

Pursuing Legal Harmony: Indonesianization of Islamic Law Concept and Its Impact on National Law

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Abstract

This study responds to a polemic on Indonesia's formalization of Islamic law, which is inseparable from the dynamics of political authority and the internal views of Muslims. It seeks to describe, explore, construct, and analyze the Indonesianization of Islamic law, as proposed by Kamsi, an Islamic law professor at Sunan Kalijaga State Islamic University of Yogyakarta, as one of the efforts to make Islamic law become the national law. The Indonesianization of Islamic law, namely by legislating or codifying Islamic law through the state system so that it is enforceable in Indonesia. This study is conceptual research using a legal philosophy approach to comprehend an Islamic legal thought from a sharia scholar using the content analysis method. The results of this study show that the concept of Indonesianisation of Islamic Law uses a modern knowledge system as the paradigm. This effort seeks to nationally legalize Islamic law through Indonesian legal instruments that can give birth to inclusiveness and tolerance coupled with pluralism with differentiation in unification. Its theoretical implication emphasizes a need for epistemological and axiological adjustments to realize the concept of Indonesianization of Islamic law. The idea should also apply nationally within the framework of Pancasila (the Indonesian state's ideology) as a democratic country.

Keywords: Kamsi's thought, Indonesianization of Islamic Law, National Law.

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Introduction

The dynamics of Islamic legal thought in Indonesia cannot be separated from external and internal elements that influence it. External elements can be in the form of leaps in the thoughts of Islamic law experts who adopt the ideas of foreign figures or academics and the influence of hermeneutics and liberalism. At the same time, the internal elements are the polarization of thoughts of Indonesian Muslims towards the actualization of sharia, differences in legal schools, and the tendency to imitate (*taqlīd*) attitudes. In addition, local elements in the form of multicultural national culture and political intervention factors have also colored the dynamics of Indonesian legal thought, especially in efforts to implement Islamic law into national law.¹

Some experts in Islamic law in Indonesia often throw ideas about the renewal of Islamic teachings by using renewal terms such as restructuring, reinterpretation, redefinition, modernization, and implantation. According to Masjfuk Zuhdi, the idea of reform is meant on the basis that Islam is the perfect religion of Allah. In any case, many stanzas of the Quran after the Prophet Muhammad (Peace be upon Him) are seen by pioneers as sections that should be reworked to fit contemporary issues. Renewal of Islamic legal thought can also be discussed by updating the results of thought (*ijtihād*) of Islamic thinkers (*mujtahid*) in the past, which are now no longer relevant to the public interest (*maṣlahāh 'āmmāh*), community development and the progress of the times.²

This phenomenon has implications for the development of Islamic law in Indonesia. Indonesia's

¹ Jusuf Wanandi, "Islam in Indonesia: Its History, Development and Future Challenges," *Asia Pacific Review* 9, no. 2 (2002): 104–112; David Bourchier, "Positivism and Romanticism in Indonesian Legal Thought," *Indonesia: Law and society* 94 (1999): 97; Ashadi L Diab, "Dinamika Pemikiran Hukum Islam Di Indonesia Dan Tantangannya," *Al-'Adl* 8, no. 2 (2015): 37–56.

² Masjfuk Zuhdi, *Masail Fiqhiyah* (Jakarta: PT Gunung Agung, 1997), 1–2.

Islamic law reform has been relatively slow in comparison to Islamic countries in the Middle East and North Africa. According to Abdul Manan, the delay is caused by several factors. Those factors: first, there is still a strong assumption that following the opinions of previous scholars (*taqlīd*) is sufficient to answer current problems. Second, many scholars believe that following the views of previous scholars is safer than following the opinions of earlier scholars. The audience was concerned about the truth. Third, in today's sociopolitical environment, Islamic law in Indonesia always invites polemics at the intersection of the religious and state paradigm. If Islamic law is considered the state paradigm, it must be prepared to face a pluralistic society. The Fourth is some people's perception of fiqh as the result of religious, intellectual work whose truth is relative to Sharia, which is an absolute product of God (Allah).³

Islamic law in Indonesia is often used as a political commodity; the Nationalists view that Islamic law is part of religion. So, they do not place it as part of national law by separating religion and state. Religion only regulates the individual's relationship with God. Meanwhile, among Islamic politicians, Islamic law regulates matters of worship and social relations. Therefore, it is an absolute that Islamic law must be able to become part of national law. The position of Islamic law in national law is in line with Western law and Adat law, which is used as a source of law. Differences in views regarding Islamic law legislation with the openness of society to accept global social values and a democratic nature provide opportunities for Islamic legal values that live in society to be formal through legislation and jurisprudence.⁴

One of the most critical issues in the development of Islamic law is the development of thought between philosophy and Islamic law because both are related to the

³ Abdul Manan, *Reformasi Hukum Islam Di Indonesia* (Jakarta: PT. Raja Grafindo Persada, 2006), 4–6.

⁴ Mohdar Yanlua and Ekonomi Islam IAIN Ambon, “Formalisasi Hukum Islam Di Indonesia,” *TAHKIM* 15, no. 1 (2019): 16–24.

development of the method and meaning of *ijtihād*, which later becomes actual fiqh transformative and accommodating to social dynamics in Indonesia. The development of thought is strongly influenced by several interconnected factors, such as the link between religious belief and thought or the rationalization of Indonesian society's social development, which continues to develop, including Islamic law as national law in the legislation effort. Furthermore, the debate over which Islamic law, with *ijtihād*, and what methods should be used has a significant impact on efforts to transform Islamic law in Indonesia in accordance with the reform era's national legal politics, which is accommodating to the aspirations and legal needs of the community, particularly by the mandate of Law Number 12 of 2011 concerning the establishment of legislation that emphasizes the need for the aspirations and legal needs of the community.⁵

Moreover, because regulation is a political item, or as Daniel S. Lev puts it, the origination and design of political power are the main calculate the lawful cycle.⁶ Islamic regulation, which is the goal and soul of Muslims in the state, requires traditional mediation. As indicated by Ahmad Gunaryo, Indonesia has a long history of the political battle for Islamic regulation, which is inseparably connected to suitable seeing social. As per him, the variation of Islamic law to different societies can be made sense of, in addition to other things, by developing an obliging legitimate compromise to the elements of Islamic law to shape a sure public regulation through the center of Islamic law with government regulation.⁷

The political struggle of Islamic law amid legal plurality, such as sharia-based regional regulations, has

⁵ M Shohibul Itmam, "Hukum Islam Dalam Pergumulan Politik Hukum Nasional Era Reformasi," *Al-Tahrir: Jurnal Pemikiran Islam* 13, no. 2 (2013): 273–296.

