

**REACTUALIZATION OF ISLAMIC CRIMINAL LAW VALUES IN THE
BO' SANGAJI KAI MANUSCRIPT OF THE BIMA SULTANATE: A
CONTENT ANALYSIS APPROACH**

Information Author	Abstract
Muhammad Mutawali Universitas Islam Negeri (UIN) Mataram Email: muh.mutawali@uinmataram.ac.id	This article aims to explain the values of Islamic law contained in the Bo` Sangaji Kai manuscript. Bo` Sangaji Kai is a large book containing records of the kings of Bima and crucial information about the history of Bima, applicable laws and regulations, and diplomatic relations between the Bima kingdom and other kingdoms. It contains the genealogy of the kings of Bima. This study is library research by making the Bo` Sangaji Kai manuscript the primary source using a content analysis approach. This study found that in the Bo Sangaji Kai manuscript, it is explained in detail that the laws implemented by the Bima Sultanate are Islamic and customary. The results of the study in this article also confirm that the values of Islamic law are used as one of the sources of law used by the Bima Sultanate to resolve conflicts and legal problems faced by the Bima community, as revealed in several legal issues such as theft, adultery, and murder. Keywords: <i>Bo Sangaji Kai, Islamic Law, Bima Sultanate, Manuscript</i> يهدف هذا المقال إلى شرح قيم الشريعة الإسلامية الموجودة في مخطوطة بو سانغاجي كاي. كتاب بو سانغاجي كاي هو كتاب كبير يحتوي على سجلات ملوك بيما ومعلومات حاسمة عن تاريخ بيما، والقوانين والأنظمة المعمول بها، والعلاقات الدبلوماسية بين مملكة بيما والممالك الأخرى. يحتوي على نسب ملوك بيما. هذه الدراسة هي بحث مكتبي من خلال جعل مخطوطة بو سانغاجي كاي المصدر الأساسي باستخدام نهج تحليل المحتوى. وجدت هذه الدراسة أنه في مخطوطة بو سانغاجي كاي، تم شرح بالتفصيل أن القوانين التي طبقتها سلطنة بيما إسلامية وعرفية. تؤكد نتائج الدراسة في هذا المقال أيضا أن قيم الشريعة الإسلامية تستخدم كأحد مصادر القانون التي تستخدمها سلطنة بيما لحل النزاعات والمشاكل القانونية التي تواجه مجتمع بيما، كما يتضح في عدة قضايا قانونية مثل السرقة والزنا والقتل. بو سانغاجي كاي، الشريعة الإسلامية، سلطنة بيما، مانوسكريب Artikel ini bertujuan untuk menjelaskan nilai-nilai hukum Islam yang terkandung dalam manuskrip Bo' Sangaji Kai. Bo' Sangaji Kai adalah buku besar yang berisi catatan raja-raja Bima dan informasi penting tentang sejarah

Bima, peraturan perundang-undangan yang berlaku, dan hubungan diplomatik antara kerajaan Bima dan kerajaan lain. Ini berisi silsilah raja-raja Bima. Penelitian ini merupakan penelitian perpustakaan dengan menjadikan naskah Bo' Sangaji Kai sebagai sumber primer dengan menggunakan pendekatan analisis konten. Penelitian ini menemukan bahwa dalam naskah Bo Sangaji Kai dijelaskan secara rinci bahwa hukum yang diterapkan oleh Kesultanan Bima bersifat Islam dan adat. Hasil kajian dalam artikel ini juga menegaskan bahwa nilai-nilai hukum Islam digunakan sebagai salah satu sumber hukum yang digunakan oleh Kesultanan Bima untuk menyelesaikan konflik dan permasalahan hukum yang dihadapi masyarakat Bima, sebagaimana terungkap dalam beberapa isu hukum seperti pencurian, perzinahan, dan pembunuhan.

Kata Kunci: *Bo Sangaji Kai, Hukum Islam, Kesultanan Bima, Naskah*



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Publisher:

Lembaga Penelitian dan Pengabdian Masyarakat (LPPM) STIS Al-Ittihad Bima

INTRODUCTION

October 2, 2024, was a historic moment for the Bima community because the *Bo` Sangaji Kai* manuscript was designated as a National Collective Memory (IKON), marked by the submission of a certificate from the National Library of the Republic of Indonesia. The determination of *Bo` Sangaji Kai* as IKON 2024 was based on the results of the IKON Expert Council consignment. This recognition confirms the *Bo` Sangaji Kai* manuscript as an essential part of the nation's civilization. <sup>1</sup> *Bo` Sangaji Kai* contains a manuscript that provides information about the chronicles of the kingdom written at the Bima Palace from the 17th to the 19th centuries. According to Agus Sutoyo, as Head of the Center for Library Information Services and Management of Nusantara Manuscripts of the National Library of the Republic of Indonesia, the determination of the *Bo` Sangaji Kai* manuscript as an IKON is one of the targets of the mainstreaming program for Nusantara manuscripts currently being run by the National Library. The *Bo` Sangaji Kai* manuscript deserves to be designated as an IKON because of its broad historical scope and impact across national borders. The *Bo` Sangaji Kai* manuscript represents

