



(MUDIMA)



Development of Islamic Law in Indonesia

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ARTICLE INFO

Keywords: Islamic Law, Development, National Legal System, Maqāṣid al-Sharī'ah, Indonesia

Received : 3 September

Revised : 21 October

Accepted : 20 November

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ABSTRACT

The development of Islamic law in Indonesia represents a historical, sociological, and juridical phenomenon that reflects the ongoing interaction between religious norms, customary practices, and the state legal system. Islamic law functions not only as a set of religious norms but also as a moral and philosophical foundation that shapes Indonesia's social and legal structures. Since the arrival of Islam in the Indonesian archipelago in the 13th century, Islamic law has become an integral part of local society, particularly in family, inheritance, waqf, and commercial matters. Its influence expanded during the era of Islamic kingdoms, where Islamic law served as the foundation of governance and judicial systems, notably in the Sultanates of Aceh, Demak, and Ternate. During the Dutch colonial era, the position of Islamic law faced suppression under the *receptie* theory, which limited its validity to cases where it was accepted by customary law. This policy subordinated Islamic law to colonial and customary legal systems. Nevertheless, Muslim scholars and jurists persistently defended the relevance of Islamic law within Indonesia's legal system. After independence, a new perspective known as *receptio a contrario* emerged, challenging colonial interpretations and affirming that customary law was valid only insofar as it did not contradict Islamic principles. Subsequent efforts focused on integrating Islamic law into the national legal system based on justice, humanity, and social welfare. The enactment of the Compilation of Islamic Law (KHI) in 1991 marked a significant milestone in codifying Islamic law for Indonesian Muslims. Moreover, institutions such as the Supreme Court, the Sharia Courts, and the Ministry of Religious Affairs have strengthened the implementation of Islamic legal principles within the state framework. Contemporary Islamic legal development in Indonesia also includes modern innovations such as fatwas issued by the Indonesian Ulema Council (MUI), Islamic banking regulations, and family law reforms grounded in the principles of *maqāṣid al-sharī'ah*. In the modern era, the expansion of Islamic law encompasses broader areas, including finance, environmental law, and public governance. These developments reflect the adaptability and dynamic nature of Islamic law in responding to societal changes. However, challenges remain in harmonizing Sharia principles with Indonesia's pluralistic legal structure. Therefore, the development of Islamic law must proceed through gradual, systematic, and dialogical processes that uphold justice, public welfare, and the supremacy of law. This study employs a normative-historical and sociological approach with descriptive analysis based on literature, legislation, and scholarly research. The findings reveal that Islamic law in Indonesia is a living and evolving legal system that continuously adapts to social transformations while maintaining its foundational principles of justice and *maslahah* (public interest). Ultimately, Islamic law contributes significantly to the creation of a national legal system rooted in religious and moral values while reflecting the unique identity of the Indonesian nation.

INTRODUCTION

Law is a fundamental instrument in societal and state life. The functions of law include regulating behavior, providing legal certainty, enforcing justice, and shaping the morals of society. In Indonesia, the legal system is pluralistic, consisting of customary law, religious law, and modern national law, most of which are influenced by the Dutch legal system. Within this plural context, Islamic law holds a strategic position because the majority of Indonesia's population is Muslim, making Islamic law a moral, social, and legal guide in the life of Muslim communities in the Archipelago. Since the 13th century, when Islam began to enter the Archipelago, Islamic law has developed into part of the system of norms that govern social life. The main areas of law include marriage, inheritance, endowment, commercial transactions, and limited Sharia criminal law. Several Islamic kingdoms in the Archipelago, such as the Sultanates of Aceh, Demak, Ternate, Banten, and Palembang, applied the principle of Islamic law as the foundation for the administration of government, bureaucracy, and judiciary.

The integration of Islamic law and customary law results in a pluralistic and contextual legal system. For example, in Aceh, Islamic law is applied in harmony with local customs, creating a balance between religious norms and community traditions. Such practices demonstrate that Islamic law is not only a moral norm but also a social norm (living law) that can adapt to local needs.

The Dutch colonial period was a critical time for Islamic law in Indonesia. The application of the *receptie* theory made Islamic law applicable only if it was accepted by customary law, thus making its position subordinate to customary law and colonial law. Consequently, the implementation of Islamic law in the judiciary became limited, especially in regions with strong customary law.

Despite facing historical pressures, Islamic law has been maintained and developed by scholars and legal experts. Figures such as Hazairin, Sayuti Thalib, Munawir Sjadzali, and Juhaya S. Praja made significant contributions through research, fatwas, and the establishment of Islamic legal educational

institutions. Their thinking became the foundation for the development of Islamic law in the post-independence era.

After the proclamation of independence, Islamic law began to gain formal recognition within the framework of national law. An important milestone was the Compilation of Islamic Law (KHI) of 1991, which codified Islamic law primarily in family law, marriage, inheritance, and endowments. The KHI demonstrates that Islamic law can be applied legally in a formal sense, not just as social norms. Institutions such as the Supreme Court of Indonesia, the Religious Courts, and the Indonesian Ulema Council (MUI) play a role in strengthening the implementation of Islamic law in Indonesia.