⁶ Daniel S. Lev, *Hukum Dan Politik Di Indonesia* (Jakarta: LP3ES, 1990), xii.

⁷ Ahmad Gunaryo, *Pergumulan Politik Dan Hukum Islam* (Yogyakarta: Pustaka Pelajar kerjasama pasca sarjana IAIN Walisongo, 2006).

been proven to have contributed to the development of the national legal system, particularly related to efforts to integrate Islamic law amid a plurality of national laws towards a compromise and reconciliatory togetherness in building national law.⁸ As per Kamsi, two circumstances should be met to change Islamic regulation into public regulation. The first is that all thoughts be integrated into the Pancasila-based legitimate structure in Indonesia. Without digging too profoundly into Islam, the more significant part's rule gets an opportunity of being upheld through Pancasila; furthermore, the subject must continuously be to fortify the state's solidarity given Pancasila.⁹

Kamsi is one of the professors of Islamic political law at the Faculty of Sharia and Law at the *Universitas Islam Negeri (UIN, State Islamic University) Sunan Kalijaga Yogyakarta, Indonesia*.¹⁰ He brought a new idea conveyed in his inaugural speech as a professor in the field of Islamic law politics with the idea of Indonesianization of Islamic law.¹¹ In carrying out the Indonesianization of Islamic law, there are two tendencies, namely the first ideals in building Islamic law that is characteristically Indonesian and making Indonesian custom a source of Islamic law by realizing the concept of Indonesian Islamic law. Second, constitutionally oriented Indonesians, that is, Indonesian scholars who have agreed to formulate Islamic law in the

⁸ Ratno Lukito, *Hukum Sakral Dan Hukum Sekuler: Studi Tentang Konflik Dan Resolusi Dalam Sistem Hukum Indonesia* (Jakarta: Alvabet, 2012), 291–299; Muhammad Alim, “Perda Bernuansa Syariah Dan Hubungannya Dengan Konstitusi,” *Jurnal Hukum Ius Quia Iustum* 17, no. 1 (2010): 119–142.

⁹ Kamsi, *Politik Hukum Dan Positivisasi Syariat Islam Di Indonesia* (Yogyakarta: Sunan Kalijaga Press, 2012), 271–272.

¹⁰ Suud Sarim Karimullah, “Religion and State in the Islamic Political Paradigm in Indonesia Perspective of Prof. Kamsi,” *Analisis: Jurnal Studi Keislaman* 22, no. 1 (2022): 53–74.

¹¹ Tim Humas UIN Sunan Kalijaga, *Prof. Kamsi Dikukuhkan Sebagai Guru Besar UIN Suka Sampaikan Pidato Guru Besar “Indonesianisasi Hukum Islam”* (Yogyakarta, 2018), accessed July 12, 2022, <https://uin-suka.ac.id/id/berita/detail/243/blog-post.html>.

form of legislation.¹² Thus the Islamic legal process can become part of national law.

The idea of the Indonesianization of Islamic law in Indonesia brought by Kamsi is a breakthrough in the academic world that can be used as a basis or reference in reconstructing the national legal order. Because according to him, Islamic law in Indonesia always has a place constitutionally on three grounds.¹³ First, from a philosophical standpoint, Islamic teachings are the way of life, moral ideals, and legal ideals for Muslim people, and they play a significant role in the development of the Pancasila state's fundamental norms. Second, the sociological development of Indonesia's Islamic community demonstrates that ideals and legal awareness based on Islamic teachings have a continuous level of actuality, and third, the formal juridical application of Islamic law is stated in articles 24, 25, and 29 of the Republic of Indonesia's 1945 Constitution.

This study illustrates the Indonesianization of Islamic law initiated by Kamsi, although it cannot be said to represent or fully describe his broad thinking. Nonetheless, this research aims to investigate and construct Kamsi's ideas on Islamic law, specifically the Indonesianization of Islamic law in Indonesia, to fight for Islamic law to become positive law, which is part of the *Indonesianization* of Islamic law concept. In other words, the Indonesianization of Islamic law, or the legalization of Islamic law through legal instruments such as the Indonesian legal system, has the potential to give rise to inclusiveness, tolerance, and pluralism.

¹² Yudian W. Asmin, "Reorientation of Indonesian Fiqh", *Dalam Yudian W. Asmin (Ed.), Ke Arah Fikih Indonesia: Mengenang Jasa Prof. Dr. T.M. Hasbi Ash-Shiddieqy* (Yogyakarta: orum Studi Hukum Islam Fakultas Syari'ah IAIN Sunan Kalijaga, 1994), 34.

¹³ Kamsi, *Politik Hukum Dan Positivisasi Syariat Islam Di Indonesia*, 271-272; Kamsi, "Politics of Islamic Law in Indonesia: Indonesianization of Islamic Law," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 52, no. 1 (2020): 1-29.

This concept is important to review considering that several previous figures were thinkers of legal reform in Indonesia, such as T.M. Hasbi As-Shiddieqy¹⁴ with the idea of the Indonesian model of Fiqh (Indonesian Jurisprudence), Hazairin¹⁵ initiated the concept of the Indonesian National School, Moh. Mahfud MD¹⁶ with his ideas on Islamic Law based on Pancasila, Munawir Sjadzali¹⁷ with his ideas on the Contextualization of Islamic Law in Indonesia (Reactualization of Islamic Law), A. Qodri Azizy¹⁸ with his ideas on politicizing Islamic Law in Indonesia, Ibrahim Hosen¹⁹ with his ideas on interpreting *Naş Qat'i* (Making *Naş Qat'i* fun), and Makhrus Munajat²⁰ with his legal ideas Islamic criminal law in the Indonesian context as well as other legal reform thinkers.

¹⁴ T.M. Hasbi Ash-Shiddieqy, *Dinamika Dan Elastisitas Hukum Islam* (Jakarta: Tintamas, 1975); T.M. Hasbi Ash-Shiddieqy, *Beberapa Permasalahan Hukum Islam* (Jakarta: Tintamas, 1975); T.M. Hasbi Ash-Shiddieqy, *Syari'at Islam Menjawab Tantangan Zaman* (Jakarta: Bulan Bintang, 1966), 43.

¹⁵ Hazairin, *Tujuh Serangkai Tentang Hukum* (Jakarta: Bina Aksara, 1985), 153; Wahidah Wahidah, "Pemikiran Hukum Hazairin," *Syariah: Jurnal Hukum dan Pemikiran* 15, no. 1 (2015).

