CONSTITUTIONAL INTERNALIZATION OF ISLAMIC LAW IN A PANCASILA STATE

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Abstract

This article aims to provide a positive perspective on the contribution of Islamic law since the birth of the Unitary State of Indonesia (NKRI), UUD 1945, and Pancasila. The research was conducted through a literature study tracing the history of implementing Islamic law and its internalization into the national legal system, alongside the development of an increasingly religious Indonesian population. In the post-Reformation era, Islamic law appears to have gained momentum in shaping national law. The romanticism of the nation's religious ambition to believe in God, with the obligation to carry out sharia for its adherents, comes back alive and rises. That nation's religious ambition is recorded in the history of the Pancasila version of the Jakarta Charter in 1945. This spirit has been integrated into the history of the birth of the Republic of Indonesia, the UUD 1945, and Pancasila, and remains alive and deeply rooted in the nation spirit. The study

shows that in the NKRI, Islamic law could be applied lawfully. It is implemented constitutionally based on Pancasila. The integration of Islamic law that characterizes national law can work without reducing the rights and obligations of adherents of other religions in Indonesia.

Keywords: Internalization, Islamic Law, Constitutionally, Pancasila

Introduction

With approximately 87% of its 270 million people identifying as Muslim,[1] Indonesia represents about 13% of the global Muslim population.[2] This makes Indonesia one of the world's most important Muslim-majority countries,[3] surpassing even the total population of Muslims in all Arab countries combined.[4] These demographic realities have led to continuous discussions, from the country's independence to the present, about forming a state based on Islamic ideology and upholding Islamic law within Indonesia.

From another perspective, the Indonesian nation is plural regarding ethnicity, religion, race, and intergroup (*SARA, Suku, Agama, Ras, Antar golongan*), and Indonesia adheres to a mixed legal system, which combines civil law, common law, customary law, and religious law, in this case, Islamic law.[5] These conditions mean that the idea of democracy must be accepted as a logical consequence in the life of modern global society. Pancasila is a democratic product that is a glue for the nation and can be accepted by all parties. Indonesian Muslims, as the majority, certainly have an interest in presenting a positive image

[1] Istiqomah et al., "Islam and Politics: A Latent Class Analysis of Indonesian Muslims Based on Political Attitudes and Psychological Determinants," *Journal of Social and Political Psychology* 10, No. 2 (2022): p.501.

[2] Melinda Anisya Sari and Muhammad Rofiuddin, "Analysis of Inflation, Population, and Economic Growth on Poverty in Muslim-Majority Provinces in Indonesia," *Indonesian Journal of Islamic Economics Research* 4, No. 2 (2022): p.77.

[3] Mohamad Zakaria al Anshori, "The Role of Islam in Indonesia's Contemporary Foreign Policy" (Victoria University of Wellington, 2016): p.1.

[4] Rizki Damayanti and Khalid Ibrahim & Al Hasan, "The Role of Islam in the Indonesian Foreign Policy in the Era of Joko Widodo's Government (2014-2024): Between the Islamic Identity and the National Interests," *Jurnal Indo-Islamika* 14, No. 1 (2024): 1–15.

[5] Wahyudi and Ija Suntana, "Comparison of Legal Maxims in Common Law and Islamic Law: Similarities and Differences in Dispute Resolution," *Jurnal Hukum dan Peradilan*, Vol. 14 No.2 (2025):428.

as a unifier of the country, especially during issues of radicalism and terrorism that are manipulating the Islamic world. The values of Islam and Pancasila democracy are not things that should be disputed in national and state life.[6]

Islam, as the basis of national and state life, has long been inspired by Indonesian Muslims, with the strength of their majority. The current influence of Islamic law on national legislation represents a logical and reasonable outcome that the Indonesian people must acknowledge. This situation reflects the factual realities of formal democratic life. From a historical perspective, it is said that the existence and conditions of such laws were not created or made up, but grew and developed in accordance with the *Volkgeist,* the soul of the nation or spirit of the people. Historical jurisprudence said that *das Rechte wird nicht gemacht, es ist und wird mit dem Volke*.[7]

Indeed, there are always parties that cannot accept these factual conditions, including among Muslims themselves. Two understandings need to be reconciled, namely (i) those who are phobic about the fact of internalization of Islamic values in national law, and (ii) those who are dissatisfied with the status of state ideology. The first party is always suspicious of Islamic ideology, while the second party concludes that the Pancasila State is not an Islamic State (i). On the other hand, from the perspective of those who are dissatisfied with the current ideological status of the state, there has not been a single concept of thought about the prototype of an Islamic State that has been offered by explaining how the state would be realized constitutionally from the existing state *status*.

In the past, Muslim groups like *Hizbut Tahrir* Indonesia (*HTI*), which had a transnational network and concept of the *Khilafah al-Islamiyah*, could not even explain openly how Islamic law is enforced evolutionarily and constitutionally in the life of the Indonesian nation-state today. Likewise, the *Front Pembela Islam* (*FPI*) carries the jargon of *amar ma'ruf nahi munkar* among the Indonesian Muslim community. Instead of arguing for the constitutional application of Islamic law,

[6] Ahmad Ja'afarul Musaddad, *KH. Achmad Siddiq Perumus Pondasi Hubungan Islam dan Pancasila*, ed. Niamul Qohar, Cetakan Pertama (Yogyakarta: Global Press, 2020): 102.

[7] M. Zulfa Aulia, "Friedrich Carl von Savigny Tentang Hukum: Hukum sebagai Manifestasi Jiwa Bangsa," *Undang: Jurnal Hukum* 3, no. 1 (2020): 201–236.

recently, both HTI and FPI have had problems with the Indonesian legal authorities.

Azyumardi Azra said that the dissolution of HTI in 2017 and FPI in 2020 were important events in the history of Islamic thought and movements in Indonesia. In the political context, HTI and FPI have the goal of changing state ideology, even though the two have differences. Organizationally, HTI has been disbanded, but there is still a movement of sympathizers without the HTI umbrella who are scattered from campuses to mosques. Meanwhile, FPI moves in a softer ideological way by using the NKRI adage of sharia.[8] However, it is understood that Islamic jargon, including *hijrah* and *qital,* does not refer to the pure message of religious teachings because some Muslims monopolized the message with political interests.[9]

From the current concept of thought, basically, there is not a single country in the world that can represent the prototype of an Islamic state. If someone mentions Saudi Arabia, then is it true that Islam teaches a kingdom system with hereditary ruling kings like Saudi Arabia today? No, it is not. Didn't Muhammad SAW, the prophet of Islam, give an example that leaders are chosen from the people and the best? Thoughts about the model for implementing Islamic law are still a matter of polemic today. For example, in the Organization *of Islamic Cooperation (OIC),* every country feels that it is most worthy of being a model for an Islamic state, including Indonesia. It has been discussed how Islam and state relations can be built within a more ideal and constitutional framework.[10]

The relationship between Islam and Pancasila has become an interesting discourse and discussion at least since the founding fathers of the Indonesian nation planned the Independence Day. The research question is, how is Islamic law implemented constitutionally in a country that is based on Pancasila? These major questions will be explained in minor questions: (i) What is the latest modern Indonesian Islamic law like, where does the legal source of Pancasila come from,

[8] Azyumardi Azra, "Pembubaran HTI dan FPI Jadi Peristiwa Penting dalam Sejarah," *Kompas*, January 15, 2021.