¹<https://lombokpost.jawapos.com/pulau-sumbawa/1505155986/jadi-bagian-penting-peradaban-bangsa-naskah-bo-sangaji-kai-kantongi-sertifikat-ikon>. Dikutip pada tanggal 10 Oktober 2024, jam 13.29 PM.

the cultural richness and important events in world history, one of which is the eruption of Mount Tambora in 1815 AD.²

Bo` Sangaji Kai is a ledger of the Sultanate that stored written legislation in force at that time, currently stored in the Samparaja Museum in Bima City. The manuscript contains the Bima Customary Law that was in effect during the Bima Sultanate from the 17th century until the end of the Colonial era in the Archipelago. The Bima customary law manuscript contains the rights and obligations of the community and prohibitions on actions that harm others, both physically, property, and honor. The Bo Sangaji Kai manuscript has received a Communal Intellectual Property Inventory Registration Letter for Traditional Cultural Expressions from the Ministry of Law and Human Rights, with registration number EBT52202200111.

Bo' comes from the Dutch word Boek. This word was later absorbed into the Mbojo language and became Bo'. Sangaji Kai was the traditional title of Bima for their kings before they became Sultans. Thus, Bo' Sangaji Kai means "the record book of the kings of Bima." Bo' Sangaji Kai is one of the essential books on the various types of Bo' of the Bima Kingdom such as Bo' Bicara Kai, the record of the Raja Bicara (vizier or customary leader) of the Bima Kingdom, Bo' Bumi Luma Rasana'e, the record of the customary officials of the Bima Kingdom, Bo Kadi, a record of religious affairs, Bo' Melayu, a record of the Malay people in Bima, and Bo' Dare Dura, a record of the Makassar noble family. Bo' Sangaji Kai was written when Bima was still a kingdom and was valid until the Bima Kingdom became a sultanate, adjusting to Islamic law.

Research or studies that discuss the Bo` Sangaji Kai manuscript are still limited, especially concerning Islamic law. This research is fundamental to enriching Bo` Sangaji Kai studies from these limitations. Research conducted by Dr. Siti Maryam R. Salahuddin entitled Customary Law of the Land of Bima in the Perspective of Islamic Law: Study of the Elements of Justice and Humanity.³ This study shows the relationship between customary law and Islamic law and makes *maqashid shari'ah* the mainstay in producing local Islamic law. It is also emphasized that Bima customary law accepts changes when it becomes one of its sources of law, adopting Islamic law without abandoning existing customs and formal law.

Muhammad Mutawali, in his study entitled Implementation of Islamic Law in the Bima Sultanate, emphasized that the Sharia Legal Agency, as an institution formed by the Sultan of Bima to resolve civil law problems faced by the Bima community, has effectively implemented Islamic law as its source of law, as evidenced by binding legal decisions produced by the Sharia Legal Agency such as in cases of *fasakh*, inheritance, and grants.⁴

Muhammad Adlin Sila, in his study, entitled Historicizing Islam: On the Agency of Siti Maryam in the Construction of Bima`s History of Islamization. This

² <https://www.kompas.com/edu/read/2024/10/04/135844271/perpusnas-tetapkan-naskah-bo-sangaji-kai-ntb-jadi-ingatan-kolektif-nasional>. Dikutip pada tanggal 10 Oktober 2024 jam 13.46 PM.

³ Siti Maryam R. Salahuddin, Hukum Adat Tanah Bima dalam Perspektif Hukum Islam: Kajian Unsur-Unsur Keadilan dan Kemanusiaan, *Al-Ittihad Jurnal Pemikiran dan Hukum Islam*, Vol. 2 No. 2016. <https://e-journal.stisbima.ac.id/index.php/ittihad/article/view/19>

⁴ Muhammad Mutawali, Implementasi Hukum islam di Kesultanan Bima, *Schemata*, 3 (2), 2014.

article focuses on understanding Bima's local interlocutors in the history of Islamization in the region, particularly in light of their construction of Bima vernacular manuscripts. This article provides the agency of Siti Maryam, the owner and caretaker of Samparaja Museum, who has given access to Bima's manuscripts, which are locally called Bo'. Through in-depth interviews and participant observation, He examined how Siti Maryam, as the manuscript's owner, constructs the entry of Islam to Bima and how this understanding becomes the dominant storyline in explaining Bima's history, ranging from the pre-Islamic era to the period of Islamization. This article aims not to discuss the truth or falsity in these historical accounts or to take sides. However, these varying historical accounts are essential in providing a doorway to understanding Islam's locally dynamic and religiopolitical practices in contemporary Bima.⁵ Muhammad Alfian, in his research entitled Islamic Education Values in Bo Sangaji Kai, a record of the Bima Kingdom, explains that the values contained in the Bo Sangaji Kai manuscript represent Islamic education values and Islamic education learning materials, such as the attitude of leaders who must prioritize people's affairs above personal affairs and uphold Islamic teachings, in line with the goals of Islamic education which are oriented towards forming students as the best human beings, as caliphs on earth.⁶

The focus of this study is different from the previous studies above. The author focuses on the study of the values and positions of Islamic law in the Bo` Sangaji Kai manuscript and understands the meaning contained in the manuscript on legal issues, such as the law of theft, adultery, and murder.