¹⁶ Moh. Mahfud MD, *Pergulatan Politik Dan Hukum Di Indonesia* (Yogyakarta: Gama Media, 1999); Moh. Mahfud MD, *Perdebatan Hukum Tata Negara Paska Amandemen Konstitusi* (Jakarta: LP3ES, 2007), 242–244.

¹⁷ Munawir Sjadzali, *Reaktualisasi Ajaran Islam, Dalam Polemik Reaktualisasi Ajaran Islam, Ed., Iqbal Abdurrauf Sainima* (Jakarta: Pustaka Panjimas, 1980); Munawir Sjadzali, *Islam Dan Tata Negara Ajaran, Sejarah Dan Pemikiran* (Jakarta: UI press, 1990); Yunahar Ilyas, "Reaktualisasi Ajaran Islam: Studi Atas Pemikiran Hukum Munawir Sjadzali," *Al-Jami'ah: Journal of Islamic Studies* 44, no. 1 (2006): 223–240.

¹⁸ A. Qodry Azizy, *Hukum Nasional: Eklektisisme Hukum Islam Dan Hukum Umum* (Jakarta: Penerbit Teraju, 2004), 298.

¹⁹ Hosen Ibrahim, *Fiqh Perbandingan Masalah Pernikahan* (Jakarta: Pustaka Firdaus, 2003); Suansar Khatib, "Metode Ijtihad Ibrahim Hosen," *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, dan Keagamaan* 2, no. 1 (2015); Ririn Fauziyah, "Pemikiran Hukum Islam Ibrahim Hosen," *Al Maqashidi* 2, no. 1 (2019): 85–97.

²⁰ Makhrus Munajat, "Transformasi Hukum Pidana Islam Dalam Tata Hukum Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (2019): 1–13.

Scholars of legal reform in Indonesia who have been mentioned above in their thoughts seem to agree on the importance of reforming and developing Islamic law. They also try to explain that implementing Islamic law in Indonesia must be legalized through reform and appropriated with the culture of Indonesian society and modern developments answering contemporary problems. Although there are differences of opinion regarding the legislation of Islamic law, it will remain with the open nature of the community to accept global-social values and with a democratic spirit. Therefore, Kamsi's thoughts on the Indonesianization of Islamic law are critical and relevant in reforming Islamic law in Indonesia. Although the ideas offered by Kamsi are still relatively new, they also need to be carefully considered for the development of Islamic legal scholarship in Indonesia.

The Indonesianization of Islamic Law initiated by Kamsi is needed to provide a solution to the complexity of the problems caused by advances in modern knowledge and technology that result in changes to the situation and conditions felt by Indonesian Muslims, who are the majority community. Because in reality, the complexity of the problems that occur amid the lives of Indonesian Muslims brings changes in values, systems, and laws that require a definite solution to create order, uniformity, justice, and legal certainty so that they can be accommodated to the fullest. In addition, the Indonesianization of Islamic Law can be an alternative solution based on the social structure of Indonesian society, which is predominantly Muslim, especially since Islamic law has strong sociological roots in respecting the ethnic and religious diversity that occurs in Indonesia.

This exploration is fundamental because authentic realities show that discussions about developments on the formalization of Islamic regulation in Indonesia relatively fluctuated. This discussion is inseparable from the elements of political power and the current inside perspectives on Muslims. On this premise, this

examination is supposed to give a logical portrayal of the Indonesianization of Islamic regulation brought by Kamsi, a Professor in the field of Islamic rule legislative issues at the State Islamic University (UIN) of Sunan Kalijaga Yogyakarta. The study uses a descriptive research model with a philosophical approach in light of the example of legitimate Islamic ideas from academic figures and researchers through examination techniques taken from several information sources such as academic papers, books, and law/Islamic legal thought journals. Moreover, information investigation uses subjective strategies deciphered by inductive and deductive reasoning.

The Development of Islamic Law in Indonesia

The evolution of Islamic law is an intriguing subject because each period has a distinct sociopolitical context. The faucet of freedom in various fields is widely open at the social level. Because the political map is no longer hegemonic and has begun to open up freely, many political parties, including many Islamic political parties, have emerged. As a result, ideas and interests are increasingly free to take on new forms and channels. Conditions like this become a supplement to generate passion for building a future in Indonesia that is sweeter than before. There is a new space and time to realize long-buried dreams and desires.²¹

Islamic law grows and develops in Indonesia, formulated in four products of legal thought: fiqh (jurisprudence), ulama fatwas, court decisions, and laws. The four products of legal thought serve as guidelines for Muslims in the life of the nation, state, and society in Indonesia.²² According to Kamsi, Islamic law as a

²¹ Moh Hatta, "Perkembangan Legislasi Hukum Islam Di Indonesia," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 11, no. 1 Juni (2008): 142–166.

²² Tim Lindsey, "7 When Words Fail Syariah Law in Indonesia: Revival, Reform or Transplantation?," in *Examining Practice, Interrogating Theory: Comparative Legal Studies in Asia* (Brill Nijhoff, 2008), 195–

subsystem of Islamic teachings applies according to the following tendencies: First, normative tendency, meaning that Islamic law has been applied as normative law for Muslims since the entry of Islam in Indonesia until now. Second, Islamic law became positive law in the sense of law recognized by the earlier Islamic kingdoms that applied in Indonesia's classical times.²³

The historical process of enforcing Islamic law in Indonesia before independence can be seen from two periods: first, the full acceptance of Islamic law, and second, the period of acceptance of Islamic law by Adat law. The period of total acceptance of Islamic law is called *Receptie in Complexu* theory, while the period of acceptance of Islamic law by Adat law is called Receptie theory.²⁴ At the time of independence, Islamic law also went through two phases. The first phase, Islamic law as a persuasive source in the context of constitutional law, is a source of law that is only accepted if it is believed. In the second phase, Islamic law only became an authoritative source in the state administration when the Presidential Decree of 5 July 1959 recognized that the Jakarta Charter animated the 1945 Constitution of the Republic of Indonesia.²⁵

The tradition of legislation and codification of Islamic law has become an inevitable phenomenon in the world of Islamic law development. The evolution of society's structure from traditional to modern, followed by the development of complex patterns of public relations, has

222; Supardin Supardin, "Produk Pemikiran Hukum Islam Di Indonesia," *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 4, no. 2 (2017): 223–256.

²³ Kamsi, *Politik Hukum Dan Positivisasi Syariat Islam Di Indonesia*, 3–4.

