masa kini. Sementara faktor-faktor yang mempengaruhi keputusan aborsi baik di level individu, keluarga / masyarakat maupun kebijakan aborsi di Indonesia, dianalisis menggunakan teori feminis.

Hasil analisis kritis terhadap fikih aborsi clan empat madzhab tersebut dikaji bersama tmuan empiric dari penelitian lapangan. Inti kajian adalah menjembatani antara realitas sosial tingginya angka kematian ibu akibat aborsi tak aman dengan fikih aborsi yang ada, disesuaikan dengan tujuan pembentukan hukum Islam (magaashid al-syari 'ah). Temuan penelitian ini mendukung kritik terhadap teks fikih yang ada untuk dirumuskan fikih aborsi alternatif yang kontekstual dalam upaya penguatan hak reproduksi perempuan di Indonesia.

<hr><i>The background of this research is abortion taken by the woman which is caused by unwanted pregnancy. Woman is always blamed in this connection, both under the basis of Islamic law and religion as well as norm followed by the community. This showed the discrimination against woman, even abortion case is blamed to woman only. The pregnancy actually is could not be separated by man participation. When the unwanted pregnancy is exist, the responsibility of it should be male and female both.

The research is started with the library research to collect theologist's opinions against abortion, particularly from the ulema of Maliki school (mazhab), Hanafi, Hanbali and Syafi'i_ The opinions of abortion from the four mazhabs are analysed through the hermeneutic method, comparation with socio-historical colk.ext when the islamic law is written with social context today. Meanwhile, the factors that enfluence decision to take abortion both in the individual level, community level and abortion policy in Indonesia are analysed through feminist theory.

The result of critical analyses toward fikih abortion of the four mazhabs is studied alongwith empirical from

the field research. The research focus is to bridge between high social reality of mortality caused by unsafe abortion with fikih which available now, suitable with the objective of the Islamic law (magaashid al-.syari ah). The result of the research supports critics aganist texts of fikih which is available, than summarized to be the alternative contextual fikih abortion in an effort to strengthen woman reproductive rights in Indonesia.</i>