



THE SULTAN ADAM LAW IN THE PERSPECTIVE OF DUTCH EAST INDIES LEGAL POLITICS IN THE 18TH CENTURY IN THE FORMULATION OF POSITIVE LAW IN INDONESIA

Ahmadi Hasan¹, Ali Mu'ammarr²

^{1,2} Universitas Islam Negeri Antasari, Banjarmasin

Email: ahmadibasan@uin-antasari.ac.id¹, alimuammarr@uin-antasari.ac.id²

Abstrak

Penelitian ini mengeksplorasi Undang-Undang Sultan Adam (UUSA) di Kerajaan Banjar pada masa penjajahan Belanda dan pemerintahan Sultan Adam (1825-1857). UUSA, sebagai hukum politik, mencerminkan hukum nasional dan mazhab fikih Syafi'i, meskipun dianggap sebagai hukum adat. Ajaran Islam, terutama melalui UUSA dan Kitab Sabilal Muhtadin, diintegrasikan ke dalam hukum adat karena keterbatasan literasi. Sultan Adam, melalui reformasi pemerintahan struktural, menerapkan prinsip-prinsip Islam dalam masyarakat Banjar, dengan UUSA sebagai fondasi yang sangat penting. Penelitian ini menyoroti kontribusi UUSA dalam menggambarkan integrasi hukum Islam di Kerajaan Banjar dan mengakui dampaknya historisnya dalam studi hukum adat.

Keywords: Sultan Adam, law, Banjar

Abstract

This research explores the Sultan Adam Law (UUSA) in the Kingdom of Banjar during the Dutch colonization and the reign of Sultan Adam (1825-1857). The UUSA, as a political law, reflects national law and the Shafi'i school of jurisprudence, despite being considered customary law. Islamic teachings, especially through the UUSA and the Book of Sabilal Muhtadin, are integrated into customary law due to literacy limitations. Sultan Adam, through structural governance reforms, implemented Islamic principles in Banjar society, with UUSA serving as a crucial foundation. This research highlights the contribution of UUSA in depicting the integration of Islamic law in the Kingdom of Banjar and recognizes its historical impact in the study of customary law.

Keywords: Sultan Adam, law, Banjar

INTRODUCTION

A study written by Rustam Effendi (2013) with the research title Structure and Meaning of the Sultan Adam Law (hereinafter UUSA) during the Banjar Kingdom of South Kalimantan states that the birth of UUSA was motivated by the clash of two madhhabs, namely the ahlusunah waljamaah madhhab and ahlal albidaah. This theory makes the basis that the UUSA allegedly has strong ties to the language style of Islamic Sharia in the preparation of the Law. Of course this was agreed by the Dutch East Indies government in its formation. This theory is the most important part in the preparation of the research that will be reviewed later. The polemics that occurred

showed that there was a political role of Dutch East Indies law in its participation in drafting the UUSA.¹

The history of the Banjar Kingdom officially codified the law and declared Islamic Sharia as the official law governing Islamic society in Banjar during the reign of Sultan Adam al Watsiq Billah bin Sultan Sulaiman al-Mu'tamidillah. This was marked by the promulgation of the Sultan Adam Law. The 1835 Sultan Adam Law (hereafter UUSA 1835) was a law issued by Sultan Adam Al-Wastsiq Billah, the king of Banjar in 1825-1857 CE, after he had reigned for 10 years from the year of his coronation. As a historical document, it contains the principles of *the living law of the* Banjar Society that were maintained by the Banjar kingdom.²

Along with the formation of the Law of Sultan Adam, the Sultan also wanted to bring order and perfection to the regulations that had been made based on Islamic law, so that there would be a forum or body to maintain the purity of the law, and more importantly, so that the wheels of government in the kingdom could really be carried out properly in accordance with religious guidance. Then on the advice of Sheikh Arsyad Al Banjari (Advisor to the Banjar Kingdom at that time) an Islamic institution was formed in the government namely the Sharia Court, the institution was led by a mufti. The mufti's task at that time was to handle legal issues and resolve all forms of legal disputes, both family law and muamalah and others. In carrying out his duties, the Mufti was assisted by qadli. This qadli institution eventually became the forerunner of the kerapatan qadli (Religious Court) and Kerapatan Kadli Besar (Religious High Court) in South Kalimantan and surrounding areas.

As a sultan who was strong in worship, Sultan Adam Al-Watsiq Billah succeeded in implementing Islamic law in the Banjar and Banua Lima kingdoms, which he had realized in one law so that his people actually carried out the teachings of Ahlusunnah wal Jamaah, and included religious institutions in his government structure.