[9] Ahmad Atabik and Moh Muhtador, "Jihad and Interpretation of Religious Texts on Female Terrorists in Indonesia," *Qudus International Journal of Islamic Studies* 11, No. 1 (2023): 1–30.

[10] Hamdan Zoelva, "Relasi Islam, Negara, dan Pancasila dalam Perspektif Tata Hukum Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 4, No. 2 (2012): 99–112.

and how is Islamic law implemented constitutionally within the framework of the Republic of Indonesia?

Hypothetically, the basic ideology of the state, with the principle of God, with the obligation to implement Islamic law for its followers, at least remains alive in the soul of the Indonesian nation. The formulation of this version of the Pancasila text was recorded in the Jakarta Charter of 22 June 1945, which cannot be separated from the history of the birth of UUD 1945 as the Indonesian constitution. UUD 1945, as the basic law of the Republic of Indonesia, agreed upon by the founding fathers of the Indonesian nation, has guaranteed freedom for Muslims in practicing their beliefs as contained in Article 29 of UUD 1945.

This article is presented based on qualitative research,[11] conducted through a literature study with a legal pluralism approach paradigm,[12] that combines modern natural law theory (philosophical), positivistic legal approach (normative), and empirical legal approach (sociological),[13] All at once in a balanced, harmonious, or proportional manner.[14] It is hoped that the results of the study will provide a positive perspective to remain optimistic that Islamic law could continue to grow and develop together with Indonesian society in the life of the nation and state.

Regarding Islamic Law and Pancasila

The existence of Pancasila reflects the characteristics of Indonesia as a multicultural nation-state, one that must absorb and transform all elements of the nation into a strong, permanent foundation and a dynamic guiding principle. Then, it becomes one of the five principles

[11] J. David Creswell, John W & Creswell, *Research Design - Qualitative, Quantitative, and Mixed Methods Approaches*, Fifth Edition (Los Angeles: SAGE Publication, Inc, 2018).

[12] Werner Menski, *Comparative Law in a Global Context* (New York: Cambridge University Press, 2006): 187.

[13] Achmad Ali, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*, Edisi Pertama (Jakarta: Kencana Prenada Media Group, 2012): 177.

[14] Galang Suteki & Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori, dan Praktik)*, Cetakan ke-1 (Depok: Rajawali Press, 2020): 39.

of the Indonesian state's philosophical foundations.[15] It is said that Pancasila, as a source and fundamental of national law, has a strong and superior position as a positive norm in the national state of Indonesia.[16] Unfortunately, some scholars said that Pancasila, as the source of all sources of national law, has not been fully implemented at a practical level.[17]

It is often said that Islamic law is also understood as a source of national law, apart from customary law and Dutch colonial law. Islamic law is the source of values for the rules of laws that will be made and then incorporated into the national law.[18] However, before Pancasila was born formally, Islamic law and customary law were difficult to distinguish, especially by the colonial government in the pre-independence era. At that time, customary law was equalised to religious law.[19] In addition, the term Islamic law itself is often biased (*absurd*) with sharia, *fiqh* (Islamic jurisprudence), and *sunatullah* (natural law). The mention of Islamic law is the influence of Western legal thought, which is equated with the term *Roman law*.[20]

Historically, the colonial government of the Dutch East Indies (Hindia Belanda or Indonesia at that time) did not know Pancasila because it had not yet been born, and was more familiar with Islamic law and customary law. Customary law experts are often biased in identifying the two because custom is also synonymous with religion, such as family, marriage, and inheritance law in Aceh, Minangkabau, or

[15] Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way," *Studia Islamika* 25, No. 2 (2018): 207–45.

[16] Andri Yanto, "Islam dan Kritisasi Keberadaan Pancasila dalam Pembentukan Peraturan Perundang-Undangan," *As-Syifa: Journal of Islamic Studies and History* 2, No. 2 (2023): 221–34.

[17] Fais Yonas Bo'a, "Pancasila sebagai Sumber Hukum dalam Sistem Hukum Nasional (Pancasila as the Source of Law in the National Legal System)," *Jurnal Konstitusi* Vol. 15, No. 1 (2018): 28–49.

[18] Winardi Winardi, "An Islamic Law Design in the Realm of the National Legal Politics," *Nagari Law Review* 4, No. 2 (2021): 106.

[19] Rachmi Sulistyarini et al., "The Contact Point of Customary Law and Islamic Law (Legal History Perspective)," *International Journal of Social Sciences and Management* 5, No. 2 (2018): 51–59.

[20] Ade Mulyana, "Epistemologi, Ontologi dan Aksiologi Hukum Islam," *Jurnal Hukum Ekonomi Syariah Muamalatuna* 11, No. 1 (2020): 55.

Java.[21] Until now, Islamic law has been important not only in the formation of national law but also in regional regulations.[22] So, in this case, Islamic law is understood not only as law *in abstracto* at the level of fatwa or doctrine, but Islamic law which has become law *in concreto* at the level of application which is practiced in the realm of social life, both because it has formally applied positively and has been substantively obeyed, and binding in the living law of the nation and state.[23] In its development, Islamic law has recently been expressed as occurring through the Islamization of law and the constitutionalizing of sharia in modern Indonesia.[24]

Regarding the relationship between Islam and Pancasila, many parties have an opinion that Indonesia is not an Islamic country, as intended in the Jakarta Charter, because the founding fathers had *agreed* on Pancasila and UUD 1945 as the ideological basis for carrying out constitutional practices in the Republic of Indonesia.[25] This opinion can be understood from the status of the formal text of the first principle of Pancasila. Still, it is difficult to understand if seen from empirical facts related to the contribution of Islam in the national legal framework, which substantially colors the dynamics of national and state life.

In this regard, the research shows that many students at Islamic universities (65.77% *of respondents)* strongly agree that, substantively, the Pancasila ideology is not contradictory with Islamic values.[26] Discusses the compatibility of Islam and democracy, which has thrived currently. Indonesia has adopted a democratic system, which is known as Pancasila's democracy, and on the other side, Islamic ideology remains

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[21] Tim Butt, Simon and Lindsey, *Indonesian Law*, First Edition (New York, USA: Oxford University Press, 2018):128.

