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# THE RELEVANCE OF ISLAMIC LAW AND POSITIVE LAW IN STATE SAFETY MANAGEMENT: LITERACY STUDY OF ISLAM AND NATIONAL LAW

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**Abstract:** In Indonesia, there are several sources of law, including religious law, customary law, international law, state law, and Islamic sharia law. <sup>50</sup> This study aims to obtain scientific evidence about the relevance of Islamic law and state law in managing security and comfort among citizens in Indonesia. We searched for data to answer this problem online in several literature sources, which we discussed comprehensively to answer this research problem by looking for the relationship between Islamic law, state law, and the stability and diversity of citizens. Data review efforts include data interpretation, evaluation, data coding, and concluding by adhering to data validity and reliability principles. This data is sourced from secondary applications, which we can obtain in qualitative measures. As a result, there are eight Islamic laws and state laws to regulate the life of the state and society in just and prosperous life.

**Keywords:** relevance; Islamic law; state law; governance; comfort; safety.

**Abstrak:** Di Indonesia, terdapat beberapa sumber hukum, <sup>22</sup> antara lain hukum agama, hukum adat, hukum internasional, hukum negara, dan hukum syariah Islam. Penelitian ini bertujuan untuk memperoleh bukti ilmiah tentang relevansi hukum Islam dan hukum negara dalam mengelola keamanan dan kenyamanan antar warga negara di Indonesia. Kami mencari data untuk menjawab masalah ini secara online di beberapa sumber literatur, yang kami bahas secara komprehensif untuk menjawab masalah penelitian ini dengan mencari hubungan antara hukum Islam, hukum negara, dan stabilitas dan keragaman warga negara. Upaya telaah data meliputi interpretasi data, evaluasi, pengkodean data, dan penarikan kesimpulan dengan berpegang pada prinsip validitas dan reliabilitas data. Data ini bersumber dari aplikasi sekunder, yang dapat kita peroleh dalam ukuran kualitatif. Hasilnya, ada delapan hukum Islam dan hukum negara untuk mengatur kehidupan bernegara dan bermasyarakat dalam kehidupan yang adil dan makmur.

**Kata kunci:** relevansi; hukum Islam; hukum negara; pemerintahan; kenyamanan; keamanan

## Introduction

Islam entered the archipelago around the 7th century A.D. because that was when traders from the Middle East began to come to trade while bringing Islam. They actively broadcast Islam while other colonialists from Europe and other Asia began to be in the Sumatra area to carry out various business activities, making Indonesia one of the target countries for business and spreading the culture of converting to the religion. After the Arabs made trade relations with the archipelago, which at that time was not yet Indonesia, they introduced an advanced civilization, both from China and from all of them who came here

by carrying out various religious teachings and transformations as well as the pattern of life that was estimated by the majority of traders who came to Southeast Asia<sup>1</sup> are those who came from Gujarat, India, until recently they made this archipelago the right place for the development of Islam, Islam from Aceh to Sumatra, Java, Sulawesi and other archipelago islands which at that time were still archipelago.

With various conflicts and upheavals occurring against the positive law, but due to the obedience

<sup>1</sup> Jajat Burhanudin, "Converting Belief, Connecting People: The Kingdoms and the Dynamics of Islamization in Pre-Colonial Archipelago," *Studia Islamika*, vol. 25, no. 2 (2018), pp. 247-78.

and persistence of Islamic religious broadcasters who came to bring Islamic teachings and of course it would also be contrary to local law, Islam was finally established quickly and was accepted by many indigenous people.<sup>2</sup> After Western/European Colonialism entered the trade and succeeded in colonizing the kingdoms in the archipelago in approximately 350 years, thus slowly Western law had a reasonably severe impact on the character of the law and the model of the legal system adopted by the Indonesian people with a civil culture.<sup>3</sup> Furthermore, in the conquest of the archipelago by the Japanese only about three and a half years, so in the historical record, Japan did not make any legal changes or did not bring much influence, and as if to maintain what was already there, only changed the Dutch term to Japanese terms such as religious court to maintaining local customs/practices and even giving recognition of Islamic law in judicial practice.<sup>4</sup>

