PRINCIPLE OF ISLAMIC LAW IN THE NATIONAL CRIMINAL ACTION (KUHP)

by : **MUJAHID IMADUDDIN1, ZAINAL ASIKIN2 and MUHAIMIN3**

Submission date: 22-Jun-2023 11:34AM (UTC-0500)
Submission ID: 2120946817
File name: PRINCIPLE_OF_ISLAMIC_LAW_IN_THE_NATIONAL_CRIMINAL.pdf (367.08K)
Word count: 15008
Character count: 78527

The Seybold Report

ISSN 1533-9211

DOI 10.17605/OSF.IO/X2JMG

PRINCIPLE OF ISLAMIC LAW IN THE NATIONAL CRIMINAL ACTION (KUHP)

MUJAHID IMADUDDIN[1], ZAINAL ASIKIN[2] and MUHAIMIN[3]

[1, 2, 3]Doctor of Law Program, Faculty of Law, University of Mataram, Indonesia.

Abstract

Islamic law as one of the important elements in the development of national law, empirically is a living law in society. There is conformity in substance or philosophical value to the formulation of principles and legal objectives (maqoshid al-shari'ah) of Islamic law with the values aspired to by the development of national law. National law is based on Pancasila values, upholds divine and human values that are just and civilized, but there are still many legal products in it that are contrary to the echoed values of Pancasila, including the offense of adultery in both the old Criminal Code and the Criminal Code 2022 which is colored by the values of individualism and liberalism which are very much against Islamic law and local cultures are reflected in Pancasila. The issues raised in this dissertation are (1) How are the principles of Islamic law in the development of national law? (2) How is the implementation of Islamic law principles in the development of national law? And (3) what is the Reformulation of Articles of Adultery in the National Criminal Code? This research is normative legal research. In summary, the results of this study are: (1) Islamic law has had a lot of influence on the development of national law, especially on the principles, principles and values contained therein. Many statutory products have been produced, but it is undeniable that there are still many statutory products that are still inconsistent and even contradictory to Pancasila, including crimes related to adultery (overspel) in the Old Criminal Code and the 2022 Criminal Code. (2) Implementation of the principles of Islamic law in the development of national law through two interrelated processes, starting with a purification process, followed by the integration of two concepts that are almost the same, or two concepts that are different, but have the same principles, and values. (3) Overspel offense Article 284 of the Old Criminal Code is contrary to Pancasila values which uphold religious and cultural values. As for the 2022 Criminal Code, article 411 of the offense of adultery, although it includes an expansion of the meaning and an increase in punishment from the previous Criminal Code, it is not fully in accordance with the principles of Islamic law, so it is necessary to reformulate it. It is hoped that this research can fill in or contribute new concepts or theories for the development of Indonesian national law, as well as role models in the preparation of statutory products.

Keywords: Principles, Islamic Law, Adultery Crime, National Criminal Code

INTRODUCTION

The State of Indonesia is a unitary state in the form of a republic with sovereignty in the hands of the people and carried out entirely by the People's Consultative Assembly (MPR). Pancasila is the ideal foundation of the state, and the 1945 Constitution is the structural foundation of the state, describing the Indonesian state as one that values and respects religious life.[1]

Until now, in the Republic of Indonesia various legal systems apply namely the customary law system, Islamic law, and Western law (both civil law and common law or Anglo-Saxon law). From the perspective of these three laws, customary law and Islamic law have a very close relationship with religion, and Islamic law is part of a series of Islamic religious structures.[2]

Islamic law is an aspect of Islamic teachings that occupies an important position in the view of Islam, because it is the most concrete manifestation of Islam as a religion. This is the

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

importance of Islamic law in the Islamic teaching system. Therefore, an Orientalist named Yoseph, believes that it is impossible to understand Islam without understanding Islamic law.[3]

In understanding Islamic law, it cannot be fragmented or separated from the understanding of Islam itself as a whole.[4] In order not to misunderstand Islamic law because you understand Islamic law from a perspective that is not an Islamic perspective. Viewing Islamic law must be from worldview Islam.

Islamic law must be done with faith or accompanied by aqidah. Without aqidah, Islamic law has no meaning. Aqidah or faith must also be proven in deeds or deeds. Without charity, one's faith is imperfect, because one's actions are based on belief. Faith contains the meaning of belief in the heart, verbal vows and most importantly practice with the limbs.[5] So an understanding of Islamic law must also be accompanied by an understanding related to aqidah or faith, and proven by deeds. Knowledge (shari'ah/Islamic law), faith (aqidah), and actions (akhlaq) in Islam culminate in the right perspective or in a general sense it is called the Islamic worldview.[6]

Prior to the arrival of the Belanda colonialists, Islamic law actually had its own position in Indonesia,[7] and had even been practiced and developed within the community and Islamic courts,[8] this provided a constitutional place in the development of national law.