Historical facts show that the manuscript of the Law of Sultan Adam is the only historical document left by the Banjar Kingdom (1526 - 1860). As a constitution made by the ruler of the time, it certainly contains various matters containing the order of national, religious and social life. By the ruler at the time (Sultan Adam) he had established laws for the government of the kingdom and its people in the form of codified rules oriented towards Islamic law. This illustrates that the Sulthan in the Banjar Kingdom was not only the holder of power in the kingdom, but was further recognized as the ulil amri of the Muslims throughout the kingdom.³

Modern legal theory says that law is a norm made by humans and born from an agreement between humans in a form of deliberation for consensus which is

¹ Rustam Effendi, "STRUCTURE AND MEANING OF SULTAN ADAM'S UNDANG-UNDANG DURING THE BANJAR KALIMANTAN SOUTH KINGDOM," *LITERA* 12, no. 2 (2013).

² Ahmadi Hasan and Ach Ahmad Aseri, *Adat Badamai: The Interaction of Islamic Law and Customary Law in Banjar Society* (Antasari Press, 2007).

³ Compare in Alfisyah Alfisyah, "The Religious Wisdom of the Banjar Pahuluan Community," *PublikA* 2, no. 1 (2009): 49-57.

processed autonomously, logically-rationally, mechanically and regularly. This modern legal theory is the smallest part of the theory of *law* so that its study concerns legal theory or legal doctrine whose legal rules are positivized or codified through legislative agreements systematically and mechanically so as to give birth to a positivistic legal order based on neutrally applicable regulations which are also *ius constitutum*.⁴

Seeing the position of UUSA is interesting to study, so that the formulation of the problem is divided into two important roles in the development of Malay "manuscripts" as a cultural and legal heritage of the Banjar Community at the Antasari State Islamic University College as the main foundation for the development and preservation of the history of Customary Law alongside Sharia as the initial pattern of the formation of UUSA.

The findings that will be obtained are how the Dutch East Indies Legal Politics towards Islamic Law in the 18th century. The next finding is how historical facts that mention there are tactical politics in the preparation of UUSA in the frame of Islamic law based on the approach of Islamic language and sharia until the formation of Positive law in Indonesia.

The Law of Sultan Adam is from the past to the present, a historical document containing the laws of Banjar society, preserved by the Banjar Kingdom, which naturally survived until the Dutch Government dissolved the Banjar kingdom in 1860. This text is probably the only historical document created by the Banjar government from its foundation in 1526 until its dissolution in 1860. This brief overview is a discussion of the legal text of Sultan Adam Al-Watsikbillah, the Sultan of Banjar who ruled from 1825-1857, from the time of the Banjar Kingdom in South Kalimantan. His legal text called "Hukum Sultan Adam" was enacted in 1835.

Sultan Adam's Role in the Law as Dutch East Indies Law

In relation to the Law of Sultan Adam, while historical interpretation is actually concerned with formal law, through understanding in what environment the law was formed, it can also be used to interpret the texts of the Law of Sultan Adam. In fact, in addition to historical legal interpretation, it is important to understand the Law of Sultan Adam through grammatical interpretation or linguistic interpretation, as the texts are composed in the Old Banjar language which is often difficult to compile. Sultan Adam Al-Watsiq Billah, or better known as Sultan Adam? This name is actually very well known, but only in passing, because to explain the context of the Banjarmasin War or Banjar War (1859-1904), there are enough books that complement the National History Book. Since it was decided, starting from the will of the Sultan, that his grandson Pangeran Hidayatullah would be the heir to the throne of the Banjar kingdom.

⁴ Euis Nurlaelawati, *Modernization, Tradition and Identity: The Compilation of Islamic Law and Legal Practice in the Indonesian Religious Courts* (Amsterdam University Press, 2010).

Sultan Adam Al-Watsiq Billah was a sultan of the Banjar kingdom, ruling in Banjar, bringing his people to a prosperous life, upholding the teachings of *ahlussunah wal jamaah*, improving the economy and agriculture and pioneering teaching and learning activities in the field of religious science, as well as defending the kingdom from invaders both from the Dutch government and from the British kingdom. He passed on to his children and grandchildren from his *zuriat* or descendants with the spirit of struggle in defending the kingdom and the law as a guide or foundation to stand on in determining all policies, upholding religion, strengthening brotherhood, unity in creating a religious society for the progress of the nation and state.

There may be many more praising or criticizing statements from writers that we can cite to see how people care about the person of Sultan Adam as one of the local and national historical figures.

Sultan Adam was part of the Banjar royal family who later gave birth to a large number of descendants within the Banjar kingdom. Sultan Adam was the first son of Sultan Sulaiman. He had 5 brothers and 17 brothers, making the total number of brothers of Sultan Adam 22. In *Manaqid Sultan Adam* it is mentioned that Sultan Adam's brothers were:

- I. Those who are father-mother:
 1. Prince Husin Mangkubumi Nata.
 2. Ratu Haji Musa.
 3. Prince Perbatasari.
 4. Prince Hashir.
 5. Prince Sunggung Anom.
- II. Which is what:
 1. Prince Berahim (Kesuma Wijaya).
 2. Prince Ahmid.
 3. Prince Hairun.
 4. Prince of Singasari.
 5. Prince Dipati.
 6. Prince Ahmad.
 7. Prince Wahid.
 8. Prince Thasin.
 9. Prince Tahmid.
 10. Prince Muhammad.
 11. Prince Marta.
 12. Prince Kusairi.
 13. Ratu Salamah.
 14. Prince Hasan.
 15. G. Umi.
 16. R. Mashud.
 17. R. Karta Sari.