For Japan, Islam is the most effective means to penetrate spiritual values for the life of the Indonesian people. So, the laws and regulations in the archipelago could not be separated from the transition before independence, during the independence process, and after the independence of the formation of the Indonesian state.<sup>5</sup> Considering that Indonesia has imposed various legal regulations and not every regulation before Indonesia's independence was abolished, it is essential to look at the transition and enforcement of laws in Indonesia. The enactment of this transitional regulation aims to avoid a legal vacuum for the laws and regulations in Indonesia that have not yet been made. Furthermore, it is also necessary to know the other purpose of implementing this transition as one of the triggers

for making changes to the national legal system to better create a national legal system following the ideals of the Indonesian state.<sup>6</sup>

The presence of Islam in the archipelago since the 7th century A.D. and then developed in the 13th century A.D. was at that time. The archipelago people greatly admired Islam, so it continued to experience rapid development eventually became the religion with the most prominent adherents. Adherents in Indonesia.<sup>7</sup> In fact, before the arrival of the Dutch to the archipelago, historically, there was no national legal system, but various cultures' religious views already colored various large and small kingdoms and each had its characteristics. However, in the 14th century A.D., Islamic law had its place for the archipelago people; in the Samudera Pasai kingdom, Sultan Malikul Zahir was one of the famous Islamic jurists. At that time, many Islamic jurists developed the study of Islamic law through various books of fiqh, other names of Islamic law such as Nuruddin al-Ranieri, wrote various books including the book Kawahir al 'Ulum fi Kasf al-Ma'lum, and Sirat al-Mustaqin.<sup>8</sup> Then in the 15th century A.D., with the arrival of the Dutch trading fleet led by De Houtman in 1596 AD in Banten, it aroused the enthusiasm of Muslims to spread Islam to all corners of the archipelago in order to compete with Christianity under the Dutch trade mission.

In the 15th century, Islamic law was so widely accepted among the people of the archipelago that in historical records, Sultan Agung has made Islamic law a national law in the kingdom of Water Marpaung, the theory of Reception in Complex; Analysis of the Application of Islamic Law in Indonesia: Struggle for Islamic Shari'ah Thought in Indonesia.<sup>9</sup> In the 17th century A.D., they

<sup>2</sup> Soumen Mukherjee, *Smallism and Islam in Modern South Asia*, (Cambridge University Press, 2017).

<sup>3</sup> Muhammad Roy Purwanto, "Hukum Islam dan Hukum Adat Masa Kolonial: Sejarah Pergolakan Antara Hukum Islam dan Hukum Adat Masa Kolonial Belanda," 2017.

<sup>4</sup> Renny NS Koloay, "Perkembangan Hukum Indonesia Berkenaan dengan Teknologi Informasi dan Komunikasi oleh: Renny Ns Koloay," *Jurnal Hukum Unsrat*, vol. 22, no. 5 (2016).

<sup>5</sup> Ika Firma Aditya, "Romantisme Sistem Hukum Di Indonesia: Kajian Atas Kontribusi Hukum Adat Dan Hukum Islam Terhadap Pembangunan Hukum Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, vol. 8, no. 1 (2019), pp. 37-54.

<sup>6</sup> Nirza Satria Buana, "Living adat Law, Indigenous Peoples and the State Law: A Complex Map of Legal Pluralism in Indonesia," *International Journal of Indonesian Studies*, vol. 1, no. 3 (2016), pp. 104-19.

<sup>7</sup> Sudarman Sudarman et.al, "Trade and Religious Conversion in the Malay World: Study on Islamization in the Inderapura Kingdom in the 17 th-18 th Centuries AD," *JSDA: Jurnal Kajian Islam Dan Budaya*, vol. 19, no. 1 (2021), pp. 44-57.

<sup>8</sup> Anthony Reid, *Imperial alchemy: Nationalism and political identity in Southeast Asia* (Cambridge University Press, 2010).

<sup>9</sup> Hari Zamharir, Mohammad Noer, and Sahrudin Lubis, "Khalifatullah Panatagama: Continuity Change in the Practice of Political Islam in Modern Indonesia," *Journal of Social Political Sciences*, vol. 1, no. 1 (2020), pp. 29-40.

continued with well-known Islamic legal figures such as Abd. Alrauf Alsinkil once served as mufti in the Aceh sultanate, eight, and has written a fiqh book entitled *Mir'at al-Thullab fi Tasyi al-Ma'rifah al-Ahkam al-Syar'iyah li al-Malik al-Wahbah*, this book written by him at the request of the sultan of Aceh Sayyidat Aldin. While in Banjar, Sheikh Alarsyad Albanjari (1710-1812 AD) wrote a book of fiqh entitled *Abil al-Muhtadin li Tafaqquh fi Amr al-Din*; this book also became a guide for the Sultanate of Banjar in resolving legal cases<sup>10</sup> to be exact.