[22] Muhammad Sabir and Nazaruddin, "Manifestation of Sharia Regional Regulations in Managing Social Morality," *Juris: Jurnal Ilmiah Syariah* 20, No. 2 (2021): 189–99.

[23] Zainuddin Ali, *Hukum Islam: Pengantar Ilmu Hukum Islam di Indonesia*, Ketujuh (Jakarta: Sinar Grafika, 2018):2.

[24] Tim Lindsey, "Islamization, Law, and the Indonesian Courts," in *Routledge Handbook of Contemporary Indonesia*, ed. Robert W Hefner, the First Edition (London: Routledge, 2018): 446.

[25] Ali Ismail Shaleh and Fifiana Wisnaeni, "Hubungan Agama dan Negara Menurut Pancasila dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Pembangunan Hukum Indonesia* 1, No. 2 (2019): 243.

[26] Khamami Zada et al., "Constitutionalizing Sharia: Identity and Independence of Islamic Politics Among Students," *Juris: Jurnal Ilmiah Syariah* 21, No. 2 (2022): 198.

alive and becomes a political instrument deployment of Muslims in national and state life.[27]

The discourse on whether to formalize Islamic law in the nation and state has been going on for a long time, since pre-independence Indonesia. Islam has long been a source of values and norms for the Indonesian nation; therefore, it is natural that it has an important political legitimacy role in the life of the nation and state. The polemic about the relationship between religion and the state has been going on for a long time until now. The founding fathers of the nation were involved in a deep polemic regarding the state ideology of Indonesia.[28] The polemic of independent Indonesia as a secular or Islamic state has existed since the 1930s-1940s. The polemic occurred between Soekarno's thoughts, which wanted a non-theocratic state (*secular nationalist*), and the thoughts of Agus Salim and M. Natsir, who wanted a theocratic form of an Islamic state.

Public discussions about the optimism of the idea of a formal Islamic state have never been resolved, even today. Soekarno's concerns about a theocracy and clarification that abuse of power in the name of God is often called theocracy are incorrect, so M. Natsir gave rise to the discourse of nomocracy, not theocracy.[29] Nomocracy can be interpreted to mean that the highest sovereignty is the norm or law, and if it is associated with an Islamic state, the meaning of Islamic legal sovereignty or sharia supremacy emerges.[30] The polemic continued at the session of the Investigating Committee for Preparatory Work for Indonesian Independence (BPUPKI) until finally a compromise was reached regarding the Preamble of UUD 1945, which is known as the Jakarta Charter of 22 June 1945. It is a constitutional demand and the existence of most Indonesians.[31]

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[27] A Bakir Munhanif, Ali & Ihsan, "Ideas, Politics, and The Making of Muslim Democracy: An Historical Trajectory in Indonesia," *Studia Islamika* 30, No. 3 (2023): 544.

[28] al Anshori, ... : 74-75.

[29] Mohammad Natsir, *Islam sebagai Dasar Negara*, Cetakan Pertama (Jakarta: Gema Insani, 2022): 172.

[30] Putera Astomo, *Ilmu Perundang-Undangan - Teori dan Praktek di Indonesia* (Jakarta: Rajawali Pers, 2021): 32.

[31] Zainal A. Rahawarin, *Viewing Pancasila in the Eyes of Nationalists in Indonesian New Order Era*, *Journal of Social Studies Education Research*, Vol. 12, 2021.

The Jakarta Charter was signed by 9 (nine) founders of the nation, namely: 1. Ir. Soekarno, 2. Drs. Mohammad Hatta, 3. Mr. AA Maramis, 4. Abikoesno Tjokrosoejoso, 5. Abdoel Kahar Moezakir, 6. H. Agoes Salim, 7. Mr. Achmad Soebardjo, 8. Wachid Hasjim, and 9. Mr. Moehammad Yamin, who contains the basic formulation of the state, which was later called Pancasila (*Five Principles)*.[32] The first principle originally read "Belief in God, by implementing Islamic law for its followers." In its ratification by the Preparatory Committee for Indonesian Independence (PPKI) on August 18, 1945, the first precepts of Pancasila finally agreed to accept the revision, which became "Belief in One Almighty God" (*Ketuhanan Yang Maha Esa*).[33] The changes are intended to ensure that all religions recognized in Indonesia are placed equally. It is said that Pancasila, as a national consensus, encompasses doctrine and ensures the protection of citizens' fundamental rights and the most disadvantaged groups.[34]

In the Indonesian constitution, or UUD 1945, the formulation of Pancasila is found in the fourth paragraph of the Preamble of UUD 1945. This indicates that Pancasila and UUD 1945, as the official foundation of the state and integral parts of the Indonesian constitution, were established after Indonesia's independence in 1945. When it was ratified as the Indonesian Constitution (*Grondwet*), Pancasila and UUD 1945 replaced the role of the *Indische Staatsregeling* (IS), which served as the constitution governing the Dutch East Indies—known as Indonesia when it was a Dutch colony—until Indonesia achieved independence. The IS was officially imposed on the Indonesian people by the Queen of the Netherlands from 1925 to 1945. The enactment of this IS replaced the earlier provisions, the Regulating Regulations (RR), which had been in effect since 1854. According to the historical perspective, Islamic law was already enforced in Indonesia before independence, even by the Dutch colonial government, and the constitution, before Pancasila was formulated as the basis of the national state.

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[32] Khudzaifah Dimyati et al., *Weltanschauung of the Indonesian Law: A Study on the Development of the Weltanschauung in the Indonesian Law (1945-2000)*, *Journal of Law and Sustainable Development*, Vol. 11, 2023.

[33] Ristapawa Indra, Mahyudin Ritonga, and Fitrah Santosa, "Government Control of Islamic Ideology Movement: A Case of Indonesia," *Journal of Al-Tamaddun* 18, No. 1 (2023): 129–144.

[34] Sunaryo Sunaryo, "The Overlapping Consensus in the Indonesian Constitution and Its Challenges," *Jurnal Konstitusi* 20, No. 3 (2023): 358–381.

Chronologically, the theories of applying Islamic Law in Indonesia from pre-independence to the present era can be explained as follows.[35] *First,* the theory *of receptio in complexu* from LWC Van den Berg (1845-1927). According to this theory, for indigenous people or colonial people, the religious law in their environment applies; for Muslims, Islamic law applies. This theory was conceptualized in Stbl.1882 No.152, which applied to indigenous people in the Dutch East Indies. *Second*, the *Receptie theory* of Christian Snouck Hurgronje (1857-1936). According to this theory, Islamic law does not automatically apply, but applies to its adherents if it has been accepted in customary law. This theory was conceptualized in Article 134 (2) *Indische Staatregeling* (IS) 1929, a kind of constitution that was in effect in the Dutch East Indies.