What is meant by brother and sister with Sultan Adam is the son of Sultan Sulaiman with his wife Nyai Intan Sari. In addition to Nyai Intan Sari, Sultan Sulaiman still had 8 wives with a record of the sultan's wives, adding more than four wives, after the wife among the four died the wives in question were Nyai Siti Gading, Nyai Rumangi, Nyai Unangan, Nyai Ratua, Nyai Kencana, Nyai Sari, Nyai Minah and Nyai Taisah. From these wives were born 17 sons of Sultan Sulaiman who was a relative of Sultan Adam.

Furthermore, in *Manaqid Sultan Adam*, it is mentioned that in the inauguration of Sultan Adam as king, his eldest son Pangeran Abdurrahman was inaugurated as Raja Muda and known as Sultan Abdurrahman Muda. Sultan Abdurrahman Muda married Nyai Aminah (Chinese) and gave birth to Prince Tamjid. Then married again with Ratu Sitti, giving birth to Pangeran Hidayat. In 1852 Sultan Abdurrahman Muda passed away, so in his place Sultan Adam appointed Pangeran Hidayat bin Sultan Abdurrahman Muda as his successor as Raja Muda, and as Mangkubumi he appointed his son Prabu Anom.

Besides Pangeran Tamjidillah and Pangeran Hidayatullah, sultan Muda Abdurrahman still had 10 more children, respectively:

1. Prince of Souls.
2. Prince Arya Adipati.
3. Prince Wira.
4. Prince Abdullah.
5. Prince Ahmad.
6. Queen Ishaq.
7. Ratu Berahim.
8. Ratu Salamah.
9. Ratu Jaya Kesuma.
10. Ratu Biduri.

In addition, the "family tree of the kings of Banjarmasin" presented by Helius Sjamsuddin, cited from the sources "This is the Origin of Pangeran Antasari", as well as from Verbaal 27-5-1904 No. L12 and T29.Ag.2357106, illustrates that Sultan Sulaiman had two children, Khadijah and Sultan Adam. Then Khadijah married Pangeran Mas'ud and had children Pangeran Antasari and Ratu Abdul Rahman. Ratu Abdul Rahman married Sultan Muda Abdullah Rahman and had a son Pangeran Hidayatullah. This line of descent does not appear in the "Genealogy of Sultan Suriansyah" compiled by H. Gusti Khairul Saleh so there are many things that still need to be criticized from the genealogy of the Banjar kings.

In legal studies, an interesting point in the history of the Banjar Sultanate occurred during the reign of Sultan Adam Al-Watsiq Billah (ruled 1825-1857 AD). During his reign, the sultan succeeded in implementing an Islamic law in Banjar, which

he embodied in a law known as the "Sultan Adam Law (1835 AD)".⁵ This law was born and enacted by Sultan Adam 10 years after he was crowned king of Banjar.⁶

In general, the 18th century in the archipelago was a time when Dutch colonialism began to become inflamed. The political turmoil of colonialism was very influential even though at first it was only for economic matters. All the kingdoms in the archipelago at that time had one economic and one political opponent and eventually the territories fell into the clutches of the Western colonizers.⁷

Similarly, in the Banjar Kingdom, Sultan Adam was known as a ruler who worked hard to maintain the integrity of the Kingdom, what is interesting about Sultan Adam's time is that survival was not based on politics but through law. From here, there is the possibility that the existence of legal institutions is a manifestation of the bargaining of interests between the ruling elite and the community elite. This means that legal institutions are not purely in the normative space but also the *social sub stratum*.⁸

At the beginning of his reign, things were very controlled, safe and peaceful. However, after approximately ten years of rule, the political, state, social and religious life began to be turbulent, because the Dutch colonizers began to openly want to control the Banjar Kingdom, coupled with the arrival of Christian missionaries led by Reverend Barntein. Gradually, the Banjar Kingdom's territory began to narrow. Starting in 1787, which was lost to the Dutch, it continued to decrease in 1826, until it became so narrow that it only covered the area inhabited by the Banjar ethnic group under the rule of Sultan Adam al-Wasik Billah.^{10 9}

The Banjar Kingdom at the time of Sultan Adam was already under Dutch rule and only had the status of a *vassal state* although it was still recognized as a Kingdom. The policies of the Dutch were difficult for Sultan Adam to heed. This was because his political power was very weak. Nevertheless, the Dutch still gave Sultan Adam room to lead the community.¹⁰

Seeing this situation, the wise Sultan Adam and his love for Islam, tried to fend off and ward off foreign cultures and situations that threatened the unity

⁵ Gusti Khairul Saleh, *Manaqib Sultan Adam Al-Watsiq Billah*, <http://kesultananbanjar.com/id/manaqib-sultan-adam-al-watsiq-billah/> (March 28, 2017).