From a sociological perspective, Islamic law functions as a living law that is adaptive to social, economic, and political developments. Modern phenomena such as Islamic banking, zakat regulations, endowments, and MUI fatwas show that Islamic law is capable of adjusting to the demands of the times without losing its core values.

Theoretically, Islamic law in Indonesia is understood as a legal system that integrates Sharia principles with the practical needs of modern society. Hazairin emphasizes that Islamic law should be seen as a norm that upholds justice (*al-'adl*), public interest (*al-maslahah*), and social balance. This theoretical approach serves as a normative foundation for the reform of Islamic law, codification, issuance of fatwas, and integration with national law.

Analytically, the development of Islamic law in Indonesia is a dialectical process between religious norms, customary law, and national law. For example, the application of Islamic law in marriage often faces challenges when it encounters secular national law norms, making harmonization necessary so that Islamic law remains relevant and contextual. Moreover, legal globalization and modernization demand that Islamic law adapt through fatwas, judicial policies, and government regulations.

Furthermore, the development of Islamic law can be analyzed through three dimensions:

1. History: Tracing the journey of Islamic law from the time of Prophet Muhammad PBUH, the Rashidun Caliphs, the formation of schools of thought, to the colonial era and post-independence Indonesia.
2. Theoretical: Examining the basic principles of Islamic law (maqasid al-sharia) such as justice, public interest, social balance, and their relevance within the national legal system.

Analytical: Assessing the dynamics of Islamic law in Indonesia, including its interaction with customary law, national law, international law, and its adaptation to social, economic, and technological changes.

METHODS

This research uses a combination of the following methods: 1. Normative Approach: Analyzing Islamic law as a system of norms, including primary legal sources (Qur'an, Hadith, Ijma', Qiyas) and secondary sources (Compilation of Islamic Law, MUI fatwas, legislation). 2. Historical Approach: Tracing the development of Islamic law in Indonesia from the classical, colonial, to the modern period. 3. Sociological Approach: Analyzing the application of Islamic law in modern society, including religious courts, zakat/waqf institutions, and Islamic banking. 4. Descriptive-Analytical Method: Data from library studies are analyzed to describe phenomena and explain the relationship between theory, history, and the practice of Islamic law in Indonesia.

RESULTS AND DISCUSSION

Definition and Sources of Islamic Law

1. Definition of Islamic Law

Islamic law (al-shariah) can be analyzed from three perspectives: theological-normative, historical, and analytical-sociological.

2. Scope of Islamic Law

The scope of Islamic law can be analyzed holistically, encompassing spiritual, social, economic, and political dimensions. Historical analysis shows that this scope evolves following the

context of Muslim societies from classical Arabia to the Nusantara.

Worship Law ('Ibadat)

Worship law regulates the relationship between humans and Allah, such as prayer, fasting, zakat, and pilgrimage. Normatively, this law is rigid because it follows the commands of the Qur'an and Hadith, but historically, worship practices can adapt to local conditions.

Muamalah Law

Muamalah law regulates human interactions with other humans in social and economic life. Historically, muamalah was developed through the ijthad of scholars to adapt classical legal principles to local community conditions. For example, muamalah law in the Nusantara interacts with customary law regarding buying and selling, leasing, and inheritance. In the modern context, muamalah law encompasses Islamic economics, banking, and business contracts. Critical analysis shows that muamalah law is dynamic, capable of accommodating economic innovations, such as halal fintech, sharia-based crowdfunding, and productive zakat.

Jinayah Law

Criminal law regulates crimes and sanctions. Historically, Islamic criminal law was applied in Arabia during the time of Prophet Muhammad and the Rightly Guided Caliphs to uphold justice and prevent social harm. In Indonesia, Islamic criminal law is implemented through religious courts, although it is limited to minor criminal cases, such as theft, inheritance disputes, or breaches of Sharia contracts. Theoretical analysis emphasizes that Islamic criminal law functions both preventively and correctively, highlighting a balance between punishment and the restoration of societal welfare.

Constitutional Law (Qanuniyah)

Constitutional law regulates public administration, governance, and the judicial system. The history of Islamic constitutional law in the Nusantara can be seen in the kingdoms of Aceh, Demak, and Ternate, where sharia was used to regulate taxation, wealth distribution, and public affairs. Contemporary analysis shows that Islamic

constitutional law interacts with the national legal system. For example, Indonesian religious court regulations serve as a legal instrument to regulate matters of marriage, inheritance, and waqf according to sharia principles, yet still under the umbrella of national law.

Sources of Islamic Law (Analytical and Historical Expansion)

The sources of Islamic law can be analyzed through primary and secondary sources, using historical and theoretical approaches to assess their relevance in a modern context.

History of the Growth and Development of Islamic Law in Indonesia

1. Historical and Social Background

Islamic law emerged in the context of Meccan society, which was still heavily tied to tribal structures, customs, and traditional social norms. Before Islam, Arab society had customary laws (urf) that were local in nature, often unjust, and discriminatory against certain groups, such as women, slaves, and social minorities.