The reasons for Islamic Law having the right to a constitutional place in Indonesia,[9] First; philosophical reasons, Islamic teachings are a way of life, moral ideals and legal ideals of the majority of Muslims in Indonesia, and this has an important role for the creation of the fundamental norms of the Pancasila state; Second; Sociological reasons. The development of the history of Indonesian Islamic society shows that legal ideals and legal awareness based on Islamic teachings have a continuous level of actuality; and Third; The juridical reasons contained in Article 29 of the 1945 Constitution provide a place for the application of Islamic law in a formal juridical manner.

The study of Islamic law legislation in the context of a country's legal system always raises two faces of Islamic law itself, namely the universal face and the particular face.[10] Islamic law has a universal face in its understanding as Islamic shari'ah which originates from the Al-Qur'an and the hadith of the Prophet Muhammad SAW. At the same time, examine the particularity of Islamic law from various aspects and characteristics of each Muslim country. For example, the application of Islamic law in Indonesia has distinct systems, contents and forms.

The universality and particularity of Islamic law is also motivated by the two dimensions of Islamic law itself, namely the divine dimension (ilahiyyah) and the human dimension (insaniyyah). The divine dimension is an illustration that Islamic law stipulates directly from the revelation of Allah SWT so that its sacredness and sanctity are maintained. The divine dimension of Islamic law makes it unrestricted by geographical, historical, sociological or political barriers.

Meanwhile, the human dimension is an illustration that the details (furu') of Islamic law are the result of efforts by the Muslim community to understand Islamic teachings through a deep

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

understanding of aspects of language and the purpose of enforcing shari'a (Maqoshid Al-Syari'ah).[11]

At least, there are three main considerations regarding the urgency of Islamic law legislation in Indonesia. First, Muslims in Indonesia are not only the majority population in Indonesia but also in the world. Therefore, the application of Islamic law in Indonesia does not only reward the Indonesian people, but also serves as a barometer for the enforcement of Islamic law for other Muslim countries.

Second, Pancasila, as the basis of the state, has provided an open space for the implementation of Islamic law for its adherents. Third, one of the national development programs is directed at the national legal development agenda, this national legal development agenda opens up great opportunities for the absorption of Islamic legal norms as well as an effort to transform Islamic legal norms into state legislation products. This is because the national legal development agenda itself, in this case the legal legislation process, takes raw materials from Western (International) legal norms, customary law, and Islamic law. The divine dimension and the human dimension that Islamic law has make it in line with the national law development agenda mentioned above.[12]

The principles of legislation or the formation of Islamic law are included in the main objectives of forming Islamic law. In the classic literature it is found that Islamic law has principles contained in maqasid al-shari`ah. In general, the determination of Islamic law is for the benefit of the ummah. The purpose of establishing Islamic law is for the happiness and welfare of mankind both in this world and in the hereafter.[13] Because of that the scholars say, the stipulation of shari'ah is for the benefit of humans in this world and the hereafter simultaneously. Both the benefits are adh-dharuriyyat (primary), al-hajiyyat (secondary), and at-tahsiniyyat (tertiary).

In Western legal philosophy theory, generally speaking, the purpose of law itself is to achieve justice, certainty and usability.[14] This shows that maqosid al-shari'ah (objectives of Islamic law) and the West are essentially formed for human needs, both humans as individuals and humans in society. Islamic law is compatible with any system as long as it contains real benefits, and is very much in line with Pancasila as the philosophical basis for forming just and civilized legislation and has a mission to prosper society.

Pancasila in the formation of the 1945 Constitution not only outlines the goals of the state but at the same time serves as the fundamental principles of the state which must become the basis (principle) in the development of national law. Pancasila is also a philosophical foundation in the Criminal Procedure Code (KUHAP) as can be read in letter a considerations, especially those that are closely related to the precepts of God and Humanity.[15]

Based on the precepts of God, the Criminal Procedure Code recognizes that every law enforcement officer or suspect or defendant is a human being who is dependent on God, that is, a creature that depends on God, because all creatures without exception are God's creation.