²⁴ Al-Munawar Said Agil Husin, "Hukum Islam Dan Pluralitas Sosial," *Jakarta: Penamadani* (2004): 11; Ahmad Amrullah, "Dimensi Hukum Islam Dalam Sistem Hukum Nasional," *Jakarta: Gema Insani* (1996): 151.

²⁵ Simon Butt and Tim Lindsey, *The Constitution of Indonesia: A Contextual Analysis* (Sydney: Bloomsbury Publishing, 2012); Muhsin Aseri, "Politik Hukum Islam Di Indonesia," *Al Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan* (2018).

forced Islamic law, as one of society's living laws, to evolve from an uncodified to a codified form.²⁶ In the early 1960s, the arrival of Indonesian Muslim scholars studying at Western and Middle Eastern universities also colored the dynamics of Islamic law in Indonesia. Most of these scholars think rationally. The understanding of Islamic law that they put forward looks different from the two existing patterns, but the ideas of renewal that they put forward are thicker with Indonesian nuances. This renewal of Islamic thought occurs in the fields of other Islamic studies such as hadith, fiqh, Sufism, and so on.

The figures that emerged in this era included 1987, Munawir Sjadzali offered to review the interpretation of Islamic law, emphasizing changes in *'urf (custom)*, *Maṣlahat* (the principle of expediency in Islam), and *mafsadat* (devastating thing), which were popular as the "Re-actualization of Islamic law". Munawir called it "The Dynamics of Islamic Law" in other cases.²⁷ In the same year, Abdurrahman Wahid, popularly known as Gus Dur, put forward the idea of "Indigenization of Islam", and Masdar F. Mas'udi offered the concept of "Zakat as a Tax".²⁸ During a similar period, rational Indonesian-style thinkers such as Harun Nasution, Nurcholis Madjid, Quraish Shihab, Said Aqil Siradj, and others emerged, emphasizing the importance of reinterpreting Islamic religious teachings with proportional functionalization of reason.²⁹

²⁶ Hatta, "Perkembangan Legislasi Hukum Islam Di Indonesia."

²⁷ Munawir Sjadzali, *Reaktualisasi Ajaran Islam, Dalam Polemik Reaktualisasi Ajaran Islam, Ed., Iqbal Abdurrauf Sainima*, 1.

²⁸ Masdar F. Mas'udi, *Agama Keadilan: Risalah Zakat (Pajak) Dalam Islam*, 3rd ed. (Jakarta: P3M, 1993).

²⁹ Zulhamdi Zulhamdi, "Pembaharuan Hukum Islam Di Indonesia Dan Tokoh-Tokohnya," *Jurnal Ilmiah Islam Futura* 19, no. 2 (2019): 239–258; Suci Ramadhan, "Islamic Law, Politics And Legislation: Development Of Islamic Law Reform In Political Legislation Of Indonesia," *ADHKI: Journal of Islamic Family Law* 2, no. 1 (2020): 63–76; Lina Kushidayati, "The Development of Islamic Law In Indonesia," *QIJIS (Qudus International Journal of Islamic Studies)* 1, no. 2 (2014).

As per the perspectives of these Muslim reformers, the conventional literary philosophy can not mention Problems with Muslims who are divergent in culture and customs from the Arabs. It is also can't be tackled with a moderate conservative perspective. The arrangements of the text of the Quran and Sunna are clear and definite, and the books by customary Islamic legal scholars acknowledged without reevaluation are accepted not to be able to give a satisfactory arrangement in answering the actual ongoing reality.³⁰ Thus, the renewal of Islamic law with a rational Indonesian pattern is necessary.

Long before these Indonesian theories of Islamic law emerged, Hasbi Ash Shiddieqy proposed in 1940 the need for the establishment of "*Indonesian Fiqh*," which was defined in 1961 as "fiqh determined by the personality and character of the Indonesian nation."³¹ According to his observations, if fiqh is expected to be used and socialized in Indonesia, it must be not only able to solve problems that arise in society but also be easy to understand and familiar. According to him, fiqh with an Indonesian personality can be realized. If '*urf*' in Arabic can be a source of fiqh that applies in Arabia, then '*urf*' in Indonesia can also be a source of law that can be applied in Indonesia.³² This spirit of fiqh reform in Indonesia was then followed by Hazairin, who in the early 1950s offered the concept of "*National School or Indonesia Madzhab*", even though it had the backbone of the Shafi'i school of thought. Still, the

³⁰ Abdullah Ahmad An-Na'im, *Shari'a and Islamic Family Law: Transition and Transformation* (New York: Emory University, 2002), 20.

³¹ T.M. Hasbi Ash-Shiddieqy, *Syari'at Islam Menjawab Tantangan Zaman*, 24.

³² T.M. Hasbi Ash-Shiddieqy, *Syari'at Islam Menjawab Tantangan Zaman*; T.M. Hasbi Ash-Shiddieqy, *Dinamika Dan Elastisitas Hukum Islam*; T.M. Hasbi Ash-Shiddieqy, *Beberapa Permasalahan Hukum Islam*; Yudian W. Asmin, "Reorientation of Indonesian Fiqh", *Dalam Yudian W. Asmin (Ed.), Ke Arah Fikih Indonesia: Mengenang Jasa Prof. Dr. T.M. Hasbi Ash-Shiddieqy*.

national school of thought limited its scope to non-worship laws, which the state had not yet made law.³³

Reformist Islamic law scholars in Indonesia aspire to create Indonesian Islamic law. As a result, they are attempting to free Indonesian customs from Arab customs because, in their opinion, Islam does not imply Arab. Furthermore, this difference in customs is heavily influenced by Indonesia's position on the outskirts rather than in the heart of the Islamic world. Of course, the space for *ijtihād*, which is *ijtihād* as a means to realize Islamic law uniquely Indonesian, does not enter the worship area. Kamsi explained local wisdom that Islamic jurists at all periods of the history of Islamic law have, in fact, freely used local customs as legal considerations. In this context, it is understandable that there have been *ikhtilāf* (different understanding) among Islamic jurists (*fuqahā*) from various legal schools regarding the position of adat in the Islamic legal system.³⁴

The universe has no borders because Islamic law is universal. Furthermore, Islamic law is not directed at a specific group or nation but all humans on the planet. Therefore, Islamic law can not only be accepted by Arabs, but also by all nations, tribes, and ethnicities with different cultural backgrounds. Thus, Islamic law covers all human beings on earth and can be applied in every nation and state because Islamic law is cross-national, state, and cultural.³⁵ According to Kamsi, the formation of law must not exist in a cultural vacuum but in the community with the peculiarities of their respective cultural roots. Because the law serves the community, the legal system must also

³³ Hazairin, *Hukum Kewarganegaraan Nasional*, 3rd ed. (Jakarta: Tintamas, 1982), 6.