⁶ Sjarifuddin, *et al.*, eds., *Sejarah Banjar*, ed. M. Suriansyah Ideham, *et al.*, eds. (Banjarasin: Regional Research and Development Agency, 2007), p. 17

⁷ W. F. Wertheim, *Indonesian Society in Transition*, translated by Zulfa Elizabet, Yogyakarta, Tiara Wacana, 1999, pp. 42-48

⁸ M. Faqih de Ridha, *Another Portrait of the Legal Journey in the Banjar Kingdom*, AL-BANJARI, ISSN 1412-9507, Vol. 12, No.1, January 2013, p. 15

⁹ Sjarifuddin, *et al.*, eds., *History of Banjar*, *Op.Cit.*, p. 17

¹⁰ M. Faqih de Ridha, *Op Cit.*

and integrity of the kingdom, so Sultan Adam felt the need to make laws with the intention of maintaining and strengthening people's confidence in Islam.

In realizing his intention, Sultan Adam formed a team led directly by Sultan Adam and assisted by his son-in-law, Prince Syarif Hussien, as well as Mufti Haji Jamaluddin bin Sheikh Muhammad Arsyad and others.¹¹

In the drafting of the UUSA, many great ulama were involved, and Article 31 even mentions the role of the ulama Mufti Haji Jamaluddin as a "resource person" for the drafting of the UUSA. Mufti Haji Jamaluddin himself was the son of Sheikh Muhammad Arsyad Al Banjari and was a Banjar scholar during the time of Sultan Adam.¹²

As the son of Sheikh Muhammad Arsyad Al Banjari, of course his thoughts and knowledge were inherited from his parents as well as Sultan Adam as the team leader who admired the character of Sheikh Muhammad Arsyad Al Banjary, especially in his youth, Sultan Adam, the son of Sultan Sulaiman, was a student of Sheikh Muhammad Arsyad Al-Banjary, which is certainly not an exaggeration if the birth of UUSA was also inspired by several breakthroughs made by Sheikh Muhammad Arsyad Al-Banjary in the era of Sultan Tahmidillah II (1561-1801). At that time Islamic law began to be institutionalized in the Banjar Kingdom with the assistance of Sheikh Muhammad Arsyad Al-Banjari, a great scholar who had succeeded in fostering the Banjar people to practice the teachings of Islam. The idea of Sheikh Muhammad Arsyad Al-Banjary was to establish the institution of Mufti and Qadhi, which implemented Islamic Sharia¹³

Sheikh Arsyad Al Banjary in his daily life besides teaching at pesantren institutions within the Martapura fence to educate da'i, he also wrote many books as a guide for Muslims, among the books he wrote were:

1. *The book of Faraidh*, which deals with inheritance and how it is distributed.
2. *Kitabunnikah*, on the meaning of guardianship and how to do a *marriage contract*.
3. The book *Tuhfaturraghibien*, which contains an explanation according to the *Ahl al-Sunnah wal Jamaah* for removing the customs that cause people to slip towards *shirk* and *apostasy*.
4. *Kitab Kanzu Ma'rifah* is a book that discusses matters of *Sufism*.
5. *Sabilu Muhtadin Lit-Tafaqqub Fi Amriedien*, a book of *Fiqh* in Malay, Arabic letters that is very profound with many difficult problems.

¹¹ Sjarifuddin, *et al*, eds., *Sejarah Banjar*, Op.Cit, p. 221.

¹² Abdurrahman, *The 1835 Sultan Adam Act in the Perspective of Legal History*, Al Banjari Vol. 10 No. 2 July 2011, ISSN 1412-9507 pp. 190

¹³ Yus uf Halidi, *Sheikh Muhammad Al-Banjari, the Great Cleric of South Kalimantan Genealogy of the Kings who Ruled at the Time of al-Banjari from Birth to Death* (Surabaya: Al-Ihs an, 1968), p. 25. 25.

The book of *Sabilul Muhtadin Lit-Tafaqqub Fi Amriedien* is very famous throughout Southeast Asia such as the Philippines, Malaysia, Singapore, Thailand, Indonesia, Brunai Darussalam, Kampuchea, Vietnam, and Laos, because the Muslims in these areas still use Malay language.¹⁴

Shaykh Arshad Al Banjary was highly respected by the Sultan because of the depth of his knowledge and his book *Sabilul Muhtadin* for a king who was very influential and provided understanding and ingenuity in improving all religious and worldly work". Sultan Tahmidillah himself when he was about to die testified to his descendants that: "Shaykh Muhammad Arshad is my friend and he is also my teacher, so I advise my children and grandchildren from generation to generation not to disobey him and his children and grandchildren and zuriat, if they disobey him they will not be saved". The sultan's relationship was further strengthened by marriage, when the Sultan married Shaykh Muhammad Arshad to his granddaughter Ratu Aminah bint Pangeran Thoaha bin Sultan Tahmidillah.¹⁵ That is why the thoughts of Shaykh Arsyad Al Banjary greatly inspired his descendants including Sultan Adam.