The precepts of belief in one true God are precepts that have a special status because they are

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

not in the creation of the human mind. The other four precepts, namely the precepts of Humanity, Indonesian Unity, Democracy and Social Justice, are the result of social life and human experience itself, which gives rise to a normative culture in its entirety of cultural, material and spiritual life.[16]

The philosophical foundation of Belief in the One and Only God and Humanity that is Just and Civilized is the main foundation of ideals and motivation besides other precepts in the development of national law. The development of national law is defined as building knowledge or concepts about national law which is the development of value concepts or development of legal culture, which is built with the cultural paradigm of Pancasila ideology, namely the paradigm of religious morality, humanity, nationality, democracy and the paradigm of social justice. In this context the concept to be developed is the concept of legislation based on the values of Pancasila which is Godly and humane which is just and civilized.

Here we see that Pancasila as the philosophical basis for the development of national law is composed of divine and human values which cannot be separated from divine values themselves as creatures created by God who acknowledge the Oneness of God. We can also understand that the meaning of "Fair" and "Adab" is not limited to our relationship with fellow human beings, but also our relationship to God Almighty. It is this divine dimension and the human dimension that are characteristic of Islamic law in the development of national law, so that the process of integrating legal principles is indispensable in the development of just and civilized national law.

The integration of Islamic law into the Indonesian national legal system has implications for the internalization of Islamic legal norms into national legal norms, both material legal norms and formal legal norms. Formal Islamic legal norms include principles and principles as a result of the formulation of the scholars based on the Qur'an and the hadith of the Prophet SAW.[17]

With this legal integration, it is hoped that it will be able to produce legal products that do not conflict with God and Humanity which are contained in Pancasila. The values of Divinity, Humanity, Justice, Adab, Morals, Unity, Democracy, Deliberation, Indonesianness characterize the development of an ideal national law. This is a law of value. The real law.

In fact, there are still many legal products that are still unable to contain moral content, manners, morals, local cultural values, and religion. There are still many legal products that are not in accordance with the purpose of the law itself. Ironically, too many policy makers and legislators are immoral, not reflecting the Pancasila values that are always echoed.

The issue of adultery offenses is a clear example of a conflict between the meaning and meaning of adultery in the Criminal Code and the social interests/values of society. Clashes that often occur in society often give rise to new crimes such as murder, persecution, and vigilanteism. This is exacerbated by the weak practice of law enforcement.

Basically, the current legal system in Indonesia also regulates matters related to adultery. Judging from the purpose of the law, both Islamic law and law in general, adultery law in Indonesia has its own polemic ranging from provisions to the application of sanctions. The law

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

governing adultery in the Criminal Code (KUHP) is deemed irrelevant to be applied in Indonesian society, moreover adultery in Indonesia is considered an act that is highly inappropriate and contrary to morals and norms in a cultured society. Regulations regarding adultery are contained in Article 284 of the Old Criminal Code, and Article 411 of the 2022 Criminal Code.

In the Old Criminal Code (KUHP), Article 284 of the Criminal Code only defines adultery as overspel, where the act of intercourse is committed by a man or woman who is married to a woman or man who is not his wife or husband, with a maximum penalty of 9 (nine) No. As for the Criminal Code 2022 article 411 offense of adultery, even though it includes an expansion of the meaning and an increase in punishment from the previous Criminal Code, it seems that it just exists, adultery is still considered an ordinary offense that does not require a heavy penalty. We can understand this because the old Criminal Code was drafted by the Dutch colonialists who had different views from the public's view of adultery.[18] While the 2022 Criminal Code still has the color of the Old Criminal Code, it does not fully accommodate Pancasila values, which include religious and local cultural values, based on the principles of Islamic law.

This is where we see the occurrence of legal ambiguity related to adultery offenses, which are progressive in nature adapting to the values of social life of the Indonesian people in general, which are based on Pancasila. This legal ambiguity led to rampant adultery cases, which in turn had an impact on the disruption of social order, including an increase in related cases, such as rape, murder, lynching, divorce, abortion, etc.

This work is here to explore the problems of legal products in Indonesia, to read the paradigm that drives the system, and to further attempt to offer a new concept of law formulation that is more humane and based on religious (Islamic) values and Pancasila.

This paradigmatic framework will eventually lead to one point, namely the integration of the principles of Islamic law into the national legal system. As for efforts to compare the national legal system with the Islamic legal system for later integration, here at least there are two steps that must be taken, namely Purification and Integration, with reference to the objectives of maqosid al-shari'ah Islamic law.

The product of Islamic law legislation that has been integrated is then not named the "Shari'at Law" but "National Law" in accordance with the Indonesian national constitution which does not state that the Republic of Indonesia is an Islamic state.

With this, the author considers that by understanding the principles of Islamic law that are integrated with the values of Pancasila and local values, it can become a guideline, foothold, standard values and goals for policy bearers and law product makers to produce godly, civilized legal products, moral, and have a just and civilized humanity.

