

The Implementation Islamic Law in Democratic State: Normative and Socio-Political Study

Edwin Jeri¹, Sartika Fortuna Ihsan¹, Khairul Fahmi², Anton Akbar¹

¹Universitas Islam Negeri Imam Bonjol Padang, Indonesia

²Universitas Andalas Padang, Indonesia

 edwinbaba84@gmail.com *

Abstract

The implementation of Islamic Sharia within a democratic state such as Indonesia remains a complex and relevant issue, particularly in balancing religious legal principles with a national legal system that emphasizes pluralism, democracy, and religious freedom. This study aims to analyze the influence and integration of Islamic law within Indonesia's national legal framework from normative and sociopolitical perspectives. The research focuses on several legal regulations that reflect the institutionalization of Islamic legal principles, including Law No. 1 of 1974 concerning Marriage, Law No. 23 of 2006 concerning Population Administration, Law No. 7 of 1989 concerning Religious Courts, Government Regulation No. 9 of 1975, and Presidential Instruction No. 1 of 1991 regarding the Compilation of Islamic Law (KHI). This research employs a normative juridical method supported by qualitative analysis of statutory regulations and relevant scholarly literature. The findings indicate that the incorporation of Islamic law into the Indonesian legal system has been carried out through a contextual, adaptive, and compromise-based approach, reflecting the dynamic interaction between religious values and democratic principles. The implementation process demonstrates that Islamic legal norms are accommodated within the national legal structure while maintaining the state's commitment to pluralism and constitutional democracy. In conclusion, the relationship between Islamic law and the Indonesian legal system illustrates an ongoing negotiation between religious aspirations, sociopolitical realities, and the broader framework of democratic governance.

Article Information:

Received March 1, 2026

Revised March 6, 2026

Accepted March 7, 2026

Keywords:

Islamic Sharia,

Democracy, Indonesian

Law, Legislation, Legal

Politics

INTRODUCTION

The implementation of Islamic Sharia within the national legal system of Indonesia has long been an important and complex topic of discussion. This issue becomes particularly significant in the context of Indonesia as a democratic state that upholds legal pluralism, constitutional principles, and freedom of religion. As the country with the largest Muslim population in the world, Indonesia faces the challenge of accommodating Islamic values within its national legal framework while maintaining the principles of democracy and inclusivity for citizens of different religious backgrounds. Consequently, the interaction between Islamic law and the national legal system represents a dynamic process that reflects both religious aspirations and constitutional commitments (Bassiouni, 2024).

How to cite:

Jeri, E, Ihsan, S, F, Fahmi, K, Akbar, A., (2026). *The Implementation Islamic Law in Democratic State: Normative and Socio-Political Study*. Jurissy. *Journal Islamic Studies and Syariah* 1(1), 1-13

E-ISSN:

xxxx-xxxx

Published by:

PT Pendidikan Islam Al-Fatihah

Historically, the relationship between Islamic law and state law in Indonesia has evolved through a gradual and adaptive process. Since the early years of independence, debates regarding the role of Islamic law in the state legal system have been closely linked to broader political and ideological discussions about the identity of the Indonesian state. While Indonesia is not formally established as an Islamic state, Islamic legal norms have nonetheless influenced several aspects of national legislation, particularly in matters related to family law, marriage, inheritance, and other civil matters involving Muslim citizens. This phenomenon reflects the unique character of Indonesia's legal system, which accommodates elements of religious law within a broader framework of national law and democratic governance (Dzimar & Ghazlan, 2024).

One of the most prominent areas where Islamic law has been institutionalized is within the field of family law. Various national regulations reflect the incorporation of Islamic legal principles, especially in matters concerning marriage, divorce, inheritance, and religious court jurisdiction. Among these regulations are Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975 as its implementing regulation, Law Number 7 of 1989 concerning Religious Courts, Law Number 23 of 2006 concerning Population Administration, and Presidential Instruction Number 1 of 1991 regarding the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI). These regulations illustrate how Islamic legal norms have been formally recognized and integrated into the Indonesian legal structure, particularly for Muslim citizens (Shukri & Azalan, 2023).

The enactment of these regulations represents an important milestone in the institutionalization of Islamic law in Indonesia. For example, the Marriage Law of 1974 established a unified legal framework for marriage that integrates both religious and state principles. Similarly, the Religious Courts Law strengthened the authority of Islamic courts in resolving family-related disputes among Muslims. The Compilation of Islamic Law, introduced through Presidential Instruction Number 1 of 1991, further provided a standardized reference for judges in religious courts when deciding cases involving Islamic family law. Together, these legal instruments demonstrate how Islamic legal principles have been accommodated within the national legal system in a manner that seeks to harmonize religious norms with state authority (Rofi'i & Fata, 2025).