Third, *the reception exit* theory from Hazairin (1974). According to this theory, the application of Islamic law does not have to be dependent on customary law, and after the 1945 Constitution, all colonial regulations containing the theory of *receptie* were excluded from the legal system of Independent Indonesia. *Fourth*, the theory *of receptio a-contrario* from Sayuti Talib (1980). According to this theory, in several areas that are considered to have strong customs, there are indications that Snouck Hurgronje's *receptie theory* is being implemented in reverse. For example, in Aceh, there are customary provisions that may apply if they do not conflict with Islamic law, which is called the *receptio a-contrario theory*. The last, *fifth*, the theory of *existence* from Ichtijanto SA (1990) explains the existence of Islamic law in national law, where Islamic law exists in the sense that it is included as an integral part of national law, autonomous, functions as a filter, and is the main material for national law.[36]

The development of theories regarding the existence of Islamic law, which chronologically starts from the theory of *receptio in complexu* to the theory of existence as described above, is a picture of the development of Islamic law from being recognized, accepted, understood, internalized, and absorbed into a value system that is practiced in national and state life. All of them, even the theory that was

[35] Norcahyono, "Problematika Sosial Penerapan Hukum Islam di Indonesia," *Juris: Jurnal Ilmiah Syariah* 18, No. 1 (2019): 23–32.

[36] Edi Gunawan, "Jurnal Ilmiah Al-Syir'ah Vol. 15 No. 2 Tahun 2017 Institut Agama Islam Negeri (IAIN Manado) 94," *Jurnal Ilmiah Al-Syir'ah* 15, No. 2 (2017): 94–114.

popularized by non-Muslim jurists from the Dutch colonial government, explicitly acknowledged that Islamic law applies to the native Indonesian people.

This matter also refutes the opinion that Islamic law has sociological problems because it covers the private realm of religion as well as the public realm of the state, and both have attractive principles.[37] This is because Islamic law has been implemented and practiced realistically from generation to generation and has evolved into a positive national law. On the other hand, it can also be said that although Pancasila is a compromise that accommodates the interests of a pluralist nation, none of the values and norms of Pancasila conflict with Islam. Islamic law, both at the conceptual level, philosophical basis, and constitutional basis, has a legitimate and constitutional basis for being implemented in the Indonesian legal system.[38] This opinion is more realistic and factual for Indonesian Muslims.

The nationalist viewpoint says that there are at least four pillars of nationality for Muslims in Indonesia, namely Pancasila, the 1945 Constitution, *Bhinneka Tunggal Ika*, and the Republic of Indonesia, which, in principle, are the best choices from the aspect of benefits that must be maintained until they are passed on to future generations.[39] The most important thing to be maintained is the harmonious relationship between the romantic ideals of Muslims, Pancasila, and the Republic of Indonesia as a means of achieving *maqashid sharia*. According to this opinion, penetration of Islamic law into statutory regulations substantively is the best compatible model with the spirit of the objective of the Republic of Indonesia, as stated in the Preamble to the 1945 Constitution.[40]

Finally, it should be acknowledged that Indonesian Muslims have offered a noble contribution to the integrity of the Republic of Indonesia by removing the 7 words, "by applying Islamic law to its followers," from the First Principle of Pancasila. Most significantly, it does not interfere with Muslims' constitutionally given ability to practice

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[37] Norcahyono, "Problematika Sosial Penerapan Hukum Islam di Indonesia," *Juris: Jurnal ilmiah Syariah*, Vol.18, No.1 (2019): 23-32.

[38] Zoelva, "Relasi Islam, Negara... ": 111.

[39] Zaenal Abidin, "Perspektif Islam terhadap Pancasila, UUD 1945, Bhinneka Tunggal Ika, dan NKRI," *Radar SulTeng 1 Juni 2020*, June 2020.

[40] Ahmad Yani and Megawati Barthos, "Transforming Islamic Law in Indonesia from a Legal Political Perspective," *Al-Ahkam* 30, No. 2 (2020): 159–178.

and express Islamic law in all spheres of national life, including its legal system, as stipulated in Article 29 of UUD 1945. Indonesia is not a theocratic state that explicitly identifies as an Islamic state, nor is it a secular state that stifles the influence of religion in national and state life. At present, Indonesia is more appropriately referred to as a nomocratic state, as it permits the enforcement of laws that are based on religious values that are present in society through constitutional mechanisms.

Implementation of Islamic Law into the National Legal System

Post-reformation in Indonesia displays a democratic political configuration, so that the legal products that emerge have a responsive character.[41] Therefore, concrete efforts to realize Islamic law in the form of statutory regulations have produced real results and strengthened the implementation of Islamic law in the national legal system, including but not limited to the Hajj Implementation Law, the Zakat Management Law, the Waqf Law, the Special Autonomy Law for the Special Province of Aceh, Law on Religious Court Amendments, Law on Sharia Banking, and Law on State Sharia Bonds. The Islamic law of Indonesia has developed and mixed with the customary law of Indonesian Muslim people. Indonesia has also applied a continental European legal system that establishes the national law. Therefore, Islamic law may become the national law if it is drafted as a bill to be enacted, such as the laws and regulations mentioned above.[42]

A question arises as to whether other laws that are not labeled Islamic (sharia) are not Islamic law. It should not be like that, because even without the Sharia label, many laws are substantially in line with Islamic law. For example, the Limited Liability Company Law regulates cooperation by forming legal entities and assets that are separated from the assets of the founders, for certain business activities that have the potential for profit or loss, where the calculation is based on the proportion of each party's contribution. Cooperation in the form of a limited liability company is appropriate and complies with the *al-*

[41] Moh. Mahfud MD, *Politik Hukum di Indonesia*, Edisi Revisi (Jakarta: Rajawali Pers, 2017): 373.

[42] Sri Wahyuni, "Islamic Law in Indonesia (History and Prospects)," *Batulis Civil Law Review* 4, No. 1 (2023): 6.

musyarakah scheme. It can be like a partnership or project financing participation in the Sharia economic system.[43]

It can be explained that Islamic law can be manifested in *fatwas*, *fiqh* (Islamic jurisprudence), court decisions (*qadha'*), and legislation (*taqnin*). The *fatwas* and *fiqh* categories do not require state involvement in implementation (*mulzimun binafsihi*); however, Islamic law, as a product of the court decision and legislation categories, requires the involvement of the judiciary and legislative powers of the state (*mulzimun bighairihi*).[44] Interestingly, it is guaranteed by the 1945 Constitution, especially that every Muslim is free to access justice and Islamic Law from the Religious Court as a holder of judicative power under the Indonesian Supreme Court. On the other side, every Indonesian Muslim is free to express and implement their religion and free to participate in a general election, choosing a government and legislative body as their representation.

