

Mahkamah syar'iyah dalam sistem peradilan nasional = The Islamic court justice in the national courtship justice system

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Abstrak

Disertasi ini mengkaji Mahkamah Syar'iyah di Provinsi Nangroe Aceh Darussalam [NAD] dan relevansinya dengan Sistem Peradilan Nasional. Fokus kajian ini merupakan penelitian kualitatif dengan desain deskriptif-analitis. Analisis penelitian dengan paradigma kombinasi empat teori utama: Living law Ehrlich, Masalah Mursalah Al-Syafi'i, Taqin Ibnu Muqaffa, Desentralisasi dan Distribution of Power sebelum perubahan dan Separation of Power dengan titik berat check and balances pasca perubahan UUD 1945.

Hasil penelitian ini menyarankan agar eksistensi Mahkamah Syar'iyah yang pernah berjaya di Aceh pada abad XVI-XVII, dapat berfungsi kembali secara baik dalam Negara Kesatuan RI dengan cara DPRA dan Pemda NAD membentuk Qanun-qanuu yang dibutuhkan masyarakat untuk melaksanakan syariat Islam secara kaffah. Qanun-qanun yang berwawasan nasional Islami, menjamin Mahkamah Syar'iyah dapat eksis berdampingan dalam Sistem Peradilan Nasional.

.....The study is about the Islamic Court Justice (Mahkamah Syar'iyah) in the Province of Nangroe Aceh Dannssalam [NAD] and its relevance with the National Courtship Justice System. The focus of this study is on a qualitative research based on descriptive-analysis design using four main theories for its paradigm: Living law by Ehrlich, Masalah Mursalah by Al-Syafi'i, Taqin by Ibnu Muqaffa, Decentralization and Distribution of Power before the amendment and Separation of Power with its focus on check and balances after the amendment of the Rules of 1945.

The study suggests that the existence of Mahkamah Syar'iyah which once gained its grandeur in Aceh in XVIth-XVIIth centuries can play its role and function well in the Republic of Indonesia through the Aceh People Assembly and the Government of Aceh which form the rules the society needs to implement the Shariah completely. The rules are hoped to be Islamic-nationalistic that guarantee the existence of Malgkamah Syar'iyah along with the existence of National Courtship Justice System.