However, the implementation of Islamic law within a democratic and pluralistic state such as Indonesia also raises important sociopolitical questions. The incorporation of Islamic legal norms into national legislation has often generated debates regarding the balance between religious values, democratic principles, and the protection of minority rights. Some scholars argue that the accommodation of Islamic law reflects the aspirations of the Muslim majority and contributes to legal certainty in matters of personal status. Others emphasize the importance of ensuring that such incorporation does not undermine constitutional principles, including equality before the law and the protection of religious diversity (Iskandar et al., 2025).

In addition, the implementation of Islamic law in Indonesia cannot be separated from the broader sociopolitical context in which these laws were formulated and enforced. Political dynamics, social movements, and public discourse have played important roles in shaping the development of Islamic legal regulations. The negotiation between Islamic groups, political actors, and state institutions has produced a distinctive model of legal accommodation that differs from both secular legal systems and fully Islamized legal frameworks found in some other Muslim-majority countries. Although numerous studies have discussed the relationship between Islam and the Indonesian legal system, many of them tend to focus on either doctrinal legal analysis or political debates surrounding the formalization of Islamic law. As a result, there remains limited discussion that simultaneously

examines both the normative legal framework and the sociopolitical context in which these regulations operate. In particular, there is still a need for a comprehensive analysis that explores how specific legal regulations function as practical manifestations of Islamic law within Indonesia's democratic legal structure (Tajudeen & Lawal, 2023).

This study seeks to address this gap by examining several key legal regulations that reflect the implementation of Islamic law in Indonesia, including Law Number 1 of 1974 concerning Marriage, Law Number 23 of 2006 concerning Population Administration, Law Number 7 of 1989 concerning Religious Courts, Government Regulation Number 9 of 1975, and Presidential Instruction Number 1 of 1991 on the Compilation of Islamic Law. By analyzing these regulations from both normative and sociopolitical perspectives, this study aims to provide a more comprehensive understanding of how Islamic law is accommodated within Indonesia's national legal system.

The novelty of this research lies in its integrative approach that combines normative legal analysis with a sociopolitical perspective in examining the implementation of Islamic law within Indonesia's democratic framework. Rather than viewing Islamic law solely as a legal doctrine or a political agenda, this study explores how legal regulations function as instruments of negotiation between religious values, democratic principles, and the realities of a pluralistic society. Therefore, this paper aims to analyze how Islamic Sharia has been implemented through national legal regulations in Indonesia and how these regulations reflect the interaction between religious norms, democratic governance, and sociopolitical dynamics. Through this analysis, the study seeks to contribute to a deeper understanding of the role of Islamic law within Indonesia's democratic legal system and its implications for legal pluralism and constitutional governance.

METHODS

This study employs a qualitative descriptive approach using documentary research to examine the implementation of Islamic Sharia within Indonesia's national legal system. The qualitative approach is considered appropriate because the study seeks to understand legal norms, interpret regulatory texts, and analyze their relationship with sociopolitical dynamics in Indonesian society (Ibnu Amin et al., 2022). Rather than focusing on numerical data, this research emphasizes the interpretation of legal documents and scholarly discourse in order to explain how Islamic legal principles are incorporated into state regulations. The primary data of this research consist of statutory regulations that reflect the institutionalization of Islamic law within Indonesia's legal framework. These include Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, Law Number 7 of 1989 concerning Religious Courts, Law Number 23 of 2006 concerning Population Administration, and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). These legal instruments were selected because they represent key regulatory frameworks that demonstrate the accommodation of Islamic legal principles in the national legal system, particularly in matters related to family law and civil affairs involving Muslim citizens (Fitriyati et al., 2025).

In addition to primary legal materials, this study also utilizes secondary data obtained from academic literature, legal journals, books, and previous research related to Islamic law, legal pluralism, and the development of Indonesia's legal system. These secondary sources provide theoretical perspectives and contextual explanations that support the interpretation of the primary legal materials. Data

collection in this research is conducted through systematic document analysis (Hafizh & Efendi, 2023). The researcher examines relevant legal texts, scholarly publications, and related policy documents in order to identify key provisions, legal principles, and interpretative frameworks associated with the implementation of Islamic law in Indonesia. This method enables the researcher to obtain comprehensive information regarding both the normative foundations and the broader sociopolitical context of the regulations being studied (Ismail & Hasan, 2021).