This indicates that most Islamic law can run without external forces or coercion from the state. There is no conflict between Islamic law and the Pancasila state. The state even facilitates Muslims, as does most of the Indonesian population, to implement Islamic law in harmony with national brotherhood and the unity of all Indonesian citizens.[45] The debate about Islamic law and the state of Pancasila should have been discontinued when Indonesia was forming a modern state based on a written constitution. It can be compared with the Medina Charter in the 7th century, when it was practiced by the Prophet Muhammad to lead the pluralistic people of Medina at that time.

Furthermore, especially those that are explicitly categorized as Islamic law in the meaning of legislation product (*taqnin*) and are already internalized into the Indonesian legal system, they can at least be grouped in the scope of the following chronology:

1st *Marriage Law*. It is the first national law product that had a dominant content for the interests of Muslims, Law No. 1 of 1974 concerning Marriage. The court in this marriage law explicitly mentioned the Religious Court for Indonesian Muslims. Even though

[43] Syafi'i (Nio Gwan Chung) Antonio, *Bank Syariah Dari Teori Ke Praktek* (Jakarta: Gema Insani Press-Tazkia Cendikia, 2017):90.

[44] Yayan Sopyan, *Tarikh Tasri' - Sejarah Pembentukan Hukum Islam* (Jakarta, 2018).

[45] Sardjana Orba Manullang et al., "Understanding Islam and The Impact on Indonesian Harmony and Diversity," *Al-Ulum* 21, No. 1 (2021): 68–88.

it is entitled to marriage, the material contained is broader than just marriage law (*munakahat*). The content of the Marriage Law covers the scope of family law, including property (*akhwal syakhsyiyyah*). What is unique about the implementation of the Marriage Law is that it also accommodates marriages performed according to the laws of religions other than Islam. Finally, Law No.1 of 1974 concerning Marriage was amended by Law No.16 of 2019.[46]

2nd *Inheritance Law*. The formulation of Article 49 of the Religious Courts Law No.7 of 1989, amended through Law No. 3 of 2006, provides opportunities for Muslims to regulate matters of inheritance, wills, and gifts without basing them on Islamic law (*choice of law*). This problem, which contained ambiguous interpretations and obscured legal certainty, ended with the promulgation of Law No. 3 of 2006. In further development, this law also explains that the legal subjects referred to as "Muslims" also include parties, whether individuals or legal entities, who submit themselves to Islamic law.

3rd *Waqf Law*. *Waqf* is regulated in Law No. 41 of 2004 and Book III of the Compilation of Islamic Law (KHI). *Waqf* is a property separated forever or for a certain period for worship or public benefit. Assets that have changed their status to *waqf* assets are prohibited from being pledged, confiscated, donated, sold, inherited, exchanged, or transferred, prohibited from taking the proceeds from managing *waqf* assets more than the proportions determined by law, and prohibited from changing the designation of the *waqf* assets without the permission of the Indonesian *Waqf* Board. Every person who deliberately carries out or violates this prohibition is threatened with imprisonment and a fine.

4th *Compilation of Islamic Law ("Kompilasi Hukum Islam / KHI")*. KHI is a summary of various legal opinions taken from books written by *fiqh* scholars, which are usually used as references in Religious Courts and are processed, developed, and compiled into one set or compilation and stipulated through Presidential Instruction No.1 of 1991 dated 10 June 1991. KHI was a great success for Muslims during the New Order government. Muslims in Indonesia finally have uniform jurisprudence

[46] Yasin Yetta, Ahmad Rajafi, and Syahrul Mubarak Subeitan, "Understanding the Implications of Marriage Law Amendments: Marriage Dispensation Cases in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam* 9, No. 1 (2024): 121–136.

guidelines, especially for judges in the Religious Courts, and it is hoped that *khilafiah* regarding the jurisprudence of marriage, inheritance, and endowments can be ended. KHI functions as a guide for Religious Court judges in resolving cases submitted to them and is expected to be able to develop and complete them through jurisprudence or carrying out legal discoveries (*rechtvinding*) in actual cases because, in the end, the decision becomes a law (*judge-made law*) at least for those who litigate.[47]

5th *Sharia Banking Law*. The post-1998 monetary crisis was an era where sharia economic development began to grow, especially in the banking sector since the issuance of Banking Law No. 10 of 1998, which regulates the legal basis and types of business that can be operated by sharia banks. Further development of Islamic banks is regulated separately in the national legal system, namely through Law No. 21 of 2008 concerning Sharia Banking. Developments in the sharia banking sector then triggered other sharia financial and economic sectors. Sharia banking, which is run side by side with conventional banking or a *dual banking system policy* in the national economic system.

6th Religious Justice and Dispute Resolution Competence in the Sharia Economic Sector. The development of Islamic law is clearly reflected in the reform of the Religious Courts through two amendments, which updated the Religious Courts Law, as regulated in Law No. 7 of 1989, jo. Law No. 3 of 2006, and Law No. 50 of 2009. The Religious Courts are a judicial system established by the 1945 Constitution for Muslims and legal entities that submit to Islamic law. Indonesia.[48] The Religious Court expanded its authority to include adjudicating cases in the field of sharia economics, not only resolving marriage, *talaq*, divorce, reconciliation, and family property legal issues. The field of sharia economics itself includes banking, insurance, reinsurance, securities, pawnshops, pension funds, financial institutions, capital markets, and business in general within the scope of sharia economics as regulated in Article 49 of the Religious Courts Law No. 3 of 2006. The development of Islamic law in this sector has triggered the implementation of the *dual economic system policy*. It still requires efforts to

[47] Sudikno Mertokusumo, *Mengenal Hukum - Suatu Pengantar*, Cetakan 1, (Yogyakarta: Maha Karya Pustaka, 2019):226.

[48] Siska Lis Sulistiani, *Peradilan Islam*, ed. Kurniawan Ahmad, Cetakan Pertama (Jakarta: Sinar Grafika, 2021):157.

synchronize the legal system so that there is no overlapping anymore, which results in a lack of legal certainty.