In 1847 the Dutch government faced political resistance from the sultanate and Muslim leaders throughout the archipelago; seeing the problematic situation, the Dutch government tried to win over the people by re-imposing Islamic law in Indonesia, which was confirmed in Article 11 of the Dutch legal regulations. <sup>11</sup> said that the Indonesian nation, which is predominantly Muslim, may implement the provisions of Indonesian law, including Islamic religious law, institutions, and royal policies, <sup>2</sup> as long as they do not conflict with the principles of justice. So, in 1855, Islamic law was accepted, recognized, and carried out well by the Dutch government. Islamic law plays a vital role in various fields, especially in social, <sup>49</sup> such as marriage law and inheritance law. During the Dutch colonial period, Muslims were given the <sup>55</sup> freedom to carry out their religious activities. The scholars are free to preach and teach religious knowledge to the indigenous population.<sup>12</sup>

Two well-known Islamic jurists were reborn in the 19th century AD: Nawawi Albantani, who worked in family law, and Abdul Hamid Hakim, whose publications were widely read in Islamic boarding schools in Minangkabau.<sup>13</sup> Christian

Snouck Hurgronje (1357-1936) and Vollenhoven, an expert on Indonesian customary law, suppressed Islamic law in 1929 by promoting the acceptance thesis. Stable. 116 jo 610 of 1937, which changed Stable. 152 of 1882, concerning the Regulation of the Islamic Religious Courts in Java and other areas.<sup>14</sup> They argue that Islamic law does not inherently apply to Muslims but only applies if recognized as customary law or incorporated. So since then, Islamic law was only known in Indonesia after Islam was spread in Indonesia. There is no agreement among historians about the early <sup>18</sup> entry of Islam into Indonesia. Some say the <sup>18</sup> 1st century Hijri or the 7th century A.D.; some say the 7th century Hijri or the 13th century A.D.<sup>15</sup>

## Method

Furthermore, in this section, we will describe conducting a literature review that aims to obtain scientific evidence of the relevance <sup>43</sup> between Islamic law and state law in the governance of security and comfort, and justice.<sup>16</sup> The author believes that as Indonesian citizens who are predominantly Muslim, of course in their lives, they have been indirectly guided by the religious law they profess, namely Islam, and then guided by state law so that with this release, there is no contradiction. <sup>19</sup> To prove it, we have conducted a series of data searches on several books, newspapers, journal articles, and various other sources, which we feel can add to the enrichment of the literature to answer this royal question.

After collecting the data, it is followed by a series of studies involving a data coding system, evaluating the data, carefully interpreting the data to find relevance, and following the objectives of this study by prioritizing the quality and reliability of the data.<sup>18</sup> We think this kingdom depends

<sup>10</sup> Mohammad Reevany Bustami Ikomatussuniah and Moh Wani Maler, "Transformation of Ulama's Role in Nusantara: A Case Study of Halalan Thayyiban Food Law in Indonesia," *Journal of Academic Research in Business and Social Sciences*, vol. 11, no. 4 (2021), pp. 477-462.

<sup>11</sup> Muhammad Iqbal, "Politik Hukum Hindia Belanda dan Pengaruhnya terhadap Legislasi Hukum Islam di Indonesia," *AHKAM: Jurnal Ilmu Syariah*, vol. 12, no. 2 (2012).

<sup>12</sup> William J. Roff, "Customary law, Islamic law, and colonial authority: Three contrasting case studies and their aftermath," *Islamic studies*, (2010), pp. 455-62.

<sup>13</sup> John F. Geisz dkk., "Building a six-junction inverted metamorphic concentrator solar cell," *IEEE Journal of*

*Photovoltaics*, vol. 8, no. 2 (2018), pp. 626-32.

<sup>14</sup> Indra Gunawan, "Eksistensi Hukum Islam Di Indonesia Dalam Pembangunan Nasional," *Yurisprudencia: Jurnal Hukum Ekonomi*, vol. 4, no. 1 (2018), pp. 108-31.

<sup>15</sup> I. M. Lapidus, *Islamic societies to the nineteenth century: a global history*, (Cambridge University Press, 2012).

<sup>16</sup> Graham R. Gibbs, *Analyzing qualitative data*, vol. 6 (Sage, 2018).