This research is library research using a content analysis approach. Content analysis is a research tool used to determine the presence of certain words, themes, or concepts in some qualitative data or texts. With content analysis, researchers can measure and analyze the presence of words, meanings, and relationships between words, themes, or concepts. In this case, the Bo Sangaji Kai manuscript is the text studied so that its meaning and ideas can be found and adjusted to the research objectives.

Based on the argument above, the problem can be formulated in this study, namely, how are the values of Islamic law in the Bo` Sangaji Kai manuscript of the Bima Sultanate? From the formulation of the problem above, it can be explicitly described in several questions as follows:

1. What is the position of Islamic law in the Bo` Sangaji Kai manuscript?
2. What are the problems of Islamic law contained in the Bo` Sangaji Kai manuscript?

RESEARCH METHODS

This research uses a qualitative approach with a type of library research combined with a content analysis method. This approach was chosen because the main object of the research is the classic manuscript of Bo' Sangaji Kai, Bima Sultanate, which contains the norms, principles, and values of Islamic criminal law in the context of local history and culture. This research aims to reactualize the values

⁵ Muhammad Adlin Sila, "Historicizing Islam: On the Agency of Siti Maryam in the Construction of Bima's History of Islamization", *Studia Islamika: Indonesian Journal for Islamic studies*, Vol. 25, no. 1, 2018.

⁶ Muhammad Alfian, *Nilai-Nilai Pendidikan Islam dalam Bo` Sangaji Kai Catatan Kerajaan Bima*, (Tesis, UIN Sunan Kalijaga, Yogyakarta, 2016).

of Islamic criminal law contained in the manuscript to be relevant to the legal and social dynamics of contemporary society.

The source of research data consists of primary data and secondary data. Primary data is in the form of manuscripts of the manuscript of Bo' Sangaji Kai of the Bima Sultanate which was obtained through copies of archives, documentation of cultural institutions, and transliteration of available texts. The secondary data includes supporting literature in the form of jurisprudence books, historical books of Islamic law, scientific journals, results of previous research, as well as relevant Islamic criminal law regulations and positive laws. Data collection was carried out through documentation techniques and systematic literature search.

Data analysis was carried out by qualitative content analysis method, namely by identifying, classifying, and interpreting the content of Islamic criminal law values contained in manuscript texts. The stages of analysis include data reduction, data presentation, and conclusion drawn. Data reduction is carried out by selecting parts of the text related to the concept of criminal acts, sanctions, criminal objectives, and the value of justice and benefits. Furthermore, the data is presented in a descriptive-analytical manner by comparing these values with the concept of classical Islamic criminal law and the context of modern law.

To ensure the validity of the data, this study uses the source triangulation technique, which is to compare the content of the manuscript with various scientific references and expert views. The results of the analysis are expected to be able to produce a comprehensive understanding of the relevance and potential for reactualization of Islamic criminal law values in the manuscript of Bo' Sangaji Kai for the development of Islamic criminal law discourse in Indonesia.

RESULTS OF RESEARCH AND DISCUSSION

History of the Bima Sultanate

Bima is one of the important kingdoms on the trade route in the archipelago that connects the route from Malacca to Maluku.⁷ Trade relations with the outside world made the Bima region a transit area for traders from the north to the West and vice versa. This impacts the presence of external influences, one of which is the influence of religion, especially Islam, brought by traders from the Arab nation and around the eastern region of the archipelago, especially from the Makassar region. Islam arrived in Bima in the 17th century AD and became the kingdom's official religion. The kingdom system was replaced by a sultanate system based on Islamic law.⁸

Some ancient relics, inscriptions, and quotes from ancient Javanese texts such as Negarakertagama and Pararaton prove that the Bima civilization was visited around the 10th century. When the Portuguese began exploring the Indonesian Archipelago, Bima had become a significant trade center.⁹ The presence of Islam in

⁷ Muhammad Mutawali, *Islam di Bima: Implementasi Hukum Islam di Kesultanan Bima (1947-1960)*, (Mataram: Alamtara Institute, 2013), h. 1.

⁸ Abdul Wahid, *Dou Mbawa: Religiusitas dan Sosial-Budaya Orang Bima di Pegunungan*, (Malang: Intrans Publishing, 2024), h. 65. Lihat juga Muhammad Mutawali, *Peradilan Dou Donggo: Kontestasi Hukum Adat, Hukum Islam dan Hukum Nasional*, (Yogyakarta: Genta Publishing, 2021), h. 2.

⁹ Henri Chambert Loir & Maryam R. Salahuddin, *Bo` Sangaji Kai: Catatan Kerajaan Bima*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2012), h. xv.