7th *Compilation of Sharia Economic Law (Kompilasi Hukum Ekonomi Syariah/KHES).* KHES is an Islamic law product issued through Supreme Court Regulation (PERMA) No. 02 of 2008. Like KHI, KHES is also intended to be a guide for judges in adjudicating cases in the field of sharia economics. KHES and likewise KHI were inspired by the existence of an Islamic civil law code during the *Ottoman Empire*, namely *the Majallah al-Ahkam al-'Adliyyah,* which was created between 1869 and 1876 AD and enforced until 1924.[49] KHES is also not free from synchronization problems because of the *dual economic system policy*, especially regarding bankruptcy matters (*al-Taflis*), which, if implemented, could result in overlapping procedural laws in handling bankruptcy cases based on Bankruptcy Law No.37 of 2004.[50]

8th *Sharia Capital Market*. The sharia economy in Indonesia is identical to sharia banking, even though it is broader. It covers all inter-civil relations of economic activities carried out based on Sharia principles. One of them is a Sharia capital market. It is defined as any trading of securities offered to the public issued by the *emiten* (issuer) in connection with an investment or borrowing money in the medium or long term, by obeying the provisions of transactions in the capital market under the principles of sharia. It applies sharia principles in transaction activities and is free from prohibited things such as usury, gambling, and speculation.[51] Its existence in Indonesia is currently not based on a separate law, but is based on the *fatwa* of the National Sharia Council - Indonesian Ulema Council (DSN-MUI). Meanwhile, regulations related to the Sharia capital market are issued by the Financial Services Authority (OJK), an institution established based on a separate law, namely Law No. 21 of 2011. Generally, capital market activities have a legal basis and regulations based on Law No. 8 of 1995 concerning Capital Markets and the implementing regulations thereunder. Today, there are 17 DSN-MUI fatwas and 10 Financial

[49] Salman Abdul Muthalib, "Majjallat Al-Ahkam Al-'Adliyyah: Position and Influence on the Development of Fiqh," *Media Syariah* 24, No. 2 (2022): 276.

[50] Prihasmoro, Adi; et al., "Sharia Economic Bankruptcy Law (Al-Taflis) and the Dualism of Court Competency in Indonesia," *Juris: Jurnal Ilmiah Syariah* 23, No. 2 (2024): 205–14.

[51] Heri et al. Irawan, "Potensi Pasar Modal Syariah Indonesia," *Asy-Syarikah* 5, No. 1 (2023): 59–70.

Services Authority Regulations (POJK) that regulate and relate to the sharia capital market on the Indonesian Stock Exchange. The Sharia capital market is a kind of application of Islamic law that does not require state involvement. Interestingly, it occurred to the contrary, the state needed potential funding from the Sharia capital market, so it issued Law No. 19 of 2008 concerning State Sharia Securities.[52]

9th *Criminal Law (Jinayat) in Aceh.* Aceh Province has the privilege of being one step ahead in implementing Islamic law compared to other regions. This is related to the implementation of Islamic criminal law (*jinayat*) in Aceh, which is not found in other regions in Indonesia. In Law No. 11 of 2006, it is stated that the scope of implementation of Islamic law in Aceh includes faith, sharia, and morals. Islamic law includes worship, *ahwal alsyakhshiyah* (family law), *muammalat* (civil law), *jinayat* (criminal law), *qadha'* (judiciary), *tarbiyah* (education), *da'wah, syiar*, and defence of Islam. Further enforcement is regulated by *Qanun* or Aceh Regional Regulation. Currently, there are at least 15 *qanuns,* and in this case, they are: (1) *Qanun* No.6 of 2014 concerning *Jinayah Law*, and (2). *Qanun* No.7 of 2013 concerning *Jinaya Procedural Law*. Until now, criminal acts (*delik*) or *jarimah* that have been formulated in Aceh's *qanun* include acts involving *khamar* (liquor), *maisir* (gambling), *khalwat* (lewd/separate), *ikhtilath* (lewd), adultery, and harassment. Sexual, rape, *qadzaf* (accusing of adultery), *liwath* (homosexual), and *musahaqah* (*lesbian*). *Jarimah* is threatened with criminal sanctions that have been stipulated in *the qanun* (*hudud*) or criminal sanctions that are optional and determined at the minimum/lowest or highest/maximum limits (*ta'zir*) (http: dsi.acehprov.go.id). The implementation of Islamic law as the basis for the formation of *Qanun* in Aceh realizes the role of Islamic law as a source of national law in forming norms and ethics that are reflected through legislation and public policy.[53]

On the overall development, the national legal system has been influenced not only by Islamic law but also by customary law and colonial law. Therefore, from the perspective of Indonesian Muslims, Islamic law could not only refer to laws having the Sharia label but also

[52] Rukhul Amin, "Surat Berharga Syariah Negara dan Pengaturannya di Indonesia," *Jurnal Masyarif Al-Syariah* 1, No. 2 (2016).

[53] Susanti Hasibuan, "Perdebatan Penerapan Syariat Islam sebagai Gerakan Politisasi Dakwah: Studi Kasus Qonun Syariah Di Aceh," *Hijaz: Jurnal Ilmu-Ilmu Keislaman* 2, No. 2 (2023): 45–50.

to laws that are applicable but do not conflict with Islamic law or even constitute extra rules for the utilization of Islamic law. This is also proof that the first principle of Pancasila, according to the Jakarta Charter of 22 June 1945, "Belief in God, by implementing Islamic law for its followers" has been realized in the national legal system, even though formally the 7 words accompanying "Belief in One Almighty God" have been removed.

Internalization of Islamic Law into National Law

The main points of the idea of internalizing Islamic law into constitutional national law in Indonesia, as a country based on Pancasila, are outlined as follows: *First*, the ideals of Indonesian Muslims in carrying out the obligations of Islamic law remain alive and are guaranteed by the constitution of the Republic of Indonesia. Philosophically, implementing Islamic law in national and state life is the idealistic goal of every Muslim in carrying out his religious obligations in full (*kaffah*). This is guaranteed by the constitution in Article 29, paragraph (2) of the 1945 Constitution. The direction, model, and objectives of national law that Muslims aspire to (*ius constituendum)* in national and state life should have been formulated and become the orientation of the national law of the Indonesian nation. This is at least recorded in the history of the Jakarta Charter of 22 June 1945, which formulated the first principle of Pancasila, namely "Belief in God, with the obligation to implement Islamic law for its adherents."

Even though the PPKI ratified the final version of Pancasila on 18 August 1945, with the first principle being "Belief in One Almighty God," factually, Soekarno had resolved the 7 words missing in the text of Pancasila through the dictum of consideration of the Presidential Decree 5 July 1959. The decree had restored the validity of the 1945 Constitution with the belief that the Jakarta Charter of 22 June 1945 was re-actualized and became an integral part of the Republic of Indonesia's current constitution.

Second, there is a relationship between the internalization and implementation of Islamic values and Pancasila. In the hierarchy and sequence of national legislation, it is said that Pancasila is the source of all sources of law and the basis of state ideology (*staats fundamental norms*). This understanding seems to have been firmly embedded in the minds of the Indonesian people. However, so far, no one has critically

questioned whether the source of the values of Pancasila itself originates and begins.