<sup>17</sup> Patricia Bazeley, *Qualitative data analysis: Practical strategies*, (sage, 2013).

<sup>18</sup> Vani Wirawan, "Understanding of Islamic Law Enforcement

entirely on scanned data from how to search for data electronically in several publications between 2001 and 2022. In electronic search, we use the name of the keyword that we embed in the Google Scholar search engine, and then we report it in the form of qualitative data with guidance from the study of law and other state administrations. Thus, we carried out the study implementation journey.<sup>19</sup>

### Islamic law vs. Positive law

There is no critical distinction between Islamic and state regulations on a fundamental level and standard. The thing that matters is who has the privilege to rebuff and the discipline method.<sup>20</sup> Assuming the public regulation incorporates the five mainstays of the primary targets of Islamic regulation, one might say that the nation's law is Islamic. This was conveyed by the Chancellor of Unisba, Edi Setiadi, in the introduction of the tausiah themed, "The Contribution of Islamic Law to the Development of National Law" at a recitation at the Al-Asy'ari Unisba Taklim Council, as of late. The recitation, which is hung on Wednesday once a month, is gone by the Unisba scholarly local area and the local area around the grounds on Jl. Tamansari. The five mainstays of the primary goals of Islamic regulation alluded to by the Chancellor are, (1) Hindu promotion diin (keeping up with religion); (2) Hindu Al-Mal (keeping property); (3) Hindu A Nafs (keeping the spirit); (4) Hindu A Nasb (continuing posterity); (5) Hindu al aqli (watching reason). A few likenesses in Islamic regulation and positive regulation also exist in different regulation areas—for instance, the rule of correspondence in regulation the guideline of assumption of guiltlessness.<sup>21</sup>

<sup>4</sup> Some Islamic Countries (Analysis of International Islamic Studies)," *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, vol. 4, no. 4 (2021), pp. 8829–37.

<sup>19</sup> M. Chairul Basrun Umanailo et al, "Utilization of Qualitative Methods in Research Universities," *Education science*, vol. 21 (2019), pp. 2076–81.

<sup>20</sup> Tamir Moustafa, "Islamic law, <sup>32</sup> men's rights, and popular legal consciousness in Malaysia," *Law & Social Inquiry*, vol. 38, no. 1 (2013), pp. 168–88.

<sup>21</sup> Donald M. Miller, <sup>59</sup> et. al, "c-Myc and cancer metabolism," *Clinical cancer research* (AACR, 2012).

Islamic regulation proceeded with the Chancellor; there are *qoth'i* and *ta'zir*. *Qoth'i* implies that the arrangements are now contained in the Quranic texts, for example, the law of kisos and the law of cutting hands, while for those that are *ta'zir*, the development of the law is passed on to the choice of the ruler.<sup>22</sup> All Islamic qualities can enter the two fields, relying upon legitimate governmental issues. "This is in the same place as our job as Muslims to shading state regulation with Islamic regulation, both through conventional establishments, for example, the DPR and the Courts and through taklim congregations like this (Islamic associations)," added the Chancellor. The issue that generally hits Islamic regulation is the security of common liberties; Islamic regulation is generally supposed to be horrible and prejudicial. Hence, please proceed with the Chancellor; it is essential to express the assurance of fundamental freedoms in Islamic regulation; First, Islamic regulation ensures individuals embrace religion as indicated by their particular convictions, Islam safeguards non-Muslims. Islam does not force its convictions on individuals of different religions. Then, at that point, Islam gives the opportunity of room to think and talk.<sup>23</sup>

This is as per the expression of God in the Quran (Al-Baqarah [2]: 256), which peruses, "There is no impulse to (enter) religion (Islam); Verily, the correct way is more apparent than the incorrect way.<sup>24</sup> Accordingly, whoever distrusts in Thaghut and has confidence in Allah, then to be sure, he has clung to an excellent bunch that will not break; also, Allah is All-Hearing, All-Knowing. The Koran cautions individuals who do not utilize their brains, make their psyches work, and follow things that are not satisfactory; it additionally cautions not to follow strange notions and fantasies and to submit aimlessly to customs and customs (see UUD 45 and different regulations on the opportunity of

<sup>22</sup> Edi Setiadi et al, "Religiosity improvement and development of Islamic spirit: Case study of lecturers and education personnel in Universitas Islam Bandung," *Abqari Journal*, vol. 22, no. 2 (2020), pp. 8–20.