The analysis of the collected data is carried out using content analysis techniques. Through this method, the researcher analyzes the substance of the selected regulations by identifying legal provisions that reflect Islamic legal principles and examining how these provisions function within the national legal framework (Afrianto, A & Pasaleron, 2024). The analysis also considers the historical and sociopolitical context in which the regulations were enacted, including the political dynamics, social debates, and institutional developments that influenced their formulation and implementation. Furthermore, this study integrates two analytical perspectives, namely the normative legal approach and the sociopolitical approach. The normative approach focuses on examining the legal foundations and principles underlying the regulations, including references to Islamic jurisprudence (fiqh) and the legal reasoning used in the formulation of the laws. This approach aims to understand how Islamic legal norms are translated into formal state legislation (Nashuha et al., 2025).

Meanwhile, the sociopolitical approach is used to analyze the broader social and political responses to the implementation of these regulations (I Amin et al., 2022). This includes examining the role of political actors, religious institutions, and civil society groups in shaping public discourse surrounding the incorporation of Islamic law into the national legal system. By combining these two approaches, the research seeks to provide a more comprehensive understanding of how Islamic Sharia is implemented within Indonesia's democratic legal framework. Through this methodological framework, the study aims to reveal not only the normative structure of the laws but also the sociopolitical dynamics that accompany their implementation. This integrative analysis allows the research to better explain the interaction between Islamic legal principles, national legislation, and the democratic values that characterize Indonesia's constitutional system (Ridho et al., 2023).

RESULT AND DISCUSSION

Normative Analysis of Legislation

The term *rechtsstaat*, translated as “rule of law” according to Philipus M. Hadjon, began to gain popularity in Europe in the 19th century, although the concept had existed for a long time. According to Aristotle, it is not humans who rule a country, but rather fair thinking and morality that determine whether a law is good or bad. The characteristics of a *rechtsstaat* are as follows: The existence of a constitution that contains written provisions on the relationship between the rulers and the people; The division of state powers; The recognition and protection of the people's rights to freedom. The legal basis that refers to Indonesia as a democratic state based on the rule of law is based on Article 1 paragraphs (2) and (3) and Article 28 paragraph I paragraph (5) of the 1945 Constitution. Regardless of Indonesia's designation as a constitutional state or the rule of law, it is clear that the third amendment to the 1945 Constitution explicitly states that Indonesia is a constitutional state. (Article 1 Paragraph (3) of the 1945 Constitution, n.d.) Indonesia's existence as a constitutional state is marked by several key elements, such as the recognition and protection of human rights, government based on law, equality before the law, the existence of administrative courts, and other elements (Jalili & Syukri, 2025).

The transformation of Islamic law into legislation (*Takhrij al-Ahkam fi al-Nash al-Qanun*) is a product of the interaction between the Islamic political elite (scholars, community leaders, religious officials, and Muslim intellectuals) and the ruling elite, namely politicians and state officials. For example, in the enactment of Marriage Law No. 1/1974, the role of the Islamic elite was quite dominant in approaching the elite at the legislative level, so that Marriage Bill No. 1/1974 could be codified. (Article 1 Paragraph (3) of the 1945 Constitution, n.d.) The stumbling blocks faced by Muslims in obtaining their legal and constitutional rights were evident when Marriage Law No. 1/1974 was legislated, followed by Government Regulation No. 9/1975. Subsequently, provisions regarding waqf were also stipulated in Government Regulation No. 28/1977. It did not stop there. Muslims at the legislative level again questioned the concept/school of thought in the 1945 Constitution as the official religion recognized by the state. And most crucially, Muslims wanted the Draft Law on Religious Courts (RUUPA) to be legislated for the administration of Islamic courts in Indonesia (Ibrahim et al., 2025).

Among the laws and regulations with Islamic nuances, there are generally three forms: First, Islamic law that formally and materially uses Islamic characteristics and approaches; Second, Islamic law in the *taqin* process is manifested as sources of legal content, where its principles and foundations inspire every product of regulations and legislation; Third, Islamic law that is formally and materially transformed using a security approach and a welfare approach. Abdul Ghani Abdullah argued that the application of Islamic law in Indonesia has gained constitutional status based on three reasons. First, philosophical reasons: Islamic teachings constitute the worldview, moral values, and legal values of the Muslim majority in Indonesia, and this plays an important role in the creation of the fundamental norms of the Pancasila state. Second, sociological reasons. The historical development of Indonesian Islamic society shows that legal ideals and legal awareness based on Islamic teachings have a continuous level of relevance; and Third, a juridical reason, which is enshrined in Articles 24, 25, and 29 of the 1945 Constitution, provides a place for the formal juridical application of Islamic law (Puhka et al., 2025).