³⁴ Kamsi, "Pergumulan Politik Hukum Perkawinan Islam Dan Adat Di Indonesia," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 46, no. 2 (2012).

³⁵ Hamzah Ya'qub, *Pengantar Ilmu Syariah (Hukum Islam)* (Diponegoro: Diponegoro, 1995), 89.

be as unique as the cultural roots of the community it serves. Therefore.³⁶

The considerations of these Indonesian researchers and ulemas contrast with what has been written in old-style ordinary fiqh books. Obviously, as the aftereffect of crafted by researchers and educated people from Indonesia, Islamic lawful idea is the consequence of reflection. It is also completed with logical approaches that can be represented scholastically. These contemplations can be viewed as examples of suspected Indonesian Islamic regulations that were not brought into the world without reason. Like traditional fiqh, its introduction to the world is extraordinarily affected by many elements, including ecological circumstances and customs going with the scholar. Fiqh doesn't need to be sacrosanct. Because essentially, fiqh is a type of comprehension of the researchers whose reality is relative. Hence, Islamic regulation with an Arabic style ought not to be compelled to be applied in specific various social orders, like Muslims in Indonesia.

There are three forms of practice of Islamic law in Indonesia as follows: First, the pattern of Islamic law as an expression of public law. This practice is found in Islamic kingdoms located in the waters of Malacca; Islamic law is practiced as a social expression of society. The community with the political power of the ruler can practice Islamic law. Second, Islamic law as of philosophy of law and life. This practice is found in the islands of West Sumatra, especially in Minangkabau, Islamic law is practiced only in philosophical terms. The normativity of Islamic law cannot express itself in the social order; the lack of support from political power and the strong influence of customary power causes Islamic law to be practiced if it does not conflict with social reality. At the same time, the third type of practice is Islamic law as a parallel system. The rule of Islamic law in its original form can be seen in efforts to

³⁶ Kamsi, "Pergumulan Politik Hukum Perkawinan Islam Dan Adat Di Indonesia."

collect Islamic law in one book that can be used as a royal guideline.³⁷

The direction and improvement of Islamic regulation through regulation should continue by creating a general rule in Indonesia. This demand is because public regulation improvement intends to make a comprehensive set of laws bound together. In the meantime, the archipelago point of view implies solidarity of the shared broad set of rules as a single public regulation serves the public interest. In this way, inside the solidarity of the National general set of rules, there is a chance for various decisions that apply to multiple subjects. This chance might be applied by creating public regulation, which expresses the accompanying.

To begin with, the objective of improvement in the regulation field, in particular the foundation and working of a steady public overall set of laws, in light of Pancasila and the Indonesian Constitution by considering the majority of the relevant legitimate request. Second, in shaping regulation, it is essential to focus on humanistic, philosophical, and juridical social qualities winning in the public eye. Third, the idea of knowledge of the archipelago has contained an affirmation of regular variety or pluralism.

The development of Islamic law in Indonesia can be seen in several phenomena of the birth of legislation with Islamic law nuances, such as the birth of Law Number 7 of 1989 concerning Religious Courts, Law Number 1 of 1974 concerning Marriage, Compilation of Islamic Law, Law No. 3 of 2006 regarding Amendments to Law Number 7 of 1989 concerning Religious Courts, Law Number 17 of 1999 concerning the Organization of the Hajj, Law Number 38 concerning Management, and Law Number 39 concerning Management.

³⁷ M.B. Hooker, *Islam in South-East Asia* (Leiden: E.J. Brill, 1983), 162–165.

Indonesianization of Islamic Law from Professor Kamsi's Perspective

Islamic law is a natural form of *adab* as a tool to unite Islamic social and ethical values in human life. Muslims worldwide are united in viewing the values of Islamic law. Among Muslims, there are plurality understandings of Islamic law. However, there is a growing tolerance for differences in legal understanding and legal practice due to existing differences; the legal and ethical values are the same because the concept in Islam is essentially obeying Allah, His Messenger (S.A.W). Scholars developed Islamic law because of the demands of the times and society's different situations and conditions. For Muslims, Islamic law is the will and order that comes directly from Allah through the Prophet Muhammad (PBUH).³⁸ This is the difference with another non-Islamic legal system, where Islamic law is not a gradual work of humans but is a provision from Allah.³⁹

The existence and enforcement of Islamic law in Indonesia have been given a constitutional place for three reasons. First, philosophical reasons. Islamic teachings are a way of life and moral and legal ideals of most Muslims in Indonesia. Therefore, they have an essential role in creating the fundamental norms of the Pancasila state. Second, sociological reasons. The historical development of Indonesian Islamic society shows that legal ideals and awareness based on Islamic teachings have a continuous level of actuality. Finally, as stated in Articles 24, 25 and 29 of the Indonesia Constitution, the legal reasons provide a place for formal juridical enforcement of Islamic law.⁴⁰ In

³⁸ Juhaya S. Praja, *Hukum Islam Di Indonesia Perkembangan Dan Pembentukan* (Bandung: PT. Remaja Rosdakarya, 1991), 116.

³⁹ Kamsi, "Citra Gerakan Politik Islam Dalam Lintasan Sejarah Perpolitikan Bangsa Indonesia (Studi Era PRA Kemerdekaan Sampai Dengan Era Orde Baru)," *Millah: Jurnal Studi Agama* (2013): 109–154.

⁴⁰ Abdul Ghani Abdullah, "Peradilan Agama Pasca UU No.7/1989 Dan Perkembangan Studi Hukum Islam Di Indonesia", *Dalam Mimbar Hukum, Nomor. 1 Tahun V* (Jakarta: al-Hikmah & Ditbinpera Islam Depag RI, 1994), 94–106.

addition, the relationship between Islamic law and national law is seen in three forms: Islamic law, which applies specifically to Muslims; Islamic law enters into federal law in general, which requires special implementation; and Islamic law enters into applicable law. In general, for all citizens of the Republic of Indonesia.