Bima influenced changes in the government system and in all aspects of the lives of the Bima people, including the method of writing historical records carried out by royal scribes. During the kingdom, royal records were written using the Bima language with the Bima script. Still, after Islam became the kingdom's official religion, the writing of royal records was replaced using the Malay Arabic script or Pegon. This was done because of the increasingly widespread diplomatic relations of the Bima Sultanate with kingdoms in other regions of the Nusantara. These royal records contain the history, duties, and activities of the Sultan, diplomatic relations, and events that occurred in the territory of the sultanate, as well as matters relating to legal issues, namely customary law and Islamic law. Bima or Dana Mbojo is located at the eastern tip of Sumbawa Island, inhabited by various ethnicities and tribes. The original tribe and the first to occupy the Bima region is Dou Donggo (Donggo people), consisting of Dou Donggo Ele (East Donggo people) and Dou Donggo Ipa (Donggo people from the other side).¹⁰ Another tribe is Dou Mbojo (Bima people). Dou Mbojo is a group of people who are the result of a blending of Donggo people with the Makassar and Bugis tribes. Their marriage relationship occurred in the pre-Islamic kingdom era, namely during King Manggampo Donggo and Tureli Nggampo Ma Wa`a Bilmana.¹¹

Bima has had a legal system that its people have obeyed since the time of the Naka (prehistory), then under the rule of the Ncuhi (traditional leaders) based on local customs and wisdom. In Bima mythology, the name Bima is the name of a Javanese nobleman, one of the characters in the Mahabharata story that unites the Ncuhi-Ncuhi.¹² The agreements and customs of the Ncuhi era became the embryo of the birth of customary law. The customary law that existed previously was influenced by Hindu-Buddhist teachings, but the Bima people themselves believed in Animism (*Parafu, ma kakamba, ma kakimbi*).¹³ In the Dana Mbojo Bima Customary Council archives, the Bima kingdom was founded in the 14th century AD due to an agreement between the small kings (ncuhi) in the Bima region.¹⁴

Sultan Abdul Kahir was the first Sultan of Bima and died in 1640. His son, Sultan Abil Khair Sirajuddin, replaced him and ruled for forty-two years. However, when he was appointed Sultan, he was only two years old, so Raja Bicara represented him. Sultan Abil Khair Sirajuddin died in 1682 and was replaced by his son, Sultan Nuruddin, who only ruled for five years because he died young (at 36). His successor, Sultan Jamaluddin, ruled for only a few years. When his father died, he was only fourteen, so Raja Bicara led the government. Sultan Jamaluddin was replaced by his son, Sultan Hasanuddin, who, in 1696, was only nine years old and ruled for thirty-five years. His reign was marked by increasingly tight Dutch political control over all the Kingdoms on Sumbawa Island. In 1731, Sultan Hasanuddin died and was

¹⁰ Muhammad Adlin Sila, "Historicizing Islam: On the Agency of Siti Maryam in the Construction of Bima's History of Islamization", *Studia Islamika: Indonesian Journal for Islamic studies*, Vol. 25, no. 1, 2018, h. 45-46.

¹¹ Tawalinuddin Haris dkk, *Kesultanan Bima, Masa Pra-Islam sampai Masa Awal Kemerdekaan*, (Jakarta: Puslitbang Lektur, Khazanah Keagamaan dan Manajemen Organisasi Badan Litbang dan Diklat Kementerian Agama RI, 2017), h. 3-4.

¹² J. Noorduyn, "Makasar and The Islamization of Bima", *Bijdragen tot de Taal-, Land- en Volkenkunde*, Deel 143, 2/3de Afl. (1987), h. 317

¹³ Ridwan, "Perkembangan dan Eksistensi Hukum Adat: Dari Sintesis, Transplantasi, Integrasi Hingga Konservasi", *Jurnal Jurisprudence*, Vol. 6 No. 2 September 2016, h. 109.

¹⁴ Muhammad Mutawali, "Implementasi Hukum Islam di Kesultanan Bima", *Jurnal Schemata*, Vol. 3 (2), 2014, h. 182.

replaced by his son Sultan Alauddin. When Sultan Alauddin died (1748), his son was only thirteen. Therefore, the one who ascended the throne was his older sister, Sultan Kamalat Syah. Still, she only ruled for three years because the Company disapproved of her marriage to Karaeng Kanjilo, so she was forced to abdicate in 1751. She was replaced by her younger brother, Sultan Abdul Kadim, who ruled for twenty-two years. The next king was Sultan Abdul Hamid, the Sultan with the longest reign (no less than 44 years, 1773-1817). The following Sultan was Sultan Ismail (1819-1854). At the beginning of his reign, the Bima Sultanate had just escaped poverty and famine due to the eruption of Mount Tambora. Sultan Ismail was replaced by Sultan Abdullah (1854-1860). Sultan Abdullah inherited the impoverished sultanate due to the eruption of Mount Tambora. Sultan Abdullah was replaced by his son Sultan Abdul Azis (1860 AD) and was inaugurated as Sultan in 1868 AD. In 1881, Sultan Abdul Azis died mysteriously for unknown reasons. He was buried in the courtyard of the Sultanate Mosque and replaced by his younger brother, Sultan Ibrahim because he had no sons. Sultan Ibrahim was the son of Sultan Abdullah. He was born in 1862 AD and inaugurated in 1881 AD. Sultan Ibrahim was replaced by his son, Sultan Muhammad Salahuddin, who was born in 1888 AD and inaugurated as Sultan in 1917 AD as the last Sultan of Bima.¹⁵

Writing of the *Bo Sangaji Kai* Manuscript

Bo` Sangaji Kai is a large book of the Sultanate that stores written legislation that was in effect then and is now stored in the Samparaja Museum in Bima City. The manuscript contains the Bima Customary Law that was in effect during the Bima Sultanate from the 17th century until the end of the Colonial era in the Archipelago. The Bima customary law manuscript contains the rights and obligations of the community and prohibitions on acts that harm others, physical, property, and honor.¹⁶