In more concrete terms, there are several legislative products that formally and materially have clear Islamic legal content, including:

Table. 1. Legislative Products That Formally And Materially Have Clear Islamic Legal Content

No	Law No	Description
1	1/1974	On Marriage Law. An example of an issue related to Law No. 1/1974 on Marriage Law is that every divorce must be approved by the Religious Court, but in reality, many divorces are still carried out outside the Religious Court. Although this is permissible in terms of Islamic jurisprudence, from the state's perspective, it is invalid and can lead to further legal issues, particularly those related to inheritance rights.
2	3/2006	On Religious Courts. Differences in perception regarding the authority of the Religious Court, particularly in relation to the ownership status of an inheritance, are often ignored and give rise to civil lawsuits, which ultimately result in civil court decisions that override inheritance rights in the Religious Court.
3	21/2008	On Sharia Banking. According to Law No. 21/2008, banking issues related to sharia banking can be resolved through the Sharia Council, but in reality, they are still resolved through mediation by the District Court or through civil lawsuits.
4	17/1999	Concerning the Implementation of Hajj. In accordance with Law No. 17/1999 concerning the implementation of Hajj, the requirements for performing Hajj are based solely on the financial capabilities of prospective pilgrims. Currently, there are even Hajj financing loans available, which differs from the requirements from

a fiqh perspective		
5	38/1999	Concerning the Management of Zakat, Infak, and Shadaqah (ZIS). The management of ZIS should be carried out by an amil agency managed by the state or accredited private entities, but because it is not binding, much of the community's ZIS is managed independently by the community.
6	44/1999	On the Implementation of Special Autonomy in Nangroe Aceh Darussalam. The position of the Implementation of Special Autonomy in Nangroe Aceh Darussalam has resulted in an overlap between Sharia law (Qanun) and the Criminal Code (KUHP), so that the settlement of criminal cases according to Qanun differs from that according to KUHP.
7	The 1999	The 1999 Political Law governing Islamic parties stipulates that Islamic parties must adhere to the principles of Pancasila, which fundamentally conflicts with the implementation of Islamic law in determining power, for example, in relation to the determination of heads of government at the regency/city, provincial, and national levels, which are based on democratic principles.
8	41/2004	On Waqf, waqf which should be approved by the religious court, many are not implemented, thus giving rise to demands on waqf land that is used as a place of worship.
9	19/2008	On State Sharia Securities, in the implementation of state sharia securities, a constant profit sharing is determined, thus resembling usury.

In addition to the level of law, there are also other regulations under the law, including: Government Regulation No. 9/1975 concerning Guidelines for the Implementation of the Marriage Law; Government Regulation No. 28/1977 concerning Land Ownership Waqf; Government Regulation No. 72/1992 concerning the Operation of Banks Based on Profit Sharing Principles; Presidential Instruction No. 1/1991 concerning the Compilation of Islamic Law; and Presidential Instruction No. 4/2000 concerning the Handling of Special Autonomy Issues in NAD (Mir & Anjum, 2025).

The existence of Law No. 7/1989 on Religious Courts and Presidential Instruction No. 1/1991 on the Compilation of Islamic Law also serves as a legal basis for Muslims to resolve civil matters. In fact, the struggle of Muslims over a period of 45 years since the Old Order and 15 years since the New Order was a long struggle that required patience and hard work until Law No. 7/1989 was passed on December 29, 1989. The emergence of the Indonesian Muslim Intellectuals Association (ICMI) in the early 1990s was in fact an inevitable social and political reality. The significant role played by the Islamic political elite in the bureaucracy, as well as the role of Islamic figures who were active in various Islamic community organizations, was considered very important, especially in responding to the collective will of Muslims. In other words, the existence of various laws and regulations based on Islamic law was not an easy matter, like turning one's palm, but all of this was done through a political process over a long period of history.

Socio-politics Implementation and Social Response

The implementation of Islamic law through positive legal instruments demonstrates the state's commitment to the aspirations of Muslims. However, it is not without criticism and challenges. On the one hand, Islamic organizations such as NU and Muhammadiyah support the implementation of moderate and contextual Islamic law. On the other hand, there are concerns about discrimination against minority groups, especially women and non-Muslims. In practical terms, there is still a gap between formal law and social practice. For example, unregistered marriages continue to occur even though they are contrary to state law and administration. In addition, the debate over the revision of the KHI or the creation of a Material Law on Religious Courts indicates that the implementation of Islamic law in a democratic system still needs to be refined in order to be socially inclusive and fair.