In the pyramid hierarchy of national legislation, placed at the top are the 1945 Constitution and Pancasila, the text of which is contained in the fourth paragraph of the Preamble. The term Pancasila was introduced by Soekarno in his speech at the BPUPKI session on 1 June 1945. When Pancasila was first formulated and applied to the Indonesian nation, historically, the answer will refer to the results of the BPUPKI session, the Jakarta Charter of 22 June 1945, and the Constitution ratified by the PPKI on 18 August 1945. The philosophical question is, what was the material form of Pancasila before it was pledged as Pancasila?

In sociological juridical terms, it is said that Pancasila is the source of the conception of noble values that live and develop in society. It is believed and obeyed as a law that is adopted and applies bindingly to the Indonesian people; then the source of Pancasila should also be able to trace its existence. It turns out that someone had already answered this question long before BPUPKI formulated it in 1945. The answer was found by Dutch scholars, namely LWC Van den Berg (1845-1927) and Christian Souck Hurgrounje (1857-1936), in their theory of *receptio in complexu*, which holds that for every indigenous population (Indonesian people), the religious laws applicable in their respective living environments.

With this theoretical conception, the source of legal material from Pancasila is the religious law adhered to by the Indonesian people in their environment. Through this *reception in a complex* theory approach, answers are produced that are concrete and no longer abstract. The source of law and the source of values from Pancasila for Muslim citizens is, of course, Islamic Law. Likewise, for Indonesians in eastern parts, such as Papua, or central parts of Indonesia, such as Bali, the source of Pancasila law is the religious law they adhere to.

Third, Indonesia is a civilized nation-state. The synergy of the relationship between Islam, the constitution, and Pancasila in forming the desired national law is still being pursued, developed, dialogued, and perfected by the Indonesian people (*ius constituendum*). This continuous effort should be stronger if Indonesian Muslims are aware and have a common vision regarding the map of achievements of Indonesian Islamic Law that is currently in force (*ius constitutum*). This perspective

must be seen within the basic framework of the Republic of Indonesia as a state of law (*rechtsstaat*), it is not as a state of power (*machtsstaat*), as the text in Article 1 of the 1945 Constitution states. In this case, some call it an effort to find the ideal format for the existence of Islamic law that influences positive law in Indonesia.[54]

This format of Islamic law should be a noble mission for Muslim scholars in building a social culture, law, and national legislation that applies to the pluralist Indonesian nation. If we look at the history of the birth of the source of Islamic law itself, we can find a "nation-state" model in the early period of the Prophet Muhammad's migration to Medina. The Prophet began to build a pluralistic ethnic and religious society through a mutually agreed-upon constitution, the "Medina Charter." This social concept is unique because it combines the concept of religion, which demands total submission from its adherents, and the concept of social harmony among people who do not share the same religion. This is the final position of Islam's existence in a heterogeneous, pluralistic society. From the beginning, the Prophet invited all elements of society to live side by side in an order of mutual protection, strengthening, and helping each other, in equality as citizens of the city of Medina. This is appreciated by modern government experts as laying the political foundations for the administration of a nation-state.[55]

Indonesia should be proud; the founding fathers at the beginning of its independence were inspired by the Medina Charter to unite the archipelago, which was diverse in ethnicity, culture, and religion, when the Jakarta Charter, Pancasila, and the 1945 Constitution were born. The Jakarta Charter of 22 June 1945 is mentioned separately, considering the history of its recording, as the forerunner document of the Preamble to the 1945 Constitution, in which there is the formulation of Pancasila, with the spirit of "Belief in God with the obligation to implement Islamic law for its adherents." For Indonesian Muslims, this is a unified series that animates the formulation of the Pancasila text in

[54] Muhammad Aiz et al., "Format Hukum Islam di Indonesia," *KORDINAT* XVII, No. 1 (2018): 89–113.

[55] Nazri Muslim, "Principle of Responsibility in the Medina Charter to Build Cooperative Relations of the Cross-Cultural Community," *Islamiyyat* 45, No. 1 (2023): 173–180.

the 1945 Constitution, which was ratified by the Indonesian people, namely "Belief in One Almighty God."

Fourth, the status of internalization and implementation of Islamic law into the national legal system is increasingly developing. The achievements of Islamic law within the scope of the national legal system in the Republic of Indonesia today should be recognized by the Indonesian people. The implementation of family law (*ahwal alsyakhshiyah),* such as marriage, family property, inheritance, gifts, and wills, as well as the existence of the Religious Courts as an institution and Islamic justice system *(qadha')* in Indonesia, are strong fundamentals for the positive application of Islamic law in the Republic of Indonesia. The next development was the excesses of sharia banking, which triggered the growth of the sharia economic system in general. In the scope of civil law (*muamalat*), it is now easy to find practices implementing sharia compliance values that only occur in the banking sector, but also in other economic sectors, such as insurance, capital markets, securities, both in the form of shares, mutual funds, bonds, including Government Sharia Securities (SBSN), and other forms of sharia business.

The reform process happening in the Religious Courts has shown extraordinary development. From a normative juridical perspective, the development of the absolute competence (authority) of the Religious Courts shows a significant increase with the establishment as the only court with authority to resolve Sharia economic disputes through litigation.[56] Initially, the Religious Courts were the implementers of judicial power for "certain civil cases," which phrase was later amended to "certain cases." This can be read as saying that in the future, the possibility is opened for the Religious Courts to try not only civil cases (*muammalat*) but also criminal cases (*jinayat)* if they are regulated by law (*vide*: Article 2 jo. 3A Law No.3 of 2006). There is also the possibility that in the future, the Religious Courts will run parallel with the same absolute competence that the General Courts also have. At least structurally, Religious Courts exist in every Regency or City throughout the Republic of Indonesia, as do District Courts within the General Courts.

[56] Abdurrauf. et.al., "Religious Court Institutions and Its Competence in Sharia Dispute Resolution," *El-Siyasa: Journal of Constitutional Law* 1, No. 1 (2023): 22–35.

Fifth, the implementation of Islamic criminal law (*jinayat*) has been further implemented constitutionally by the Aceh Province by issuing *qanun jinayat* and *jinayat* procedural law based on Law No. 11 of 2006 concerning the Government of Aceh. It is important to know that these *qanun*s are in nature to "add" (not amend) the application of criminal law and criminal procedural law in force in Indonesia. The pattern of implementation of Islamic criminal law, which enriches the application of the Criminal Code (KUHP) and its law enforcement in Aceh, could be used as a model for implementing criminal law reform nationally. The pattern of application of *jinayat* law and *jinayat* procedural law in Aceh needs to be considered in national criminal law politics, considering that, through this pattern, the implementation of Islamic criminal law can be implemented without having to overhaul the Criminal Code and its procedural laws that are currently in force.