<sup>23</sup> Lorenzo Vidino, "Carrie Rosefsky Wickham, The Muslim Brotherhood: evolution of an Islamist movement", (Taylor & Francis, 2015).

<sup>24</sup> <sup>62</sup> zza Basarudin, "In search of faithful citizens in postcolonial Malaysia: Islamic ethics, Muslim activism, and feminist politics," *Women and Islam*, (2010), pp. 93–128.

articulation). Second, the right to life, autonomy, and self-security. This is as per the expression of Allah in the Quran (An-Nisa [3]:29), which peruses, “O you who accept, do not eat each other’s property in a vanity way, besides through trade that applies with shared assent. Like between you, do not off yourself.”<sup>25</sup>

## Post-Independence Islamic Law

Indonesia’s historical backdrop of Islamic life has been perceived as social power. However, Islam is kept from figuring out the Indonesian country as per the Islamic form.<sup>26</sup> As a moral and social power, Islam is perceived for its presence, however, not as a genuinely political power. Resulting improvements during the Old Order time, Islam has been given a specific spot in an incomprehensible setup, particularly in the political world. While the New Order, it appears that Islam is just perceived as an ethical reason for advancing the country and the state. The Islamic separation has to be sure started when Indonesia’s face (belief system) will be resolved so different enemy of Islamic government developments and logical inconsistencies emerge because of dissatisfaction with the arrangement of the Pancasila State. As the State of Indonesia.<sup>27</sup>

This tremendous development of Islam occurred in various regions in Indonesia, remembering West Java in 1949-1962, Central Java in 1965, Sulawesi in 1965, Kalimantan in 1963, and Aceh in 1953, which ended in 1957.<sup>28</sup> Islam received strong opposition from the conservative Indonesian armed forces because it was considered to be against and accommodating to public authorities

<sup>25</sup> Tassadaq Hussain, “Muslim women who veil and Article 9 of the European Convention on Human Rights: A socio-legal critique” PhD Thesis, University of Central Lancashire, 2016).

<sup>26</sup> Ariel Heryanto, “Upgraded piety and pleasure: The new middle class and Islam in Indonesian popular culture,” *Islam and popular culture in Indonesia and Malaysia*, (Routledge, 2011), pp. 76–98.

<sup>27</sup> Ratu Aulia dan Nuzon Sugito, “Implementation of Pancasila in Developing Nation During the COVID-19 Pandemic,” dalam *1st International Conference on Character Education (ICCE 2020)* (Atlantis Press, 2021), pp. 201–7.

<sup>28</sup> Rizqa Noor Abdi, Joni Wijayanto, dan I. Wayan Midhio, “Aspek Diplomasi, Strategi Pertahanan Semesta, dan Irregular Warfare dalam Penanganan Gerakan Disintegrasi di Indonesia,” *Mimbar Agama Budaya*, vol. 37, no. 1 (2020), pp. 8–12.

and carried out rebellions everywhere, including the West Java DI/TII Movement led by Sekarmaji Kartosuwiryo, Central Java DI/TII Movement led by Amir Fattah, Rebellion in South Sulawesi was led by Kahar Muzakkar, the Revolt in South Kalimantan was led by Ibnu Hadjar, and the Rebellion in Aceh was led by David Bereueh.<sup>29</sup> After Indonesia’s independence, the receipt theory received sharp criticism from various groups, especially Huzairin. Finally, after the proclamation of independence on August 17, 1945, Islamic law received fresh air from the constitution at the opening of the 1945 Constitution, which was started in the first principle, which reads “Belief in One Almighty,” which is the basis of religion in Indonesia, so that the implementation of Islamic law no longer depends on customary law, which is then known as the receptive exit theory. So, on January 3, 1946, the Ministry of Religion was formed to take care of various matters relating to religious matters, including Islamic law in Indonesia, and in the same year, Law Number 22 of 1946 was issued.<sup>30</sup>

## Contemporary Islamic Law in Indonesia

Nanggroe Aceh Darussalam (NAD) has issued various regional regulations/qanuns. It was adopting Islamic law, among others. Perda no. 5 of 2001 concerning Shari’ah Judiciary Islam, Aceh Province Qanun No. 11 of 2002 Concerning the Duties and Functions of the Regional Police of NAD was proof.<sup>31</sup> The relationship between Islamic law and national development in Indonesia can be seen in the TAP issued by the People’s Consultative Assembly (MPR) on the Outlines of State Policy (GBHN).<sup>32</sup> Indonesia is not an Islamic state. However, the role and contribution of Islamic law in informing national law is undeniable. Almost all of the requirements, pillars, sharia, paid

<sup>29</sup> Harison Citrawan, “The Past is Another Country: Designing Amnesty Law for Past Human Rights Violators,” *Indon. L. Rev.*, vol. 6 (2016), pp. 225.