The intent and purpose of Sultan Adam issuing this law is reflected in its preamble which states that this law is made for all his people with the intention:

1. To perfect the religion and beliefs of his people.
2. To prevent many conflicts between the people.
3. To make it easier for judges to determine the law.

And as the ultimate goal of the enactment of the law is for the people to be good.¹⁶

The UUSA contains matters of religion and worship, matters of administrative law, marriage law, judicial procedure, land law, and transitional regulations.¹⁷

The text of the Law of Sultan Adam as contained in Joekes' 1881 article which was later republished in the 1917 Adatrechts Bundle is only one of several versions of the Law of Sultan Adam. A similar text was also published by Banjar historian Amir Hasan Bondan (1882-1967) in his book *Suluh Sejarah Kalimantan* (1953) which was further published in the Orientation Magazine of the Faculty of Law of Lambung Mangkurat University (1977) and the Sultan Adam Law Academy in a discussion on October 22, 1986.¹⁸

¹⁴ M Arsyad al-Banjari, *Kitab Sabial Muhtadin*, transl. M As ywadie Syukur (Surabaya: PT Bina Ilmu, 1985), p. 2

¹⁵ Abu Daudi, *Maulana Shaykh Muhammad Arsyad al-Banjari* (South Kalimantan: Secretariat of Madrasah Sullamul Ulum, 1980), pp. 45

¹⁶ Abdurrahman, *The Law of Sulthan Adam and Its Position in Banjar Customary Law*, Orientation Magazine no. 2 year II, 1977, p. 12. 12

¹⁷ Amir Hasan Kiai Bondan, *op cit*, p. 33

¹⁸ Abdurrahman, *Abdurrahman, The 1835 Sultan Adam Law in the Perspective of Legal History, Op Cit*, pp. 182

In the book "Sejarah Banjar" the complete text of the UUSA is presented according to the Martapura version from Article 1 to Article 31 while according to the Amuntai version up to Article 38.¹⁹ The UUSA has its own systematics in accordance with the mindset at the time, with the designation perkara to refer to the meaning of the article for example. The material of this law can be categorized as follows:

1. Religious issues in worship, including:

Article 1: Matters of trust.

Article 2: Establishing a place of worship and praying in congregation.

Article 20: Obligation to observe the beginning of the Ramadan fasting month.

2. Problems of Constitutional Law, incl:

Article 3: Obligations of village elders.

Article 2l: Obligations of village elders.

Article 31 : Obligations of the Lurah and Mantri-Mantri.

3. Marriage Law, incl:

Article 4: Conditions of marriage.

Article 5: Conditions of marriage.

Article 6: Divorce.

Article 18: Barambangan.

Article 25: Accusing the wife of adultery.

Article 30: Adultery.

4. Law of Judicial Procedure, covers :

Article 7: Duties of the Mufti.

Article 8: Duties of the Mufti.

Article 9: Prohibition of litigants from appearing before officials

¹⁹ Government of South Kalimantan Province, *History of the Banjar*, Banjarmasin, Government of South Kalimantan Province, 2003, pp. 154-163

Article 10: Duties of the Judge.

Article 11: Execution of judgment.

Article 12: Confirmation of the decision.

Article 13: Obligations of the khalal and the people.

Article 14: Indictment.

Article 15: Grace period for filing a lawsuit.

Article 19 : Prohibition of kings or orderlies from intervening in civil affairs unless a letter from the Magistrate is issued.

Article 24: Obligation of Judges to examine cases.

5. Land Law, incl:

Article 17: Pawn of Land.

Article 23: Problems of expiration.

Article 26: Land lease.

Article 23: Land management.

Article 29: Abandonment of land.

6. Transitional Regulations, including: Article 16.²⁰

From a systematic point of view, the UUSA is not a good law by today's standards. The UUSA consists of 31 articles (called perkara, but translated in Dutch as articles). The order of the articles is not grouped according to the issues they regulate, but sometimes they jump around and are interspersed with articles that have no relation to the previous provision. Similarly, transitional rules are not found at the end of the rules, but in the middle.²¹

However, this UUSA is considered as a law that can perfect the religious values of the community and at the same time can also be a guide for judges in deciding cases. In addition, the Law of Sultan Adam is considered a unifying tool of the kingdom and at the same time also functions as an antidote and supervisor of sects that are considered heretical, because the king wants there to only be a sect in the religious life of the community, namely the Syafi'i school of thought

²⁰ *Ibid*, pp. 151-152.