In general, the challenge is a phobia of Islamic criminal law (*jinayat*), which is always associated with stoning, cutting off hands, and flogging. This is a challenge in implementing Islamic criminal law, even if this phobia occurs among Muslims themselves. This is a misunderstanding, and legal scholars and Sharia scholars must clarify that Islamic law is not that narrow. The understanding that needs to be instilled is that the law is not a "goal" but is a "means" towards total devotion to God Almighty, or in other words, it is necessary to explore further the understanding of what constitutes *maqasid al-sharia*.

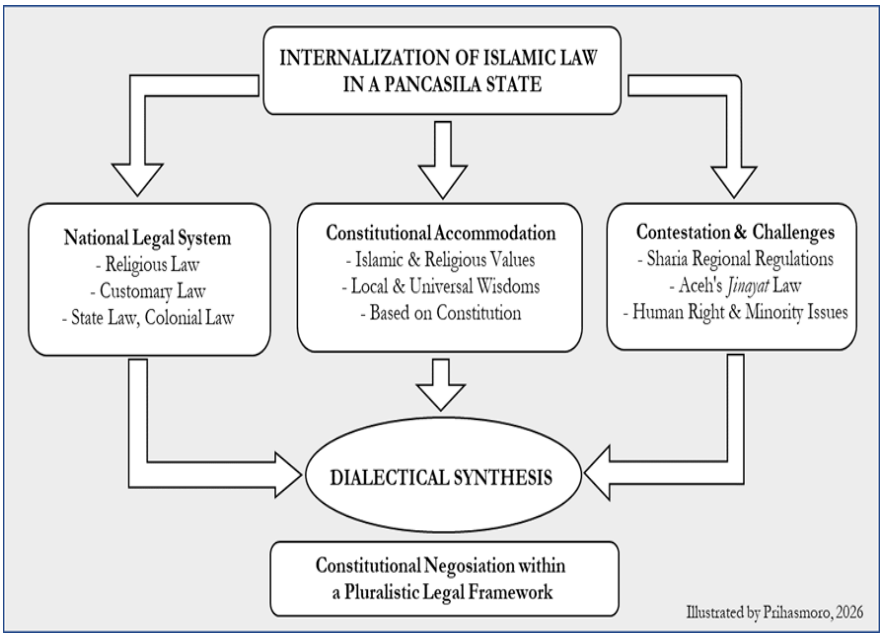
Sixth, reform of the enforcement of civil law (*muammalat*) and criminal law (*jinayat*) through the Religious Courts in the future requires national legal politics directed at developing the competence of the Religious Courts. Optimizing competence in the civil affairs sector (*muammalat*), stipulated by law, needs to be continuously improved. Future development of Religious Court competence in stages also needs to be directed to the realm of criminal law (*jinayat*), which can be legally implemented normatively based on law. Specifically, the development of the competency of the Religious Courts in the field of criminal law (*jinayat*) could be studied and considered the development pattern implemented by the Sharia Court as a court within the Religious Courts environment in Aceh.

Implementation of the *jinayat* law is possible by establishing a special court within the Religious Courts, which is enforced by law. Of course, this is done step by step through the development of Indonesian

legal awareness. National legal politics must direct the development of Religious Courts into modern courts and free them from the stigma of marriage and divorce courts that have been attached to them. It is important to keep in mind that the *jinayat* law shall only be subject to the jurisdiction of the Religious Courts or specifically courts for Muslims that have authority in implementing Islamic law constitutionally. This also implies that *jinayat* law will not be enforceable against non-Muslims. Consequently, the Islamophobia experienced by non-Muslims as minority citizens in this context becomes irrelevant.

With the composition of the Muslim population and the trend towards increasingly religious levels of religion in Indonesia, it is possible that in the future the national judicial legal system will be reversed from its current situation. The District Court within the General Courts in the future will become a special judicial institution for non-Muslim citizens. Therefore, the implementation of Islamic law does not present any issues with respect to the protection of minorities and human rights.

It is clear from the above explanation of how Islamic law has been applied by most Indonesian people since the pre-independence period that it has greatly influenced Pancasila as the state ideology of Indonesia. During Indonesia's post-independence period, the internalization of Pancasila values in the national legal system has also been influenced and developed by customary law and the legacy of Dutch colonial law that has been filtered by Islamic law and local wisdom.



Source: Author, 2026 (Edited)

Figure 1. Internalization of Islamic Law

The internalization or relationship between Islamic law and Pancasila is a dialectical synthesis, neither absolute conflict nor total harmony, but rather a process of constitutional negotiation that continues to develop within the framework of a pluralistic state based on the rule of law.

Conclusion/Concluding Remarks

Islamic law influences Indonesian national law, which is based on Pancasila. This is a logical and reasonable result that must be accepted by all Indonesians as a form of justice in democracy's formal sense. It could be internalized constitutionally, becoming Pancasila's values in the Unitary State of the Republic of Indonesia. For Muslims in Indonesia, philosophically, sociologically, and normatively, they can adhere to Islamic law and fulfill all their religious duties constitutionally, both in the civil law sphere (*muammalat*) and in the public law sphere, including criminal law (*jinayat*) within Indonesia. Islamic law can be implemented constitutionally and help develop the national law under Pancasila. What makes this unique is that Islamic law can be practiced

in Indonesia within the context of the nation and state without infringing upon or diminishing the rights and duties of followers of other religions in Indonesia.

Islamic law and Pancasila are not two separate poles in a linear line that are contradictory to each other, but the relationship between the two is a circular line that ends at one point. If the source of all sources of national law is Pancasila as the state ideology, then based on reception theory, both *reception in complexiu, receptie, receptie exit,* and *receptie a-contrario,* the relationship between Islamic law and Pancasila continues in a circular process of influencing each other to form national law and is still ongoing today. The spirit of the first principle in the Pancasila version of the Jakarta Charter of 22 June 1945 remains alive in the soul of the nation, even though its formalization at the beginning of the Indonesian Independence and the Reformation era was not unanimously agreed upon by the Indonesian people.

The implementation of Islamic law for Indonesian Muslims does not have to formally involve state power because the 1945 Constitution has already guaranteed every citizen the right to carry out worship according to their religious beliefs. Meanwhile, the internalization and implementation of Islamic law into the national legal system could still be ongoing through two patterns, namely (i) through legislative legislation, and (ii) through jurisprudence or judges' decisions in court. Therefore, the formal form of the substantive Islamic state could be as "nomocracy" within the scope of the state's sovereignty over legal norms; it is not theocracy. All components of the nation in the Republic of Indonesia should be aware, understand, and accept the factual condition of Indonesia as the largest Muslim nation in the world. It is said that Indonesian Muslims have the freedom to express their national life in the state of Pancasila fairly and constitutionally.

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