As in other Muslim countries, committed Muslims in Indonesia continue to maintain their aspirations to practice Islamic law, not only in their individual lives,

but also in their national and state lives, despite variations in ideas about the practice of Islamic law. Efforts towards legal unification seem to be rarely undertaken by the government, representatives of the people, or academics and legal practitioners in Indonesia. In fact, there are so many social issues that must be resolved through legislation, including unifying the diversity of laws from various legal sources into national law. The absence of a legal unification process at present is due to three factors: First, the complexity of the unification process; Second, the absence of legal neutrality; Third, the perception that unification is no longer necessary. Thus, the current government has tended to enact laws that are specific to certain groups but are applied nationally (Junus et al., 2024).

The substance of Islamic law that is incorporated into national law requires more in-depth study. This study is not easy, given the broad scope of Islamic law that is being studied. Therefore, before studying specific areas of law, it is necessary to categorize which aspects of Islamic law can be transformed into national law. The substance of Islamic law, which is considered rigid by some circles and may even be frightening due to the absolute attitude of its adherents, needs to be studied more seriously so that it becomes more open and contextual, in the sense that it is open to new interpretations that are more in line with the Indonesian social context and current circumstances, so that Islamic law will be integrated into national law rather than separated from it (Ruslan et al., 2025).

This is where *ijtihad* plays a very important role. The question is which individuals or institutions are representative enough to conduct the assessment. This question is important because assessments conducted by groups that are not representative are often considered invalid and therefore not widely accepted by the community. Because it concerns the interests of the entire community, the assessment needs to involve many competent parties and *ijtihad* should be conducted collectively (*jamā'ī*) using an interdisciplinary approach so that the results are more comprehensive. (Basyir, 1996, p. 62) Collective *ijtihad*, when supported by state facilities without reducing the freedom of the *mujtahids*, will be more successful. International *ijtihad* institutions are urgently needed to solve common problems in accordance with the demands of space and time, as long as they remain within the framework of Islamic law. If this collective *ijtihad* is successfully promoted, it will have very positive implications for the future implementation of Islamic law, so that Islamic law will appear bright and capable of responding to the challenges of the times (Siregar, 2024).

However, in practice, legislation is not a trend, but the development of Islamic law through the legislative process still needs to be carried out. Only the subject matter of the law needs to be considered. For example, (a) the subject matter of the law is not in the field of public law, because there are concerns that it will conflict with the subject matter of other religious laws; (b) private law does not cover all areas because there are areas of law that are very sensitive. If these sensitive areas of law are raised, it will certainly lead to conflict, both externally and internally. When viewed from current developments and needs in the national and international legal arena, legislation is an objective and urgent necessity because it will support the implementation of Islamic law in a definite and formally binding manner. With the enactment of Law No. 7 of 1989 on Religious Courts, which was amended by Law No. 3 of 2006 concerning the Implementation of Law No. 7 of 1989 and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law, efforts to foster and develop Islamic law can be carried out by enhancing the role of religious court judges, because the profession of judge itself in Islamic tradition is a *mujtahid*

tradition. Religious court judges have a great opportunity to discover, formulate, and establish laws in practice within the judicial institution (Al-Turabi & Auda, 2025).

This is in line with what is implied in Article 27 of Law No. 14 of 1970 concerning the Basic Provisions of Judicial Power, which has been replaced by Law No. 4 of 2004 concerning Judicial Power, as law enforcers and justice must explore and understand the legal values that exist in society. This obligation implicitly contains the autonomous rights and authority of judges to carry out intellectual work and *ijtihad* in order to apply Islamic law in judicial practice. Although the authority of religious courts is still limited, if judges are willing to position themselves as intellectual workers who work professionally in their capacity as *mujtahids*, then their decisions can be used as references for subsequent decisions. (Ali, 1994, p. 18) Thus, a contextual Islamic law will be formed, one that can be practiced, not a law on paper (textual) as has been the case so far. Sociologically, there are four areas of modern law as follows:

Figure 1. Foundations of Islamic Law



In Indonesia, these four types tend to operate independently with their own dynamics. This situation does not greatly support efforts to develop Islamic law in the context of national law development. Therefore, it is time for these four areas of law to work together in a complementary approach. The Compilation of Islamic Law is a manifestation of good cooperation (*ijtihad*) between Islamic figures in various legal spheres, particularly in the executive branch (Ministry of Religious Affairs-Minister of Religious Affairs), the judiciary (Supreme Court), higher education (STAIN-PTAIS), and the community (Kiyai and Ulama).