The Seybold Report

ISSN 1533-9211

DOI 10.17605/OSF.IO/X2JMG

METHOD

Types of Research

Research is a means or search effort to develop science and technology by finding, and presenting a truth by conducting analysis. According to Peter Mahmud Marzuki, "legal research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand.[19] According to Morris L. Cohen and Kent C. Olson stated that "Legal research is an essential component of legal practice. It is the process of finding the law that governs an activity and materials that explain or analyze that law".[20] Soerjono Soekanto argued that, in legal science there are two types of legal research, namely normative legal research and sociological or empirical legal research.[21]

This study is normative legal study, also known as doctrinal legal study, also known as library law study. It is called doctrinal legal research because this research is carried out or aimed at written regulations or other legal materials, while it is referred to as library research or document study because this research is mostly done on secondary legal materials in the library.[22] These materials will be analyzed and written down systematically in order to obtain views on Islamic legal thinking and national law.

Approach Method

In finding answers to the legal issues under study, the authors need an approach to obtain information from various aspects according to the characteristics of the legal issues in question. There are several approaches in this research, including:

1. **Statute Approach**

   Is an approach method that is carried out by examining and researching all juridical norm, principles, and legal norms that live in society, especially those related to Islamic law and the offense of adultery in the Criminal Code?

2. **Conceptual Approach**

   Is an approach that is taken by referring to legal concepts, namely through the views and doctrines that develop in the science of law, especially those related to legal issues in the writing of this research.

3. **Philosphy Approach**

   A philosophical approach is needed in order to examine legal objects and legal subjects in depth and radically, analyze the legal principles of a regulation, and answer questions related to legal issues, both in normative and empirical juridical forms, so that legal objectives can be achieved, namely improving human life. Law can foster the value of goodness in human beings.

This approach to legal philosophy discusses what the nature of law is, what its purpose is, why it exists and why people must obey it. In addition to answering these general abstract questions, legal philosophy also discusses concrete issues regarding the relationship between law and

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

morality (ethics).

Types and Sources of Legal Materials

In this research, the source of legal material used is through library sources, namely sources obtained from laws and regulations, books, and other legal materials that have relevance to the issues raised in writing this dissertation.

The legal materials used in writing this research are:

1. Primary legal materials, namely basic legal materials that cannot be replaced with other legal materials, namely legal materials originating from statutory regulations, or sources of law in Islam, including: Al-Qur'an and Al-Hadith as the main sources of law Islam, the 1945 Constitution of the Republic of Indonesia, the Old Criminal Code (KUHP), the 2022 Criminal Code
2. Secondary legal materials, namely legal materials that provide an explanation of primary legal materials, such as books and journals related to Islamic Law and National
3. Tertiary legal materials, namely legal materials that provide an explanation of primary and secondary legal materials such as legal dictionaries and black law dictionaries.

Legal Material Collection Techniques

To obtain sources of legal materials in writing this research, the authors u[100]ocument studies, namely data collection techniques that are carr[88] out by collecting library materials in the form of literature, papers, journals, magazines and laws and regulations related to the substance of the research to be carried out further. Analysis and compiled into a paper to be presented to readers related to the review of laws and regulations.

Analysis of Legal Materials

Analysis of sources of legal materials is the processing of sources of legal materials obtained by conducting a review of library materials or sources of secondary legal materials. This study conducts a descriptive and qualitative analysis of the sources of the obtained legal materials, that is, systematically describes the whole and draws conclusions using deductive techniques, that is, draws conclusions from general things to specific things.

Descriptive is the presentation of research results with the aim of getting a comprehensive but still systematic picture, especially the facts relevant to the questions to be posed in this research. Sources of Legal Materials obtained will be studied within the framework of descriptive-analytic-critical and comparative methods.

The Seybold Report

ISSN 1533-9211

DOI 10.17605/OSF.IO/X2JMG

DISCUSSION

1) IMPLEMENTATION OF THE PRINCIPLES OF ISLAMIC LAW IN THE DEVELOPMENT OF NATIONAL LAW

Development of National Law Based on Divine Precepts and Humanity that is fair and civilized.

Pancasila is the national agreement of the Indonesian nation, established as the ideology and foundation of the unified state of the Republic of Indonesia. In addition, Pancasila was also agreed upon as the basis and source of values for the Indonesian nation in society, nation and state. In other words, values contained in Pancasila should be practiced by all Indonesian people and reflect the life and state of the Indonesian nation.

But in its journey, Pancasila in the life of society, nation and state in the legal order in Indonesia, is it still the ideological basis adopted by the government and statesmen in Indonesia? and what is the actual position of Pancasila in the national legal system?