As indicated by Rifyal Ka'bah, Islamic regulation is essential for public law, given the principal statutes of Pancasila and Article 29 of the 1945 Constitution of the Republic of Indonesia.⁴¹ Because Islamic rule is more extensive than general regulation, a few arrangements are not exposed to state requirements. They asked the public authority to rigorously legitimize Islamic law, as indicated by the Mujahideen Council. In the meantime, Hazairin gives six understandings of Article 29 section (1) of the 1945 Constitution of the Republic of Indonesia, among others: In the Republic of Indonesia, whatever is in opposition to strict standards may not occur or apply. The state is obliged to complete the strict regulation, and to do the sharia of these religions requires the go-between of state power.⁴²

The formalization of Islamic law in the Indonesian legal and political system has a huge opportunity to be developed, especially after occupying a position as one of the sources of national law. It is said so because the formalization of Islamic law in the national legal system finds its significance and vitalization, carried out transformatively, emphasizing that the essence of Islamic law lies in its substance, not in its symbolic formal legal form. In addition, Islamic law has strong historical and sociological roots in society and has universal and humanist principles. In addition, the passion for self-identification and actualization of Islamic law among Muslim intellectuals and urban professionals shows an increasing trend. This element becomes a potential

⁴¹ Rifyal Ka'bah, *Hukum Islam Di Indonesia* (Jakarta: Universitas Yasri, 1999), 264.

⁴² Hazairin, *Demokrasi Pancasila* (Bandung: Rineka Cipta, 1990), 33–35.

capacity for formalizing Islamic law in its various forms and forms in the national legal system.⁴³

To see the degree of the authenticity of Pancasila Democracy towards all types of formalization of Islamic regulation in Indonesia, we should acknowledge again that the presence of Pancasila is the wellspring, everything being equal, the premise of public decree, as well as the beliefs of the law that applies in Indonesia. Subsequently, all Indonesian rules that are shaped should mirror the upsides of Pancasila. The epistemological issue is that no pointers or factors exist to test or quantify legitimate items' classes that line up with Pancasila values. All in all, there is no system to examine whether Pancasila is currently drafting the law or not. The National Legal Development Agency and the Pancasila Ideology Development Agency have set the current markers and factors. Nonetheless, it is used to assess a regulation in force, not one right now in the planning stage.⁴⁴

Kamsi promoted the idea of reforming Islamic law, which was called "Indonesianization of Islamic Law". Kamsi used the idea as an effort to codify and unify law in Indonesia in the face of the pluralism of the Indonesian nation consisting of various tribes, ethnicities, languages, cultures, and religions to lead to the positivity of national law. The aspiration to build Islamic law with Indonesian characteristics and to make Indonesian customs a source of Islamic law is the first tendency of the Indonesianization of Islamic law. The emergence of the concept of fiqh (*Islamic law*) in Indonesia marked its peak. The second tendency is constitutional Indonesianness, which entails formulating

⁴³ Artidjo Al-Kotsar, *Identitas Hukum Nasional* (Yogyakarta: Pustaka Pelajar Offset, 1997), Xiv.

⁴⁴ Bahder Johan Nasution and Febrian Febrian, "Aktualisasi Pancasila Sebagai Sumber Hukum Dalam Pembentukan Undang-Undang," *Undang: Jurnal Hukum* 3, no. 2 (2020): 377–407.

Islamic law in legislation through Indonesian scholars' consensus (*Ijmā'*).⁴⁵

Moreover, a few stages can be taken in the Indonesianization of Islamic regulation toward legitimate positivization.⁴⁶ First, Indonesian rule should guarantee the country's joining or respectability, so there should be no oppressive regulations given early-stage ties. Second, public regulations should safeguard the nation's and state's regional and philosophical trustworthiness. Second, the law should be made in a majority rule and nomocratic way, with the insight of shrewdness as its establishment. Third, individuals' yearnings should be associated with the cycle, which should be completed legitimately or fairly.

Moreover, a vote-based system is lacking; it should be custom-made to the fundamental way of thinking. Third, the law should empower the improvement of civil rights, which is recognized, in addition to other things, by the presence of extraordinary state security for weak local gatherings. Therefore, they are not permitted to contend unreservedly yet are never offset with a little group of the essential citizenry. Fourth, because Pancasila state regulation requires decisions that guarantee socialized profound life's resilience, no open rule ought to be founded on unambiguous strict lessons. Because of the above techniques, a public general set of laws, or the Pancasila general set of laws, was conceived, described by a mix of two incongruous frameworks. However, positive viewpoints can be taken.

According to Kamsi, the rule of law is a state that places the law in the highest place, which includes the protection of human rights, separation of powers, every government action based on laws and regulations, and the existence of an independent judiciary as an effort to guarantee the creation of justice. Justice must be

⁴⁵ Yudian W. Asmin, "Reorientation of Indonesian Fiqh", *Dalam Yudian W. Asmin (Ed.), Ke Arah Fikih Indonesia: Mengenang Jasa Prof. Dr. T.M. Hasbi Ash-Shiddieqy*, 37.

⁴⁶ Moh. Mahfud MD, *Perdebatan Hukum Tata Negara Paska Amandemen Konstitusi*, 72.

positioned neutrally, meaning that everyone has the same legal position and treatment and is no exception because this is one of the basic ideas besides benefit and certainty.⁴⁷ Furthermore, efforts to develop a harmonious national law between Indonesia's existing legal system and the rules and regulations enforced by the state are inextricably linked to three legal components, namely:⁴⁸ the many law and order, the legal guidelines Laws that apply to cops and act as rules; the design of the law, the legitimate device, and the policing; Legal culture centers around culture as a general rule, including propensities, conclusions, ways of behaving, and perspectives that guide social powers in the public eye. The spirit or soul moves the law as a social framework with unmistakable qualities and study techniques.

The Indonesianization of Islamic regulation is characterized as an extraordinary endeavor to execute or uphold Islamic rule in the general public set of laws. The unique worldview of Indonesianization of Islamic tradition is encouraging and helpful in Indonesia. Indonesia is not an Islamic state, and there is a compelling reason to lay out one, assuming all that is wanted is the Indonesianization of Islamic regulation, as the state constitution ensures this. The Indonesian state has taken its last structure. It isn't essential to involve it in the Indonesianization of Islamic regulation because an Islamic state isn't expected to lay out the incomparability of Islamic law.⁴⁹

Aside from the current struggles, Kamsi surveys that there are hypotheses that reinforce Indonesian Islamic regulation's proceeded endeavors, particularly formalist-legalist, structuralist, culturalist, and substantialist-

⁴⁷ Kamsi, *Politik Hukum Islam Di Indonesia; Indonesianisasi Hukum Islam* (Yogyakarta: UIN SUKA, 2018); Kamsi, "Politics of Islamic Law in Indonesia: Indonesianization of Islamic Law."

⁴⁸ Lawrence M. Friedman, *The Legal System; A Social Science Perspective* (New York: Russel Sage Foundation, 1975), 12-16.