Bo` Sangaji Kai is a crucial archival document of the Bima Kingdom among the other Bo types. The Bima kingdom inherited the tradition of writing this type of book from South Sulawesi. In the past Bugis and Makasar language areas, a unique historiographic tradition was known as Lontara katakan, namely very detailed notebooks written in the King's palace or the homes of several dignitaries. According to the Bima Community, the tradition of writing Bo` was started by Prime Minister Tureli Nggampo Makapiri Solo after studying the government systems of the Goa and Luwu Kingdoms. In the early days, Bo` was written in the ancient Bima language and script on palm leaves. On 15 Muharram 1055 H or 13 March 1645 AD, Sultan Abil Khair Sirajuddin ordered that Bo` be written on paper using the Malay language with a script approved by Allah, namely the Malay Arabic script or Pegon.¹⁷

Islamic Law in the *Bo Sangaji Kai* Manuscript

In the Bo Sangaji Kai, one article confirms that one of the sources of law applicable in the Bima Sultanate is Islamic law or Sharia. The article reads:

Bermula hukum ini adalah setengahnya mufakat dengan syariat dan setengah dengan (akhlak) karena perkataan ini mengikut adat, yaitu dihimpunkan atas

¹⁵ Lihat Muhammad Mutawali, *Islam di Bima*,..., h. 5

¹⁶ Henri Chambert Loir & Maryam R. Salahuddin, *Bo` Sangaji Kai: Catatan Kerajaan Bima*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2012), h. xv-viii.

¹⁷ Loir dan Salahuddin, *Bo` Sangaji Kai*..., h. xiii

empat bagi, pertama-tama syariat, kedua adat, ketiga akal, keempat resam. Adalah kami mohonkan kepada Allah taala Tuhan yang amat mengampuni kepada segala hamba-Nya astagfirullah al-`azim wa atubu ilaih.¹⁸

In another article, it is also stated more specifically that the Sultan ordered all officials of the Sultanate and all the people to adhere firmly to the teachings of Islam. The article reads:

Hijrat al-Nabi sallallahu alaihi wa sallama sunat 1211 Alif pada tiga puluh genap hari bulan Syawal haru Jumat, ketika itulah Yang Dipertuan Kita Wazir al-Muazam bergelar Tureli Donggo bernama Abdul Nabi ibn Hidir menyuruh juru tulis menyalinkan surat bicara ini dalam Bo` besar. Pertama bahwa hendaklah raja jeneli tureli dan sekalian gelarang mengerasi agama Islam seperti mendirikan sembahyang, dan puasa, dan mengeluarkan zakat, dan memelihara syahadat dan iman, dan mengetahui akan halal dan haram, dan fardu dan sunat, sah dan batal, makruh dan mubah. Maka barangsiapa tiada mendirikan yang demikian dimurkai Allah subhanahu wa taala.¹⁹

Adultery Law in the *Bo` Sangaji Kai*

The Bima land customary manuscript summarized in the *Bo Sangaji Kai* manuscript explains the punishment for perpetrators of adultery. The articles in the manuscript read:

Hijrat al-Nabi sallallahu alaihi wa sallama seribu seratus enam puluh enam tahun, tahun Za, pada hari Selasa pada dualapan belas hari bulan Rabiulawal,²⁰ dewasa itulah Duli Yang Dipertuan Kita Sultan Abdul Kadim, dan Raja Bicara bernama Ali dan segala Jeneli Tureli dan Bumi Lima kedua dan Kadi Abdurrahim dengan segala orang Mangaji bermufakat dari hal orang Suba dan orang Mapota tetap orang Parado keduanya itu, maka bermufakat pada rumah Jeneli Bolo bernama La Mapa pada tatkala Mauludnya, maka Raja Bicara berkata: Ya Tuanku Raja Kerajaan, jikalau sama suka pada perkataanku, jikalau ada orang laki-laki membawa lari orang perempuan atau mendapat perempuan pada rumah tangganya mengatakan, “aku bersama-sama dengan saudaraku ini”, maka jawab perempuan: “tiada sekali-kali aku bersama dengan dia”, bagaimana pikir kita ini? Maka jawab Tuan Kita Kerajaan: “Hai nenenda sekalian, jikalau ada orang laki-laki mengatakan: sudah aku bersama-sama dengan dia, maka perempuan mengaku juga, itulah yang baik dinikahkan. Jikalau perempuan tiada sekali-kali mau mengaku, tiada boleh sekali-kali patut dinikahkan itu oleh Lebe dan Khatib karena tiada dengan ridanya, maka dendanya seperti orang teraniaya, oleh Raja Bicara dan Bumi Luma pada orang itu adanya.”²¹

In another article, the law on adultery is also explained:

Hijrat al-Nabi sm sanat (...) tahun Jim tiga hari bulan Rabiulakhir pada hari Sabtu waktu duha, tatkala itulah Duli Yang dipertuan Kita Sultan Abdul Kadim Muhammad Syah Zilullah fi Al-Alam memanggil khatib keempat

¹⁸ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 93

¹⁹ Loir dan Salahuddin, *Bo` Sangaji Kai*, h. 68

²⁰ Yaitu pada hari Selasa, 23 Januari 1753.