The model of cooperation that occurred in the process of forming the KHI can be used as a historical milestone and valuable experience for efforts to develop Islamic law in the context of national law development. The enforcement of Islamic law in the national legal arena is also determined by the extent to which supporters of Islamic law are aware of and willing to accept and implement it. The current reality shows that Muslims as supporters of the implementation of Islamic law are only a potential force, not yet an effective social base.

To support this effort, Mukhlas Hisyam offers four stages of preconditions for Islamic law, as quoted by Topo Santoso, namely: The first stage is prevention from the aspect of faith or belief, because faith makes a person feel watched over by God. Thus, he is able to exercise self-control over his actions. This can be proven by the low crime rates in Muslim countries compared to developed countries. The second stage is prevention from the aspect of worship. If performed properly, the acts of worship required by religion will have a positive impact on the person performing them, as Allah says in the Qur'an: "Even though there is no data on the worship of criminals, in reality, crimes are more often committed by those who do not care about prayer and other acts of worship" (Nashuha et al., 2025).

The third stage is prevention from the aspect of social justice. This means that every citizen has been given the opportunity to fulfill their needs in a lawful

manner and is prevented from doing unlawful things. This third stage of prevention was made a condition for the implementation of Islamic criminal law by Caliph Umar bin Khathab, when there was a crisis in his time and many citizens were starving. He did not impose the punishment of cutting off the hands of thieves for the time being.

The Fourth Stage, Prevention in terms of *amar makruf nahi mungkar*, which should become a culture among Muslim communities, because it is the central point of all religious teachings. The effective functioning of Islamic law in society must go through a process of institutionalization, so that Islamic law becomes part of a social institution. Institutionalization is a process whereby Islamic legal norms can be known, understood, assessed, appreciated, internalized, and obeyed by the majority of society. Society will respect and obey Islamic law if it truly guarantees their welfare in this world and the hereafter, tranquility, peace, and physical and spiritual well-being, both individually and socially (Zailani et al., 2022).

If efforts to foster and develop Islamic law in Indonesia through legislation encounter obstacles, then an alternative can be pursued through non-legislative means. For Indonesia's situation, according to Warkum Sumitro, non-legislative alternatives are more feasible for several reasons: First, there is no impression of "majority domination," because it does not label itself as Islamic, but simply incorporates values that are considered principles. Second, support from political structures does not need to be overt, so that what plays a role is the voice of conscience. This means that the commitment of Islamic leaders within the structure to the struggle for Islamic values (Islamic law) is very important. Third, the form and process are not important. What is important is the substance. Fourth, because form and process are not very important, this can be done in the field of public law, which is more strategic in this case (Sulong et al., 2025).

Thus, the trend of Islamic law development in Indonesia has taken place through two channels, namely legislation through national laws and non-legislation that has developed outside of national laws. Of these two channels, the second trend, namely the development of Islamic law outside of legislation, has been more prevalent than that through legislation. This is because the process of legislating Islamic law in Indonesia always faces structural and cultural obstacles, both internally and externally. Internally, supporters of the Islamic legal system do not necessarily consider Islamic law to be a final system that needs to be developed in the context of national law. Meanwhile, external obstacles include a political structure that does not necessarily support the process of Islamic law legislation. With the support of these three components, namely structural, substantive, and cultural components with various requirements, Islamic law will have a strong bargaining position in the transformation process for the development of national law. If the non-legislative route is chosen as an alternative with various advantages as described above, then the focus of the Muslim community in the future will not only be on private law, but also on public law. For example, criminal law, constitutional law, environmental law, economic law, and others that are becoming trends due to the demands of globalization. With the above strategies and efforts, Islamic law will be able to integrate into the development of national law.

The application of Islamic law in Indonesia's national legal system takes place within a dialogue between religious norms and democratic principles. The laws and regulations that have been studied show a compromise between Islamic values and the principles of national law. However, challenges arise when there is a tug of war between religious conservatism and the demands of legal democratization that uphold equality and human rights.