⁴⁹ Kamsi, "Politics of Islamic Law in Indonesia: Indonesianization of Islamic Law"; Kamsi, *Pergolakan Politik Hukum Islam Di Indonesia* (Yogyakarta: SUKA-Press, 2014); Kamsi, "Pergumulan Politik Hukum Perkawinan Islam Dan Adat Di Indonesia."

practical hypotheses. As per these speculations, to give an umbrella to all Indonesians, Indonesianizing Islamic regulation should focus on the standards of humanity, fundamental liberties, and the course of balance under the watchful eye of the law. Focus on three factors: the Muslim people group's high degree of training and transparency, the boldness of Muslims to settle on unpredictable decisions (among disclosure and reason, solidarity and variety, optimism and discernment, strength and change), and the readiness of Muslims to grasp the Indonesian nation's social foundation and political culture. Until the definition of positive Islamic regulation in Indonesia was shaped into three legitimate guidelines: Islamic regulation for Muslims, Islamic regulation in public regulation, and Islamic regulation remembered for government regulations and guidelines applied to the whole Indonesian country.⁵⁰

According to certain records, there are three models or instances of guidelines in the Indonesianization of Islamic guidelines: first, unification, which suggests that one guideline for all social occasions is a phase toward uniform guidelines or a mix of guidelines to be applied to all nations in a specific country space as an open guideline; second, hardening of guideline to be utilized to all nations in a particular area of the country as a broad guideline; and third, the association of guideline to be applied to all nations in a specific country. The second separation in that country implies that each get-together has its plan of guidelines; the third capability in unification connotes that there is one fundamental guideline and each gathering has how it might interpret standard guidelines or rules. Moreover, after Muslims have put forth calculated attempts to reformulate Islamic regulation in present-day times by re-deciphering the wellsprings of Islamic regulation, to be specific the Quran and Sunna, regulation can be utilized as a technique in understanding the execution of Islamic regulation in Indonesia. What's more, the Indonesian

⁵⁰ Kamsi, *Politik Hukum Islam Di Indonesia; Indonesianisasi Hukum Islam*, 5–6.

setting, as well as endeavours in the request for activity by Islamic developments, both hardliners with the party framework or with Islamic social consequences, to share power in government at the official and leader levels.⁵¹

As per Kamsi, two circumstances should be met for Islamic regulation to become public regulation: first, policymakers should be gallant in lawful governmental issues. All thoughts will fall flat on the off chance they need boldness; second, all proclamations should fit inside Pancasila's system. Without referencing Islam, the law, for the most part, gets an opportunity to be upheld through Pancasila. Furthermore, the state should reinforce the material of Islamic law by locating Pancasila on a predictable premise.⁵² What's more, as per Kamsi, planning regulation should show the qualities of a humanist and comprehensive rule so it isn't obsolete and can turn into an answer for human issues without leaving its fundamental standards. Concerning matters connected with common regulation, for example, marriage regulation, the state should regard the presence of a legitimate majority for its assorted individuals by the guideline of *Bhinneka Tunggal Ika*. The field of marriage regulation is a delicate field of law firmly connected with the religion and customs of the general public.⁵³

The Impact of Indonesianization of Islamic Law on the Development of Indonesian Law

As God's regulation, Islamic regulation is everlasting. It animates all new issues per the requests of reality, prompting the sped-up advancement of Islamic law in Indonesia to foster the demands of human civilization's improvement to give answers for all recent developments in

⁵¹ Yufi Wiyos Rini, "Pandangan Politik Hukum Islam Terhadap KHI Di Indonesia," *ASAS* 3, no. 1 (2011).

⁵² Kamsi, "Pergumulan Politik Hukum Perkawinan Islam Dan Adat Di Indonesia," 474.

⁵³ Kamsi, *Pergolakan Politik Hukum Islam Di Indonesia*; Kamsi, "Pergumulan Politik Hukum Perkawinan Islam Dan Adat Di Indonesia," 473.

Indonesia.⁵⁴ In any case, Islamic government officials have various perspectives on setting Islamic regulation into public regulation. There is a view to implementing Islamic law; it should be a good council and another view that upholds Islamic rule by assimilating legitimate qualities into positive regulation. Unfortunately, the two viewpoints are continuously politicized, and public authority might be seen as rash toward Muslims to execute the examples of the Islamic religion, even though the headway of guidelines is the delayed consequence of the effect of the political structure that occurs among government specialists and legislators.

The job of legitimate governmental issues assumes an extremely critical part in regulating Islamic regulation throughout the entire existence of the general set of laws in Indonesia. Without carrying out guidelines in a broad public set of rules against these legitimate Islamic standards, it won't get honest and successful social acknowledgment. Governmental issues of Islamic Law is a strategy that considers variety to uphold Islamic regulation as one of the regulations that live in a general public (Pluralism). What's more, during the time spent establishing legitimate *positivization*, it is essential to focus on the presence of public core values, in particular: First, the law in Indonesia should ensure the country's combination of respectability and should not be oppressive given early-stage ties. Public regulation should safeguard the nation's and state's philosophical and regional trustworthiness. Second, the law should be made in a majority rule and nomocratic way, in light of the insight of shrewdness. It should affect individuals' goals and be applied reasonably, legitimately, and procedurally. Also, a majority rules system isn't sufficient; the fundamental way of thinking should be available. Third, the law should advance the improvement of civil rights, which is recognized, in addition to other things, by the presence of

⁵⁴ Hendra Gunawan, "Eksistensi Hukum Islam Di Indonesia Dalam Pembangunan Nasional," *Yurisprudencia: Jurnal Hukum Ekonomi* 4, no. 1 (2018): 108–131.

exceptional state security for weak local gatherings, keeping them from uninhibitedly rivalling areas of strength for individuals. Fourth, no open regulation ought to be founded on strict lessons because the territory of Pancasila regulation requires the presence of rules that assure enlightened otherworldly life resistance. The previously mentioned techniques introduced a public general set of laws, or the Pancasila general set of laws, which is recognized by a blend of disconnected frameworks that can be taken from positive perspectives.

Kamsi made sense that the place of Islamic regulation in Indonesia has been politically steady. By and by, Islamic law has made up for a legitimate shortcoming for Indonesian Muslims (*lex subject matter expert*) in family regulation, legacy regulation, waqf, and zakat. Islamic rule likewise fills in as a wellspring of significant worth, adding to law and order, which applies to every Indonesian resident (*lex generalis*). Moreover, Islamic regulation describes common, protection, and state managerial regulation as a wellspring of significant worth for law and order. Subsequently, Islamic rule can be said to have filled in as a wellspring of heading in Indonesia.⁵⁵

The constitution and convenience hypotheses are two pertinent speculations regarding Islamic regulation governmental issues in Indonesia since they express that the state has an established commitment to oblige and make Islamic regulation a reference for public law.⁵⁶ Subsequently, all state-gave rules and guidelines should be steady with the substance of all-inclusive and legitimate Islamic qualities. At any rate, they should not go against Islamic regulation, as most of the Indonesian public and country accept.