<sup>30</sup> Ham Muslih, Nurdin Nurdin, dan Marzuki Marzuki, “Effectiveness of Marriage Services Through Information System Management (SIMKAH) at Palu City Religious Court,” *International Journal of Contemporary Islamic Law and Society*, vol. 2, no. 1 (2020), pp. 20–35.

<sup>31</sup> Rizaj Iskandar Usman, “AUTHORITY CONFLICT OF ACEH’S QANUN REVIEW BETWEEN THE MINISTRY OF HOME AFFAIRS AND THE SUPREME COURT,” *al-Afkar, Journal For Islamic Studies*, vol. 4, no. 2 (2021), pp. 331–40.

(cancellation), waiting for time grace (*iddah*), and everything related to marriage is sourced from Islamic law.<sup>32</sup> Islamic law has a higher and eternal goal, namely the achievement of the goal of a happy life in the world and the hereafter. The author dramatically admires this law because it does not use the terminology used in Islamic law, but in its substance, there are many articles following Islamic law so that in its implementation, it can be accepted by all citizens of the Republic of Indonesia. Because to ground Islamic law in Indonesia, sometimes we do not need to impose the terminology in Islamic law, considering that Indonesia is a country inhabited by various.<sup>33</sup>

It is explained here that the religious courts are specifically for Muslims who are tasked with examining, deciding, and resolving civil cases in the fields of marriage, inheritance, grants, endowments, and alms following Islamic law, as one of the efforts carried out in Islamic law in protecting the community by upholding justice, truth, order, and legal certainty in the context of realizing a prosperous, safe, peaceful and orderly nation's life.<sup>34</sup> Here, several provisions are regulated, starting from the proposal the guardian marriage, witness, marriage contract, dowry, marriage prohibition, marriage agreement, marriage prevention, marriage annulment, having more than one wife, pregnant marriage, the position of husband and wife, rights and obligations of husband and wife, assets in the marriage, termination of marital employment, procedures for divorce, due to dissolution of marriage, *iddah*, due to divorce, and procedures for reconciliation. Even the obligations of a husband who has more than one wife have been regulated in the compilation of Islamic law; it does not stop there but also regulates the maintenance of children because the family is the smallest unit in society.<sup>35</sup>

<sup>32</sup> Ahlawi Dahlawi, Saddam Rasanjani, dan Herizal Herizal, "Zakat as a Local Revenue in Aceh: A Dynamics of Policy Implementation in the Local Realm," *Jurnal Ilmiah Al-Syir'ah*, vol. 19, no. 2 (2021), pp. 200–217.

<sup>40</sup> Simon Butt, "Islam, the state and the Constitutional Court in Indonesia," *Pac. Rim L. & Pol'y J*, vol. 19 (2010), p. 279.

<sup>3</sup> Luis Nurlaelawati, *Modernization, tradition and identity: The Kompilasi Hukum Islam and legal practice in the Indonesian religious courts*, vol. 4 (Amsterdam University Press, 2010).

<sup>35</sup> Mark E. Cammack dan Michael Feener, "The Islamic legal system in Indonesia," *Pac. Rim L. & Pol'y J*, vol. 21 (2012), p. 13.

## Islamic Law & National Welfare Improvement

In the modern era, the Indonesian people live amid an individualistic and materialistic civilization.<sup>36</sup> This is inseparable from the influence of the era of globalization which is full of fierce competition, where the strong tend to beat the weak so that the sense of humanism is torn apart by an increasingly uncontrollable egoism. To deal with anticipate this situation, generosity is needed to improve the economic standard of living of the poor experiencing concerns. The spirit of generosity no longer brings effective results if a few people only carry it out, but a comprehensive government effort must be implemented, including a national zakat management law. In addition to zakat, Islamic law offers other concepts<sup>37</sup> in Indonesia, namely *infaq*, alms, grants, and *kafarat*, where this law gives freedom to zakat management institutions to be used for productive businesses.