CONCLUSION

The implementation of Islamic Sharia in Indonesia, as reflected in several national legal regulations such as the Marriage Law, the Population Administration Law, the Religious Courts Law, and the Compilation of Islamic Law (KHI), demonstrates a gradual process of integrating Islamic values into the national legal system. These legal instruments indicate that Islamic legal principles have been accommodated within the framework of state law, particularly in areas related to family law and civil matters involving Muslim citizens. The incorporation of these principles reflects Indonesia's distinctive approach in harmonizing religious norms with a national legal system that is based on constitutional democracy and legal pluralism. In the context of a democratic state, the implementation of Islamic law is not merely a normative legal process but also part of a broader sociopolitical dynamic. The formulation and application of these regulations are influenced by ideological debates, political interests, and societal demands for justice and legal certainty. As a result, the institutionalization of Islamic law in Indonesia represents a process of negotiation between religious aspirations, democratic principles, and the realities of a pluralistic society. Overall, the findings of this study indicate that the integration of Islamic law into Indonesia's legal system has been carried out through an adaptive and contextual approach. This process reflects the effort to maintain a balance between the recognition of Islamic legal values and the preservation of democratic governance, social harmony, and constitutional principles within the Indonesian state.

DECLARATIONS

Author Contribution

Edwin Jeri & Sartika Fortuna Ihsan: Writing-Preparation of original manuscript, Conceptualization, **Khairul Fahmi & Anton Akbar:** Visualization, Methodology, Improve Language, Investigation.

Funding Statement

The author(s) declare that no financial support was received for the research, authorship, and/or publication of this article.

Conflict of Interest

The authors declare that this research was conducted without any conflict of interest in the research.

Ethical Clearance

The place or location studied has agreed to conduct research and is willing if the results of this study are published.

Publisher's and Journal's Note

Researcher and (PT Pendidikan Islam Al-Fatihah) as the publisher and Editor of Journal Jurissy that there is no conflict of interest towards this article publication.

REFERENCES

- Afrianto, A, F. E., & Pasaleron, R. (2024). Developments Of Madrasa In Western Sumatra: Analysis Of Mahmud Yunus' Contributions. *Miqot: Jurnal Ilmu-Ilmu Keislaman*, 48(1), 88–104. <https://doi.org/10.30821/miqot.v48i1.1185>
- Al-Turabi, U. M., & Auda, J. (2025). Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World. *IJIL: Indonesian Journal of Islamic Law*, 8(2), 209–228. <https://doi.org/10.35719/fhw10v84>
- Amin, I, Efendi, F., & Hertasmaldi, H. (2022). Mashlahah Married Pregnant

- Perspective Article 53 Compilation of Islamic Law. *FOKUS: Jurnal Kajian Keislaman Dan Kemasyarakatan*. <https://doi.org/10.29240/jf.v7i2.5364>
- Amin, Ibnu, Lendrawati, L., Efendi, F., & Hertasmaldi, H. (2022). The Concept of Baligh Perspective of Fiqh and Positive Law. *Al-Istinbath: Jurnal Hukum Islam*, 7(2), 455. <https://doi.org/10.29240/jhi.v7i2.5268>
- Bassiouni, M. (2024). *Human Rights Between Universality and Islamic Legitimacy* (1st ed.). Oxford University Press. <https://doi.org/10.1093/oso/9780197753897.001.0001>
- Dzimar, A., & Ghazlan, E. (2024). The Urgency of Implementing Siyasa Syar'iyah Values in National Law-Making: Harmonizing Islamic Governance Principles with Constitutional Democracy. *SYARLAT: Akhwal Syaksyah, Jinayah, Siyasa and Muamalah*, 1(4), 172–179. <https://doi.org/10.35335/2frs5098>
- Fitriyati, Y., Ibrahim, D., Muntaqo, F., & Hasan, K. S. (2025). Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 25(1), 122–140. <https://doi.org/10.19109/nurani.v25i1.27133>
- Hafizh, A., & Efendi, F. (2023). Legal Case Linking Divorce Proceedings to Development of Schizophrenia: Court's Ruling Number 675/Pd. G/2021. Pa. Pn. *Waraqat: Jurnal Ilmu-Ilmu Keislaman*. <https://doi.org/10.51590/waraqat.v8i2.564>
- Ibrahim, Z. S., Karimullah, S. S., Assaad, A. I., Septiani, R., & Okur, H. (2025). Integration of Maqashid al-Shari'ah in the Criminal Law Reform to Achieve Justice and Human Dignity. *Jurnal Hukum Islam*, 23(1), 105–144. <https://doi.org/10.28918/jhi.v23i1.04>
- Iskandar, H., Hasbi, Y., Idami, Z., & Saputra, F. (2025). Islamic Law and the Constitution: Analyzing the Compatibility of Religion-Based Legislation in Indonesia. *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan*, 12(2), 332–355. <https://doi.org/10.32505/qadha.v12i2.11652>
- Ismail, Z., & Hasan, M. R. (2021). Islamic Legal Modernism and Women's Emancipation in Tunisia. *Mazahib*, 281–314. <https://doi.org/10.21093/mj.v19i2.2800>
- Jalili, I., & Syukri, I. (2025). Utilizing Qawa'id Fiqhiyyah in Legal Analysis: A Review of Their Evolution and Application in Indonesian Islamic Jurisprudence. *Istinbath*, 24(1), 51–65. <https://doi.org/10.20414/ijhi.v24i1.776>
- Junus, M. D. M., Muhamad Husin, N. K., Abidin, N. H. Z., Khadzali, N. R., & Ma'dan, M. (2024). Ethical Governance through Maqasid Shariah Perspective: A Conceptual Framework. *International Journal of Academic Research in Business and Social Sciences*, 14(10), 920–932. <https://doi.org/10.6007/IJARBS/v14-i10/23148>
- Mir, K. H., & Anjum, M. R. (2025). Universal Ethics for a Divided World: Maqasid al-Shari'ah and the Pursuit of Human Brotherhood. *Journal of Islamic Studies and Culture*. <https://doi.org/10.15640/jisc.v13p3>
- Nashuha, A. A., Muthoifin, & Elbanna, M. (2025). An Analysis of Jasser Auda's Thought on Maqashid Sharia and Its Implications for Sharia Economic Law. *Solo International Collaboration and Publication of Social Sciences and Humanities*, 3(03), 441–456. <https://doi.org/10.61455/sicopus.v3i03.361>
- Puhka, P., Muslim, D. L., & Asfianto, F. (2025). Progressive Islam Amidst the Currents of Modernization: A Critical Study of Fazlur Rahman's Thought. *JOIS: Journal of Islamic Studies*, 1(1), 46–57.
- Ridho, H., Elmy, H. M., & Sibawaihi, M. (2023). Fiqh Al-Aqalliyat: Jurisprudence for Muslim Minorities as a Guide to Living in Non-Muslim Countries. *Syariah:*