²¹ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 62-63.

bernama si Pake, dan Khatib Jamaluddin bergelar Lebe Sekuru lagi juru tulis dalam, dan Khatib Usman bergelar Anangguru Suba. Aku memanggil engkau keempat, inilah perkataanku yang kuingatkan serta kuperbuat dengan segala guru-guru sampai kepada segala temannya, maka yang seperti hal orang yang berzinah atau barang suatu perbuatan yang takluk kepada zinah, yakni seperti laki-laki atau perempuan mengadukan hal salah seorang daripada keduanya kepada hakim, maka dihukumkan oleh hakim serta denda oleh kadi dengan kamu sekalian akan salah seorang daripada keduanya daripada baranah yang patut perintah kamu sekalian yang memegang hukum agama. Jikalau anak raja-raja sekalipun atas perintah hukum jua tiada boleh masuk orang lain daripada hukum. Akan tetapi dikecualikan juga anak cucu atau hamba sahaya ayahanda jeneli tuneli yang masih tetap dalam rumahnya akan mengerjakan pekerjaan yang seperti yang telah tersebut dahulu itu, maka diperbaikinya oleh sendirinya melainkan dimaafkan oleh hukum. Akan tetapi jikalau ia sudah turun daripada rumahnya kepada rumah lain, meski di dalam kampung sendiri sekalipun, atas perintah hukum juga.

Demikianlah pada zaman kerajaanku ini membaharui dan meneguhi perkataan Tuan Kita dengan hukum dahulu kala supaya jangan berbantahan dan berkelahi sama sendiri kita adanya. Syahdan maka yang seperti perkataan nenek inilah Tureli Sakuru itu mengatakan, jika zinah anak raja-raja dualapan puluh mas kawinnya²² tiada didenda oleh hukum itu, sekali-kali aku tiada terima karena seolah-olah bersalahan dengan hukum agama Islam.²³

In another article, there is also an explanation of the law for perpetrators of adultery who are punished by being beaten, fined the price of the woman who was the victim, and hammered a hundred times until they are killed. The article reads:

Bab pada menyatakan hukum zina dalam jung. Bermula jika merdeka ada istrinya atau tiada, maka zina ia dengan istri sama merdeka, maka hendaklah dibanyakkan²⁴ dibunuh oleh nakhoda itu. Bermula jika merdeka keduanya sama bujang, hukumnya dipalu seratus kali, dinikahkan kuasa supaya jangan malu perempuan itu. Jika laki-laki itu tiada malu dipalu, didenda akan ganti kesalahannya dengan setahil sepaha. Jika laki-laki itu merdeka maka perempuan gundik orang ditempahkan²⁵ gundik harganya. Jikalau telah lama dipakai tuannya (jika hendak ditempahkan dapat), jika hendak dibunuhnya dapat juga, nakhoda menolong membinasakan dia bunuh keduanya. Jika merdeka mengambil bini sama merdeka, dibunuhnya mati saja, tiada perkataan atas perempuan itu.²⁶

The punishment of being lashed a hundred times in the above text has similarities with the law of flogging in Islamic criminal law. The sentence for flogging or flogging in Arabic is called *jald*, derived from the word *jalada*, which means hitting on the skin or hitting with a whip made of leather. The punishment of flogging is

²² Maksudnya, jika yang berzina adalah anak raja-raja, maka dipaksa kawin dengan maskawin sebanyak 80 real.

²³ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 67-68.

²⁴ Dibanyakkan artinya dikeroyok, dipukul ramai-ramai.

²⁵ Ditempahkan artinya diharuskan membayar denda sebesar harga perempuan tersebut.

²⁶ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 94-95.

very much felt on the skin, even though it is intended to embarrass and prevent others from making mistakes rather than hurting them.²⁷

In Islam, adultery is not only one of the major sins but also an act that will open the gates to various other shameful acts, will destroy the foundation of the family, will result in many disputes and murders, destroy good names and wealth, and spread multiple physical and spiritual diseases.²⁸

The Qur'an firmly explains the sanctions that will be imposed on perpetrators of adultery, as stated in the letter An-Nur verse 2, which reads:

الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةً جَلْدَةً

"A woman who commits adultery and a man who commits adultery, then beat each of them a hundred times." ²⁹

Basically, by adhering to this verse, the legal sanctions for perpetrators of adultery, whether male or female, muhsan or ghairu muhsan, are the same, namely being whipped 100 times. However, al-Sunnah differentiates between legal sanctions for muhsan and ghairu muhsan. Companions and Salaf scholars and later scholars agree that for the perpetrator of Muhsan adultery, the punishment is stoning to death.³⁰

The Law of Murder in the *Bo Sangaji Kai*

Customary law and Islamic law recognize the existence of fines (*diyat*) for perpetrators of the crime of murder. In Bo Sangaji Kai, the law of penalties or *diyat* has been implemented since the early days of the Bima Sultanate. In Bo`, it is expressed as follows: Again, if the Bima people kill someone from another country, they will be killed, too. If he is not killed for any reason, he is appropriately fined, and then the fine is divided into two, to his master or his brother, as to the king of the kingdom. The reason is divided into two so that other people don't call the country like mistreatment of people's property. If a dead person carries any treasure, everything returns to its owner, and that is the case.