There are many zakat management institutions for the welfare of the *ummah*, especially for Indonesian Muslims trapped in poverty, such as establishing special accessible health facilities for the underprivileged, scholarships for children who excel but are economically disadvantaged, and providing entrepreneurship, skills, capital training to underprivileged communities to free them from the shackles of poverty into life.<sup>38</sup> One of the reasons for Indonesian Muslims who are trapped in poverty is because wealth only accumulates in a few people and is selfish. For this reason, the concept of zakat in Islamic law is a mechanism that can channel wealth owned to people who are unable to issue zakat in order to realize the welfare of Muslims, especially those who are less fortunate. lucky at least for the benefit of their consumption following the essence of the purpose of zakat, namely fighting poverty, where

<sup>36</sup> Helza Nova Lita, "The Implementation of Waqf to Actualize Economic Justice Based on Islamic Law," *Adjajaran Journal of Law*, vol. 7, no. 1 (2020), pp. 1–18.

<sup>27</sup> Ian Syauqi Beik, Mohd Hasbi Zaenal, dan Abdul Aziz Yahya Saoqi, "How Islamic Ethical Wealth May Strategically and Technically Support 'Reduced Inequality' Mission?," in *Islamic Wealth and the SDGs* (Springer, 2021), pp. 359–72.

<sup>16</sup> Mohammed B. Yusoff, "Zakat expenditure, school enrollment, and economic growth in Malaysia," *International Journal of Business and Social Science*, vol. 2, no. 6 (2011), pp. 175–81.

the object of zakat realization is helping, assisting, fostering and fostering the poor, creating justice and prosperity. These methods, among other things, have brought about a commonality of view between Islamic law and goals and the goals of state development.<sup>39</sup>

Islamic law and buoyant law demand complete loyalty to the same object, namely, the state and the Indonesian government are essential. State laws and regulations and religious law (sharia) always have positive communication and interaction, complementing each other. After Indonesia's independence, Islamic law in Indonesia continued to apply as positive Indonesian law, based on Article 29 of the 1945 Constitution, Articles I and 26 of the Transitional rules of the 1945 Constitution, and the First Precepts of Pancasila. Humans and the surrounding environment or all God's creatures, while positive law only regulates human behavior in their interactions in society. In addition, it can also be stated that currently, 35 the legal system in Indonesia, the position of Islamic law is the same as 52 customary law and western law. Islamic law is the source for forming future National Laws and other existing laws growing and developing in the Republic of Indonesia. Therefore, this study must be carried out to gain an in-depth understanding of the relevance of positive law and religious law or sharia. 7

### Islamic Law & National Economic Improvement

8 Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking is necessary for the execution of Islamic lessons which urge Muslims to develop resources as financial security towards a quiet life by noticing specific cutoff points controlled in the law of *muamalat*, banking.<sup>40</sup> The presence of sharia in Indonesia is one of the endeavors to foster a general financial framework given Islamic regulation in light of the upsides of equity, fellowship, and advantage following sharia standards, following Indonesia's public improvement

objectives for the formation of a fair and prosperous society. Because of the financial majority rules system to work on the way of life, the general public. Islamic banking is everything connected with Islamic banks and Sharia Business Units, including establishments, business exercises, and techniques and cycles in doing their business exercises aimed at individuals' economy. They are evenhanded, free, involved, fair, and ready to contend on the planet. A global financial field like Islamic Commercial Banks and Sharia Rural Banks.<sup>41</sup>

In propelling the privileges of society, Islamic regulation should be visible from the standards and standards of Islamic banking, which have specificities contrasted with regular banking, for example, the idea of denying usury, in particular the expansion of unlawful pay, including trade exchanges of comparative products that are not of a similar quality, amount, and fall.<sup>42</sup> On the other hand, loaning and acquiring exchanges require the client to get a discount office that surpasses the credit head because of nasal/time travel and the idea of *wadi'ah* contract (holding products/cash) between the proprietor of the merchandise/cash and the bank to keep up with the wellbeing, security, and trustworthiness of the products/cash), *mudharabah* (participation between forthcoming clients/proprietors of venture reserves and the bank by sharing business benefits as per common understanding), conversation (a collaboration between the proprietor of the assets and the bank for specific organizations in which each party gives a piece of the assets given that benefits are partitioned by the arrangement, while misfortunes are shared by their separate bits, *salam* (financing a thing by requesting and addressing the cost ahead of time with conditions settled upon), *istishna'*.<sup>43</sup> Specific merchandise with explicit measures and particular circumstances are settled upon between the purchaser or purchaser and vendor or producer), *qardh* (advances of assets to clients

<sup>39</sup> Shahid M. Khan, "Qualitative research method-phenomenology," *Asian Social Science*, vol. 10, no. 21 (2014), p. 298. 44

<sup>40</sup> Anondho Wijanarko et al, "Enhanced *Chlorella vulgaris* Buitenzorg growth by photon flux density alteration in serial photobioreactors," *Biotechnology and Bioprocess Engineering*, vol. 13, no. 4 (2008), pp. 476-82. 29

<sup>41</sup> Moh Rifai, "Konsep perbankan syariah," 2021.