²¹ Abdurrahman, *The 1835 Sultan Adam Law in the Perspective of Legal History*, *op cit.* pp. 186

which is *ablusunab waljamaab* which is based on the intention of the *sunni school* of thought and *tarikat Samaniyah* as the only school in the Banjar kingdom, While on the other hand, there are Sheikh Muhammad Nafis and or Sheikh Abdul Hamid Abulung who developed a school or sect called *wab-datul wujud* (the unification of God with creatures), this is an understanding that is considered heretical.²²

This UUSA is very simple and only consists of two parts, namely the Introduction or preamble which contains only one paragraph, and the Body or content section which contains 31 articles, and is complemented by a Transitional Regulation.²³

Dutch East Indies Legal Policy towards Islamic Law in the 18th Century

The political law that took place during the reign of Sultan Adam and during the Dutch colonization from 1825 to 1857 AD shows that legal history has a close relationship. During his reign, the King of Banjar enacted an agreed regulation called the Law of Sultan Adam (UUSA) in the 18th century.²⁴ As explained in the previous chapter, the UUSA is a purely Banjar product that discusses various cases within the framework of history, politics, religious influences, and even matters of customary rituals/faith beliefs. Of course, this makes the UUSA a mandatory guideline for the Banjar people to follow. The facts written based on the opinions of the Banjar Qadhi/ulama make the UUSA national in content and the Islamic Jurisprudence of the Syafi'i madhhab.

Based on the description of the content of the UUSA text, historically, this law was based on the life and principles of customary law in the Banjar Community. This system was maintained by the Sultan of Banjar until it was dissolved by the Dutch in 1860 due to the implementation of civil law. The legal principles based on Islamic teachings show that the Banjar kingdom still uses Islamic principles in its governance. Along with the UUSA, the Kitab Sabilal Muhtadin authored by Syaikh Muhammad Arsyad al-Banjari is still preserved as an important document inherited from the King of Banjar and the Dutch East Indies Government.

In general, when there is a discussion about rules concerning society, the UUSA is present as part of the legal model. Although it is still considered customary law, it historically contains legal principles that lived in Banjar society based on the

²² Rustam Effendi, *Structure and Meaning of the Sultan Adam Law during the Banjar Kingdom of South Kalimantan*, LITERA, Journal of Language, Literature and Teaching Research, Volume 12, Number 2, October 2013, ISSN 1412-2596, p. 260). 260)

²³ Abdurrahman, *A Study of the 1835 Sultan Adam Law*, *op cit.* pp. 123-130.

²⁴ Shaykh Abdurrahman Shiddiq, *loc cit.*

directives of the Banjar Kingdom from 1826 until the dissolution of the Banjar kingdom in 1860 by the Dutch government.

As a historical document, it contains the living legal principles of the Banjar Society that were maintained by the Banjar kingdom up until the dissolution of the Banjar kingdom by the Dutch government in 1860.²⁵

Islamic law as a living law in the Banjar community is implemented and practiced in daily life; at the time Islamic law was learned from religious scholars and teachers by listening and memorizing and carried out under the guidance of religious scholars and teachers; in accordance with the conditions at that time there were not many people who were good at reading and writing, so that religious law was transformed like customary law.

Banjar society is known for its strong Islamic tradition and this extends to the issue of social obedience. People are more obedient to religious leaders than to rulers. Therefore, the legal authority exercised by the ulama contains both formal and non-formal compliance. This also shows that the movement of legal history that occurred according to the social journey at that time was more likely to use Islamic social rules than general or secular rules. On the other hand, the ruler (Sultan) did not consider it a problem if the social rules of society were based on Islamic law. *The first* reason was that the people at that time had long embraced Islam. *Secondly*, the ulama factor as a figure that can be accepted by all parties and become social glue.²⁶

It is because of this fact that the UUSA in the perspective of legal studies is placed within the framework of the study of Customary Law. An expert on customary law Van Vollenhoven (1874-1933) in his book "*Het Adatrecht Van Nederlandsch Indie*" (1905) explained about *Vindplaatsen van het adatrecht* (sources where customary law is found), one of which is "*Verordeningen van vorsten en hoefden*" (Regulations of kings and community heads) which was later called "*geschreven adatrecht*" or "explicit customary law", as opposed to "*ongeschreven adatrecht*" or "unwritten customary law". Van Vollenhoven mentions "*Vorstenedikten in dezen trant zijn nog uit tal van streken over, en komen in de tweede afdeling bij Atjeh (sarakata's) bij zuid Borneo (Sultan Adam) bij Bolaang Mongondou enz'*".²⁷

Indeed, the birth of the UUSA shows the development of Islamic law in the Banjar Kingdom, as this law was based on the strong Islamic principles of the time. This law was issued by Sultan Adam after 10 years of his reign from the

²⁵ Abdurrahman,

²⁶ Alfani Daud, *Islam and Banjar Society; Description and Analysis of Banjar Culture*, Jakarta, RajaGrafindo Persada, 1997, p. 57. 57

²⁷ Van Vollenhoven, *Het Adatrecht Van Nederlandsch Indie*, (t.tt: t.tp, 1905), p. 113

year of his coronation, with the aim of minimizing the influence of Western culture and strengthening the unity of the kingdom and the integrity of the Banjar people.