1. The arrival of Islam brought a legal paradigm that was universal, moral, and transcendent, with the aim of:
2. Uniting a fragmented society through moral and social rules.
3. Upholding social justice for all members of society without distinguishing social status.
4. Providing ethical and spiritual guidance in daily life.

History shows that the first revelation (the Qur'an, Surah Al-'Alaq:1-5) emphasized knowledge, moral awareness, and human responsibility towards God and fellow beings. Islamic law at this time was not only a formal legal regulation but also an instrument of moral and social education.

2. Characteristics and Features of Law During the Prophet's Era

- 1) Normative and Sacred: Law is directly sourced from Allah's revelation through the Prophet Muhammad (PBUH), thus it is binding and carries transcendent legitimacy.
- 2) Holistic: Regulates all aspects of life:

- Worship('ibadat): Prayer, almsgiving (zakat), fasting, pilgrimage (hajj).
- Transactions (Muamalah): Buying and selling, agreements, trade.
- Hudud/Criminal Law (Jinayah): Criminal sanctions and justice mechanisms.

- 3) Basic Principles of Maqasid al-Sharia: The goal of Islamic law is to protect religion, life, intellect, lineage, and property.

Laws during the Prophet's time not only regulated behavior but also shaped the moral consciousness of society, instilling values of justice, empathy, and social responsibility.

CONCLUSION

Islamic law in Indonesia is a legal system with strong historical, sociological, and theological roots. Its existence cannot be separated from the long journey of the Indonesian nation from the era of Islamic kingdoms, colonialism, independence, to the era of reform and globalization. From the overall study, several main points can be concluded as follows:

1. Conceptually, Islamic law is a set of divine norms that govern all aspects of human life, both in relation to God and fellow human beings. In the context of Indonesia, Islamic law has developed into an integral part of the national legal system through a long and dynamic historical process.
2. Historically, the implementation of Islamic law in Indonesia began in the 13th century, when Islamic kingdoms were established and applied Sharia principles in governance and social life. The colonial period brought significant challenges due to reception politics; however, after independence, Islamic law regained its place through recognition of religious courts and codifications such as the Compilation of Islamic Law (KHI).
3. Theoretically and normatively, Islamic law in Indonesia has undergone a transformation towards a contextual and progressive form.

Modern Islamic legal thoughts — such as the theory of *maqasid al-shari'ah*, *fiqh* reform, and contextual *ijtihad* — have become methodological foundations for adapting Islamic law to contemporary societal realities without losing the substance of its values.

4. Institutionally, the strengthening of Islamic institutions such as the Religious Courts, the National Zakat Agency (BAZNAS), the Indonesian Waqf Board (BWI), as well as Islamic banking, shows that Islamic law is not only a normative system but also an institutional system that plays an active role in national development.
5. Socio-culturally, the implementation of Islamic law faces challenges within the context of Indonesia's societal plurality. Therefore, the development of Islamic law must be carried out inclusively and dialogically, based on the principles of social justice, humanity, and nationhood as stated in Pancasila and the 1945 Constitution.
6. Globally and contemporarily, Islamic law in Indonesia is now required to adapt to modern issues such as the digitalization of the economy, human rights, the environment, and bioethics. Innovations in contemporary *fiqh* must be directed toward addressing new societal problems without disregarding the fundamental values of *sharia*.

From all these developments, it can be affirmed that Islamic law in Indonesia is not static, but rather dynamic and adaptive. It develops through a dialectical process between the revealed texts, social context, and national legal realities. Thus, Islamic law has a strategic role in shaping the character of a national legal system that is just, moral, and reflects Indonesia's identity.

Recommendation

As a result of analytical reflection on the development of Islamic law in Indonesia, several important recommendations can be formulated as follows:

For the Government and Policymakers

The government needs to strengthen the position of Islamic law through the harmonization of regulations and the reform of national law. The drafting of new *Sharia*-based laws must be carried out with the principles of universal justice, public welfare, and respect for pluralism.

1. For Educational Institutions and Academics

Islamic law education should be directed at producing law graduates who think critically, contextually, and with a reformist spirit. The curriculum of Islamic law in universities needs to bridge classical *fiqh* theory and modern legal practice, so that graduates are capable of addressing contemporary challenges.

2. For Religious Institutions and Religious Courts

It is necessary to enhance the capacity of human resources and digitize the Islamic legal system so that legal services become more transparent, efficient, and adaptive to the development of digital legal technology.

3. For the Muslim Community

Muslims need to increase legal awareness and understand that Islamic law is not only a matter of ritual obligations but also a social instrument to uphold justice and collective welfare.

4. For Legal Researchers and Reformers

Interdisciplinary research on contemporary *fiqh*, legal ethics, and the integration of Islamic law with modern issues such as digital finance, biotechnology, and environmental sustainability is needed.

Through synergy between the government, educational institutions, and the community, Islamic law in Indonesia will continue to develop into a legal system capable of addressing modern challenges without losing its spiritual and moral roots.

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