<sup>42</sup> Ayra 57 Rajdi Dusuki dan Said Bouheraoua, "The framework of Maqasid al-Shari'ah and its implication for Islamic finance," *ICR Journal*, vol. 2, no. 2 (2011), pp. 316-36.

<sup>43</sup> Nunung Rodliah, Rofa'ah Setyowati, dan 53 Astuti Abubakar, "Sharia Governance On Islamic Banking: Spiritual Rights Perspective On Consumer Protection In Indonesia," *Diponegoro Law Review*, vol. 2, no. 1 (2017), pp. 227-44.

20 On the condition that the client is obliged to return the assets got at the concurred time), *hawalah* (move of obligation from the party who owes the obligation to the outsider), obliged to bear or pay), *kafalah* (giving an assurance given by one party to another, where the safety net provider is answerable for taking care of the obligation which is the right of the beneficiary of the assurance), *wakalah*, and the guideline of benefit-sharing keeping the standards of Islamic regulation—the primary standards of Islamic banking. First is the forbiddance of usury in quite a while, for example, *maisir* (exchanges that rely upon dubious and incidental circumstances), *gharar* (exchanges whose article is muddled, not possessed, whose whereabouts are obscure, or cannot be submitted at that point). The exchange is made). except if in any case specified in Islamic regulation), it is haram and can cause hatred between people, it can likewise prompt narcissism to enhance oneself even by causing others to experience like a type of human colonization of different people.<sup>44</sup>

Second, utilizing a benefit-sharing framework, with this guideline, can establish a stable and fair venture environment since everything gatherings can share both the benefits and the potential dangers that emerge to make a decent situation between the bank and its clients in the long haul. This will support monetary value. The public economy even has the possibility of conquering the monetary emergency in Indonesia, because the advantages are delighted in by the proprietors of capital and the administrators of capital keeping the standards of Islamic regulation in *mu'amalat*. In particular, focusing on the public interest above private interests. So Islamic regulation stringently disallows individuals who need to be rich for individual addition to the detriment of others.<sup>45</sup>

## Conclusion

We can conclude that we summarize the study's findings at the end of this section. Search for the

<sup>44</sup> Martika Marella Vanni, "ANALISIS FAKTOR-FAKTOR YANG MEMPENGARUHI NON PERFORMING FINANCING PADA PERBANKAN SYARIAH DI INDONESIA TAHUN 2011-2016," (PhD Thesis, STAIN Kudus, 2017).

<sup>45</sup> Baker Ahmad Alserhan, *The principles of Islamic marketing*, (Routledge, 2017).

6 relevance of Islamic law to the laws of the Republic of Indonesia. In principle, both aim to obtain order and principles that will ultimately make the feeling of high accountability responsible for having legal independence and fairness in carrying out functions and justice throughout the nation. This relevance also has stages where both Islam and countries that have succeeded in applying the principles of the order must use stages that include, for example, increasing citizens' legal awareness and evaluating and developing social justice principles so that for the Indonesian category, for example, this is successful in line with the development of various laws of impact from the global era<sup>39</sup> that the application of Islamic law is juxtaposed with state law.

Then there is also an increase in state revenues and expenditures, which will become public participation in managing these essential principles in companies with the elemental spirit of state administration and law and ummah justice. This is important because of the direct benefits felt by the state and society in realizing the principles of safety in a good state and community governance so that the state can increase the productivity of its leadership efficiency. Because through the relevance analysis, the application of these two sources of law can see that some have not been seen so far because of the principle of justice and the response of the community to the principles of prosperity and justice and defense as well as the companies in carrying out their missions. Thus, through this study, the parties will get good benefits, of course, it will have an impact on members of the community, both national and international, whereby having sound Islamic and state legal principles in management, will undoubtedly increase peace and togetherness and increase the excellent status of community members as well as the government.

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