The following are the roles of Islamic law in the reformulation of national law in order to create a uniquely

⁵⁵ Kamsi, *Politik Hukum Dan Positivisasi Syariat Islam Di Indonesia*; Kamsi, "Politics of Islamic Law in Indonesia: Indonesianization of Islamic Law."

⁵⁶ Abdul Halim, "Membangun Teori Politik Hukum Islam Di Indonesia" (2013).

Indonesian law: 1) Islamic law is the raw material for national law; 2) the existence of jurisprudence that allows judges to practice *ijtihad*; and 3) In ethics and morals, Islamic law can be used as a source of law enforcement. It is widely assumed that Islamic law is a standardized regulation in Indonesia that serves as a product of Indonesian legal thought. Because Indonesian law is derived from three sources: customary law, western law, and Islamic law, Islamic law is also part of national law.⁵⁷

Islamic law, which has the fundamental nature of living law that is plural and develops in society, tends to have similarities with common law. Plurality, as a character since the beginning of its formation, is a consequence of sacred Islamic law. So Islamic law, as fiqh study, is the result of reading the will of God as stated in the holy book. The reading will vary depending on the reading method used by the reader. Some groups read the sources of law with reason, as was the case in the early days of the formation of madhhabs in Islamic law, while others only take literal and textual meanings. The hermeneutic method is now being developed to read the scriptures and ancient texts, which result in different readings due to differences in location and conditions. With Islamic law characteristics, legislation, and unification, coercion is reduced, and plural Islamic law is filled.⁵⁸

Whenever completed meaningfully, the formalization of Islamic regulation can't be delivered and should be gone before by authentic references with protected and verifiable contemplations of the country. Hence, this cycle is inseparably connected to the historical backdrop of Islamic

⁵⁷ Ann Elizabeth Mayer, "The Reformulation of Islamic Thought on Gender Rights and Roles," in *Islam and Human Rights in Practice* (Routledge, 2008), 22–42; Faisal A Rani, Fikri Fikri, and Mahfud Mahfud, "Islam and National Law: A Formal Legal Review on Sharia Laws in Aceh," in *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, vol. 20, 2020, 47–57; Mujaid Kumkelo et al., "Harmonization Patterns and Positivism of Fatwa Into Indonesian National Law: Study On The Renewal Fatwa of Mui In Islamic Law," *JL Pol'y & Globalization* 41 (2015): 232.

⁵⁸ Rini, "Pandangan Politik Hukum Islam Terhadap KHI Di Indonesia."

regulation in Indonesia and the approach of Indonesian legitimate legislative issues in laying out Islamic regulation's spot in the public general set of laws. This phenomenon of law can be seen from the emergence of several laws with Islamic nuances, such as Law Number 7 of 1989 concerning Religious Courts, Law Number 1 of 1974 concerning Marriage, Compilation of Islamic Law, Law Number 3 of 2006 regarding Amendments to Law No.7 of 1989 concerning Religious Courts, Law Number 17 of 1999 concerning the Organization of the Hajj, Law Number 38 concerning Management of Zakat, Law Number 21 of 2008 concerning Sharia Banking, Law Number 41 of 2004 concerning waqf.⁵⁹

The existence of Islamic law in Indonesia looks even more vital when viewed from a direction that gives religious courts the authority to handle certain Islamic legal cases for Muslims in Indonesia, such as the legal regulations mentioned above, in a formally lawful manner. However, what appears as progress and solidity of the existence of the Religious Courts, is not necessarily ideal what is expected. This condition is closely related to the government's political will in establishing Islamic law as a positive law that applies to Indonesian Muslims.⁶⁰ Whereas Pancasila and the Indonesia constitution, which are the basis of the state as well as the basis for the formation of national law, provide strong legitimacy for Islamic law, plus the majority of the Indonesian population adheres to Islam and has a strong tendency to practice their religious teachings in everyday life.

⁵⁹ Tomi Agustian, "Formalisasi Hukum Islam Kedalam Tata Hukum Indonesia," *El-Ghiroh: Jurnal Studi Keislaman* 16, no. 01 (2019): 15–36; Supardin, "Produk Pemikiran Hukum Islam Di Indonesia."

⁶⁰ Bani Syarif Maula, "Politik Hukum Dan Positivisasi Hukum Islam Di Indonesia [Studi Tentang Produk Hukum Islam Dalam Arah Kebijakan Hukum Negara]," *Istinbath: Jurnal Hukum Islam IAIN Mataram* 13, no. 2 (2014): 41823.

Conclusion

The idea of the Indonesianization of Islamic law initiated by professor Kamsi can be concluded as follows. Firstly, the concept offered by Kamsi is still relatively new compared to the reformers of Islamic law in Indonesia, such as T.M. Hasbi As-Shiddieqy (Indonesian Jurisprudence), Munawir Sjadzali (Reactualization of Islamic Law in Indonesia) Hazairin (Indonesian National School), and others. However, the ideas offered by Kamsi need to be carefully considered for the development of Islamic legal scholarship in Indonesia. Second, the Indonesianization of Islamic law initiated by Kamsi uses a modern knowledge system as a paradigm base. Indonesianization of Islamic law seeks to legalize Islamic law as national law. This attempt should be conducted through legal instruments in the Indonesian legal system. The relationship between sources of law should no longer has a dyadic pattern; between fiqh and Indonesian custom. The relationship also must be a triadic model by presenting fiqh, Indonesian customary law and positive Indonesian law that potentially led to inclusive law. In this sense, legal pluralism in Indonesia shows legal harmony among several sources of law.

Third, the theoretical implications show a need for epistemological and axiological adjustments to realize the Indonesianization of the Islamic law that applies nationally within the framework of a Pancasila and democracy. Kamsi also offered that to realize Islamic law into national law, which was one of the goals of his idea of Indonesianization of Islamic law, one of which was that all ideas must be included in the framework of the Indonesian legal system based on Pancasila. Through Pancasila, without over-mentioning on Islam, the law for the majority has the prospect of being enforced; besides, the context must have a subjective of strengthening the unity of the state based on Pancasila.

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