Sebagai lagi jikalau ada orang lain negeri dibunuh oleh orang Bima, dibunuh juga. Jikalau tidak dibunuh daripada barang sesuatu sebabnya, didenda dengan sepatutnya dirinya, maka dendanya itu dibahagi dua, sebagi kepada tuannya atau kepada saudaranya, sebagi kepada raja kerajaan. Adapun sebabnya dibahagi dua, supaya jangan dikata oleh orang lain negeri seperti aniaya harta orang. Jikalau ada harta yang dibawanya oleh orang mati, kembali semuanya kepada yang empunya, demikianlah halnya.

Sebagai lagi segala hal denda orang membunuh orang yang tiada dapat dibunuh lagi (karena) barang sesuatu sebabnya, itulah raja kerajaan yang

²⁷Rusjdi Ali Muhammad, *Revitalisasi Syari'at Islam di Aceh: Problem, Solusi dan Implementasi*, (Jakarta: LOGOS, 2003), h. 109.

²⁸Topo Santoso, *Asas-Asas Hukum Pidana Islam*, (Jakarta: Rajagrafindo Persada, 2016), h. 159.

²⁹Wahbah Al-Zuhayli, *Al-Fiqh Al-Islami Wa Adillatuh*, Jilid 7, (Dimashqa: Dar al-Fikr al-Ilmiyah, 1997), h. 23.

³⁰Andiko, Toha, "Reinterpretasi Sanksi Pidana Islam (Studi Terhadap Pemikiran Prof. KH. Ibrahim Hosen, LML)", *Madania* Vol. XVIII, No. 2, Desember 2014, h. 237-238.)

empunya, daripada sebab harga nyawanya denda orng mengikut, dan barang sebagainya raja memegang Bicara dengan segala temannya itulah yang empunya baginya.³¹

Based on the explanation above, it can be understood that the law of fines also applies to murderers in the Bima Sultanate. The fine is interpreted as a ransom for the victim's life, given to the victim's family. The punishment for murderers is also to be killed. This is the same as the law that applies in Islamic criminal law, which punishes murderers with *qisas* punishment. Suppose there is something that is based on an agreement or forgiveness from the victim's family that causes the death penalty to be replaced with a fine. It can be understood that the law that applies in the Bima Sultanate is Islamic law.³²

In Bo's manuscript, there is also an explanation of the punishment in cases of murder committed by several people or joint murder, one of whom is the mastermind of the murder. The manuscript reads:

Jikalau ada orang membunuh orang meski dua tiga sekalipun, mana yang pohon³³ itulah akan dibunuhnya pula dan yang mengikut itu melainkan didenda jua kepadanya. Adapun denda yang yang mengikut itu dua puluh real kepada seseorang. Maka orang pohon itu, jika tiada dapat dibunuh daripada barang sesuatu sebabnya, jika anak raja-raja dualapan puluh real, jika orang dalam negeri atau hamba empat puluh real dendanya, demikianlah dihindangkan hal yang demikian itu adanya.³⁴

In Islamic law, the legal sanctions of *qisas* imposed on perpetrators of deliberate (premeditated) murder are contained in QS. Al-Baqarah verse 178, which means:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ ۚ الْحَرُّ بِالْحَرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنْثَىٰ بِالْأُنْثَىٰ ۖ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبِعْهُ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَنٍ ۚ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ ۚ فَمَنِ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ﴿١٧٨﴾

O you who believe, the law of *qisas* for murder is obligatory upon you. Whoever receives forgiveness from the victim's brother (family) then lets him follow the proper rules in the form of goodness by giving something to his brother (family) in a good way. That is a relief and mercy from Allah for you. So whoever commits persecution again after that will receive a severe punishment. (QS. Al-Baqarah: 178)

Based on the verse above, several conclusions can be drawn: first, the law of *qisas* must be implemented for believers. Second, implementing the *qisas* punishment can be reduced if the family forgives. Third, if the perpetrator repeats his actions, he will be severely punished. The verse above also contains the *qisas* punishment for murderers who commit their crimes intentionally, and the victim's family does not forgive the perpetrator. If the victim's family forgives him, the *qisas* sanction does not apply and becomes a *diyat* punishment. Thus, not all perpetrators of murder are threatened with *qisas*. Everything must be examined in depth regarding the

³¹ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 88-89.

³² Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 91-92.

³³ Pohon artinya biang atau dalam kasus pembunuhan berarti otak dalam pembunuhan.

³⁴ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 91-92.

motivation, method, driving factors, and technicalities when committing the crime of murder. This can be understood from the continuation of the verse above. With the granting of forgiveness and pardon accompanied by *diyat*, the law of *qisas* is nullified. This law applies according to the agreement of the scholars of the Syafi'i school.³⁵

The Law of Theft in the Bo` Sangaji Kai Manuscript

The theft is one of the acts against the law in force in the Bima Sultanate. The punishment or fine for thieves is the punishment that applies in the Bima Sultanate, as recorded in the Bo Sangaji Kai manuscript of the Bima Sultanate. One of its articles reads:

“Sebagai lagi jika ada orang mencuri harta atau barang sebagainya, maka jika kira-kira dapat sepuluh real harta yang dicurinya itu maka dendanya enam belas real. Jikalau tiada dapat sepuluh real, sereal menjadi dua real, seekor menjadi dua ekor. Jikalau hilang harta yang dicurinya itu dibayarnya atau digantinya.”³⁶