- Jurnal Hukum Dan Pemikiran*, 23(1), 93–106.
<https://doi.org/10.18592/sjhp.v23i1.8611>
- Rofi'i, M. A., & Fata, A. K. (2025). Meeting the Challenges of Time: Exploring the Concept of Maqāsid Shari'ah in the Thought of Jasser Auda. *Al-Mizān*, 21(1), 65–94. <https://doi.org/10.30603/am.v21i1.4721>
- Ruslan, I. R., Ulil Abshar, R., & Yudha, G. (2025). Ethics and Behavior of Islamic Politics. *Jurnal Tapis: Jurnal Teropong Aspirasi Politik Islam*, 21(1), 1–24. <https://doi.org/10.24042/wfzr8v37>
- Shukri, S., & Azalan, M. A. M. (2023). The Application of Maqasid al-Shariah in Multicultural Malaysia: Developing Strong Institutions for Interethnic Unity. *Contemporary Islam*, 17(3), 433–450. <https://doi.org/10.1007/s11562-023-00528-7>
- Siregar, S. A. (2024). Implementasi Al-Maqashid Syariah dalam Tatanan Hukum di Indonesia. *I'tiqadiah: Jurnal Hukum Dan Ilmu-Ilmu Kesyarahan*, 1(2), 184–198. <https://doi.org/10.63424/itiqadiah.v1i2.98>
- Sulong, J., Ismail, F. B. H., & Ahmad, K. A. B. (2025). Islamic Values and the Civil State: A Systematic Review on the Application of Maqasid Al-Shariah in Madani Nation-Building. *International Journal of Research and Innovation in Social Science*, 9(8), 355–367. <https://doi.org/10.47772/IJRISS.2025.908000030>
- Tajudeen, A. L., & Lawal, M. A. (2023). Application of Maqasid al-Shariah-Based Public Policy Framework in SDGs Policies: Poverty Eradication (SDG 1) as a Case Study. In M. Hamdan, M. Anshari, N. Ahmad, & E. Ali (Eds.), *Advances in Public Policy and Administration* (pp. 78–95). IGI Global. <https://doi.org/10.4018/978-1-6684-8903-1.ch005>

Copyright holder:

© Jeri, E., Ihsan, S, F., Fahmi, K, Akbar, A., (2026)

First publication right:

Jurissy: Journal Islamic Studies and Syariah

This article is licensed under:

CC-BY-SA