In implementing and applying this legal product, Sultan Adam made changes and improvements to the structure of his government. The hierarchy starts from *Mufti*, the Supreme Judge, the Supervisor of the General Court; *Qadi*, the Head of Islamic Legal Affairs; *Penghulu*, the Lower Judge; *Lurah*, directly as a helper of *Lalawangan* and observes the work of several *Pambakal* (Village Head) assisted by Khalifah, Bilal, and Kaum; *Pambakal*, the Village Head who controls several villages; *Mantri*, a rank of honor for prominent and meritorious people, some of whom become village heads in the same area as *Lalawangan*; *Tatulia Kampung*, a prominent person in the village; and *Panakawan*, a person who is the king's messenger, exempted from all kinds of taxes and obligations.²⁸

For 32 years Sultan Adam ruled in Negeri Banjar, bringing his people to a prosperous life, upholding the teachings of *ablussunnah wal jamaah*, improving the economy and agriculture and pioneering teaching and learning activities in the field of religious knowledge, as well as defending the kingdom from attacks by Dutch colonial invaders.²⁹

According to Abu Daudi, Sultan Adam had succeeded in implementing Islamic law in the Banjar Kingdom and Banua Lima which he realized in one law so that his people really carried out the teachings of *ablusunnah wal jamaah*, and he included religious institutions in the government structure³⁰ He was very concerned about the development of Islam³¹, and he was also very respected and respected by both his people and the Dutch.³²

According to A.M. Joeques, Sultan Adam was an ordinary king and not a famous jurist but he had a very high sensitivity to the condition of the people in his area.³³

The law enacted by Sultan Adam, although it only consists of 31 articles, can describe the situation and condition of the community and its legal conditions. The substance of the law has Islamic nuances that are influenced and inspired by the thoughts of Sheikh Muhammad Arsyad Al Banjari, one example is the idea of Sheikh Muhammad Arsyad Al-Banjary to form Mufti and Qadhi

²⁸ Kiai Amir Hasan Bondan, *Suluh Sedjarah Kalimantan, Op Cit*, pp.149-150.

²⁹ Gusti Hairul Saleh, *op cit.* p. 14

³⁰ Abdurrahman, *The 1835 Sultan Adam Law in the Perspective of Legal History, op. cit.* pp. 177

³¹ Amir Hasan Kiai Bondan, *op cit*, p. 35

³² Gusti Hairul Saleh, *op cit.* p. 4.

³³ A.M. Joeques, *Oendang-oendang Soelthan Adam*, (Adatrechts Bundel, Dell XIII, 1917), pp. 149

institutions that implement Islamic Sharia in the era of Sultan Tahmidillah (1561-1801), and in the UUSA there is special material that contains the Law of Judicial Procedure which was later maintained by the Dutch Colonial government for South Kalimantan in 1937 and even applies until now with the name Kerapatan Qadhi and Kerapatan Qadhi Besar in the judicial system as contained in a research report conducted by Eisenberger in 1937. conducted by Eisenberger in preparing the establishment of the "Kerapatan Qodi" and "Kerapatan Qodi Besar" in South Kalimantan as an appendix to his report entitled "*Onwerp Nopens Regeling Van de Godschenstige Rechtspraak in de Bandjereezen gebied der zuider en Ooster afdeeling van Borneo*" dated July 26, 1936 No. 1560/B 1-3, as later stipulated by the Dutch Colonial Government in 1937. 1560/B 1-3, as subsequently enacted by Stb 1937 No. 638 and No. 639.³⁴

Likewise with the legal material on marriage, which Sheikh Muhammad Arsyad Al Banjary discussed in a book entitled "Kitab al Nikah" by himself, in this book he explained the ins and outs of marriage law, and in the Sultan Adam Law there are special articles that explain matters related to marriage which amount to 6 articles, namely contained in article 4, article 5, article 6, article 18, article 25 and article 30. Currently, legal issues concerning marriage are contained in a separate law, namely Law Number 1 of 1974 concerning Marriage and continued in the form of the Compilation of Islamic Law (KHI) with the basis for its enactment through a Presidential Instruction.

Likewise with other legal issues such as the field of religion and worship, governance law and land tenure law contained in the Sultan Adam Law. These laws are laws that are close and in direct contact with people's lives and now each of these laws has its own place in legislation.

The existence of Sultan Adam's law at that time really provided answers and solutions to legal problems faced by the community and at the same time guided and led the community to a better life. This is what Satjipto Rahardjo said that the law is for humans not the other way around. Law is not for itself but for something broad, namely for human dignity, happiness, welfare and human glory. Understanding the law for humans meant by Satjipto Raharjo is a law that can lead humans to a just, prosperous life and make humans happy.