In another article, it is also explained that:

Sebagai lagi jikalau ada orang menuduh orang mencuri atau barang sebagainya, jikalau tiada sungguh kembali kepada yang menuduh dendanya.³⁷

Sebagai lagi jikalau ada orang mencuri (...) harta orang dan barang sebagainya maka ia lari singgah pada rumah orang pura-pura menjual membeli daripada takutnya ia diketahui kecuriannya itu, dalam yang demikian itu maka datanglah orang mencari kepada rumah orang yang disinggahkan itu serta bertanya kepada orang yang empunya rumah itu hal orang mencuri itu, jikalau ia berkata benar tiadalah masuk hukum mencuri kepadanya, jikalau disembunyinya, hukum bersama-sama juga dengan orang mencuri itu kepadanya.³⁸

Sebagai lagi hal kepada harta yang hilang barang sesuatu rupanya. Jikalau kita dapat dalam tangan orang serta ia berkata sudah dibelinya atau digantinya, melainkan diambilnya juga, maka ia mengambil, maka ia mengambil kembali harga akan pembelinya atau pengantinya itu. Hanya jikalau disembunyinya dengan perbuatankah atau perkataankah, masuk juga mencuri hukumnya.³⁹

Based on the article on the address of the thief that applies in the Sultanate of Bima, the thief will be fined, as explained above, if the stolen property or goods reach ten reals. The fine is twice the stolen property or goods if it is less than ten reals. If the stolen goods are lost, they must be replaced according to the goods.

The following article also explains that if someone accuses someone else of stealing. Still, if the accusation is not proven and the accused person denies it, a fine will be imposed on the person who accuses someone else of stealing. The following article also explains that it is an act of theft if a party protects and defends a thief in his house from being chased by the authorities, including theft if someone claims to have an item lost from its owner. In contrast, the item does not belong to him.

³⁵ Umar Shihab, *Kapita Selekta Mozaik Islam: Ijtihad, Tafsir dan Isu-isu Kontemporer*, (Bandung: Mizan, 2014), h. 324.

³⁶ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 80.

³⁷ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 80.

³⁸ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 82.

³⁹ Loir dan Salahuddin, *Bo` Sangaji Kai...*, h. 85.

This is the law that applies in the Sultanate of Bima. For thieves or people who assist in theft and others who claim to have goods that are not theirs, then based on the applicable law, they will be subject to a fine as the law regulates it.

In Islam, the law of theft is explained in the word of Allah SWT. in the letter Al-Maidah verse 38, which reads:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءُ بِمَا كَسَبَا نَكَالًا مِنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ ﴿٣٨﴾

The male thief and the female thief cut off their hands (as) recompense for what they have done and as a punishment from Allah. And Allah is All-Mighty, All-Wise". (QS. Al-Maidah: 38).

From the explanation of the verse above, the punishment for the theft perpetrator is the cutting off the hands of both male and female thieves. As mentioned in the verse above, the punishment of cutting off the hands indicates that crimes such as theft are considered serious crimes, so the perpetrators are given a heavy sentence.

In interpreting the cutting off of the hands of perpetrators of theft, scholars are divided into two opinions. The first opinion, the majority of scholars say that in applying the punishment for thieves, it is necessary to follow the written intent in the text or the punishment is *ta'abbudi* and cannot be replaced with other punishments such as imprisonment, while the second opinion, some scholars argue that the sentence is *maqui al-mana*. Namely, it has a rational intent and meaning. Therefore, its implementation can be in other punishments, not necessarily cutting off the hands.⁴⁰ The scholars who argue that the punishment for thieves does not have to be cutting off hands view that the word *faqta'u aidiyahuma* in the letter of al-Ma'idah verse 38 is intended to prevent theft. This prevention can be realized through detention in prison and so on. Prevention does not have to be done by cutting off hands. Thus, the verse is interpreted as "For male and female thieves, prevent both their hands from stealing, in a way that you see can realize prevention."⁴¹

CONCLUSION

Based on the explanation above, it can be concluded that the values of Islamic law became the inspiration and spirit for the Bima Sultanate to achieve justice and produce laws in dealing with various social and legal problems experienced by society. This can be seen explicitly in the articles of the Bo` Sangaji Kai manuscript. From several legal issues mentioned in the discussion above, such as the problems of adultery, murder, and theft, it can be concluded that Islamic law is the source of law. In the case of adultery, the articles in Bo` explain that the law for the perpetrator is punished, starting from being fined, married, and hammered a hundred times to being killed according to the level. In the case of murder, based on the article in the Bo` Sangaji Kai manuscript, the punishment for the perpetrator of murder is also killed as the punishment for *qisas*. Still, if there is forgiveness, a fine is imposed. Likewise, for perpetrators of theft, the sentence imposed is a fine.

⁴⁰ Toha Andiko, "Reinterpretasi Sanksi Pidana Islam (Studi Terhadap Pemikiran Prof. KH. Ibrahim Hosen, LML)", *Madania*, Vol. XVIII, No. 2, Desember 2014, h. 239.

⁴¹ Andiko, "Reinterpretasi Sanksi Pidana Islam...",h. 240.

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