Progressive law and Islamic law have two core characteristics, namely law for humans and refusing to maintain the *status quo* in law, then between the ideas of progressive law and Islamic law have compatibility. When viewed from the principles of Islamic law in general, the principles of Islamic law are in accordance with the characteristics of progressive law, namely law for (the interests of)

³⁴ Abdurrahman, Al Banjary Journal, *UUSA in the Perspective of Legal History*, *Op Cit*, p. 184

humans. Meanwhile, *ijtihad* as a way to make Islamic law suitable for every era is in accordance with the characteristics of refusing to maintain the *status quo* in law.³⁵

UUSA comes as a progressive law, as a legal tool, this law can break out of existing traditions and be able to respond to problems that occur in society at that time. Such progressive law is in line with *legal realism*, which according to Olever Wener Hiolmes aims to make the law more attentive to social needs.

Although this law is quite simple and simple, it is considered quite perfect, because in this law it can provide answers to every problem faced by the community and the state at that time and is even considered quite advanced because this law can provide guarantees of justice and certainty, security and tranquility, comfort and welfare, this can be proven by the recognition of various groups including by the Dutch coloneal nation.

The key to a progressive law is where the law always strives to constantly find new meanings and is not shackled to absolute meanings. Creativity to make the law *the living* law; a law that lives in the midst of society and continues, because the law as outlined in the form of written language must always be able to be interpreted dynamically, because the language itself basically reflects the development of society and its culture.

Satjipto Rahardjo said that Law is not only a building of regulations, but also a building of ideas, culture and ideals, people often see law only as a regulation and procedure, all of which are very dependent on the textual rules in the legislation, all of which have a "neutral" connotation.³⁶

Such conditions made Sultan Adam and the laws he issued get a response from the Dutch colonial government. Dutch admiration for Sultan Adam's law led the Governor of Borneo (1891-1894), AM Joekes to publish it in the *Indische Gids* magazine in 1891. The manuscript, which he wrote in Latin letters in Banjar Malay, was accompanied by a translation in Dutch. Later, this manuscript was reprocessed by the Commission for Customary Law (Koninklijke Instituut Voor de Taal, Land en Volkenkunde van Nederlands Indie) in the Netherlands and published in *Adatrecht Bundels*, volume XIII in 1917. Not only the Dutch Customary Law Commission studied Sultan Adam's Law, the Assistant Resident of Amuntai Helderman on April 16, 1910, also wrote the legal product of the 13th Banjar Sultan of the Suriansyah Dynasty.

³⁵ M. Yudi Fahira, in Dina Asterina, *Application of Progressive Law Article 39 of Law Number 1 of 1974 concerning Husband and Wife Disputes at the Martapura Religious Court*, Postgraduate Thesis IAIN Antasari Banjarmasin, 2014, p. 16. 16

³⁶ Satjipto Rahardjo, *Dissecting Progressive Law op. cit*, p 23

Since its publication in the 1917 Adatrechts Bundels, the Law of Sultan Adam has become quite popular among scholars of customary law, especially Banjar customary law, both among Dutch and indigenous scholars who are interested in exploring a law made by the King of the Banjar kingdom, Sultan Adam, who ruled from 1825-1857 and enacted the law in 1835.³⁷

CONCLUSION

During the reign of Sultan Adam and the Dutch colonization from 1825 to 1857, a political law called the Sultan Adam Act (UUSA) was enacted in the Banjar Kingdom. The UUSA, which was an original creation of the Banjar people, covered various aspects such as history, politics, religion and traditional rituals. The UUSA became a mandatory guideline for the Banjar people, reflecting both national law and the Shafi'i school of fiqh. The UUSA is based on the principles of customary law in Banjar society and was maintained by the Sultan until it was dissolved by the Dutch in 1860.

Islamic teachings play an important role in the legal principles of the Banjar kingdom, as demonstrated by the UUSA. Alongside the UUSA, the Kitab Sabibal Muhtadin written by Syaikh Muhammad Arsyad al-Banjari serves as an important legacy document of the Banjar King and the Dutch East Indies Government. The UUSA serves as a legal role model and represents the legal principles living in Banjar society. Although considered customary law, the UUSA contains historical legal principles that were applied during the reign of the Banjar Kingdom.

Islamic law is practiced and applied in the daily lives of the Banjar people. Religious scholars and teachers teach and guide the community in following Islamic law, which is transformed into customary law due to the limited ability to read and write at the time. Banjar society has a strong Islamic tradition, and obedience to religious leaders is often prioritized over loyalty to the ruler. The ulama, as religious figures, have both formal and non-formal authority.

The UUSA falls within the framework of customary law. An expert on adat law, Van Vollenhoven, categorized the UUSA under "explicit adat law" as it is a regulation issued by the ruler. The UUSA marked the development of Islamic law in the Banjar Kingdom, as it was based on strong Islamic principles. Sultan Adam implemented changes and improvements in the government structure to enforce this law, by establishing roles such as Mufti, Supreme Judge, and Superintendent of the General Court.

Overall, the UUSA is evidence of the integration of Islamic principles into the governance and legal system of the Banjar Kingdom. The UUSA became an important legal document that influenced Banjar society, and its historical importance is recognized in the study of adat law.

³⁷ Abdurrahman, *The 1835 Sultan Adam Law in the Perspective of Legal History*, *op cit*, p. 175. 175

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