At present the development of a national legal system which is reflected in national legal politics is directed at achieving legal unification in an effort to enforce a single national legal system and to eliminate legal pluralism or legal dualism. In practice, legal unification is more inclined to the enactment of Western law, namely the common law system and civil law system, while the customary law system and the Islamic legal system have not received in-depth portion and attention. As a result, Western law, the common law system and the civil law system dominate the regulations that apply in Indonesia.

Without realizing it, the development of the national legal system has begun to lose its identity and has conflicted with ideology of Pancasila. The reason for this is because the ideological basis of Western law (common law system and civil law system) is a liberal and secular ideology as is the ideology adopted in America and Western Europe, while customary law and Islamic law which have been grounded in Indonesia for thousands of years, have become the inspiration. Pancasila ideology does not recognize or even contradicts liberalism and secularism. Thus the development of the current national legal system has led to a national legal system based on liberalism and secularism.

The above is due to the fact that in the practice of international relations in the midst of the globalization era it often happens that developing countries including Indonesia have become "victims" of the attitude of developed countries which are hypocritical and are more concerned with their national interests than the interests of the common development of nations in developing countries.[23]

Starting from these considerations, law as a source of value is very important and remains relevant in the process of renewing society today amidst the development of the ideology of globalization.[24] This is in line with Von Savigni's views in the view of the Law History school which has emphasized that law must be in accordance with the spirit of the nation (volkgeist); and in a negative sense, the law is always behind the development of society.[25] Savigni's view must be interpreted that the acceptability and credibility of law in Indonesia lies in the extent

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

to which the values contained in the law have been sovereign as the soul of the Indonesian nation.[26] Pancasila as the soul of the Indonesian nation and is a fundamental value, respects various views or values that are heterogeneous, and has grown and developed in the life of the Indonesian people since the past.

The character of Pancasila, which adheres to the notion of "different in one unit", is diametrically opposed by forming a unified thought, attitude and values into one world container without carefully considering the fact that there are differenc both geographically and geographically, culture, ethnicity, and religious diversity, including in the field of law (legal heterogeneity).

It is unrealistic to regard globalization as a world system in all fields, and it is likely to cause social a cultural conflicts, and even affect the formation and enforcement of laws. In addition to this, in the current era of economic globalization, it appears that the excesses of capitalism that have resulted in materialism have dominated the lives of Indonesian people.

This socio-cultural and legal vulnerability equires the revitalization of Pancasila as an inevitable step as the highest value system in the pyramid building of the Indonesian legal system, which is very urgent and important, considering that the strengthening of liberalism and capitalism has put materialistic values solely on things that will distance this nation from religious values, implied personal and social morality.

Liberalism cannot be separated from Western civilization.[27] The period of Western civilization which is considered very important in giving rise to liberalism is the modern and postmodern periods. The modern West (1300-1900) is the historical period of Western civilization following the rise of Western society from the Dark Ages (500-1300). In the modern period, science has developed so rapidly. Even modernity has seen science as something central in society and has finally sidelined religious beliefs.[28] From this modern period gave rise to the term modernism. Modernism can be interpreted as a movement that seeks to subordinate religious principles to the values and concepts of Western civilization and its way of thinking in all life.[29] So it is clear that in the modern period the roots of liberalism have grown and even become a separate ideology from the life of Western society.

Postmodern (1900-now) thought movement born as a protest against modernism or as a continuation of it. This is because postmodernism is more or less still based on modernism, which is dominated by the views or thoughts of liberalism, pluralism, nihilism, relativism, equality, and generally anti-worldview. John Lock, one of the modern Western philosophers, asserts that liberalism, rationalism, freedom, and equality (pluralism) are the essence of modernism. What characterizes this postmodernism system is eliminating thoughts about metaphysics or it can be called a system that is without metaphysical thinking.[30]

In line with the development of science and thought, in these two periods the ideology of liberalism was born. The trend of liberalism begins with efforts to liberate individuals in the economic and political fields. The purpose of liberation is to reduce or eliminate interference from the authorities (government) in influencing the economic and political rights of the people (society).[31] Apart from the two trends of liberalism above, Western society is also obsessed

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

with liberating itself in a broader field, namely the intellectual, religious, supernatural and even God.[32] The understanding of Pancasila states that God is the main source of the order of values, to give birth to humans who are not just humans, but a just and civilized humanity. The values of justice and adab give birth to other noble values, which originate from God.

God, apart from being the central thing in human life and the existence of the universe, is also the main and key concept in the Islamic worldview. The concept of God plays a role in designing other concepts in worldview. This is because belief in God is the deepest and most original of human instincts, so that a saying arose which reads: "There may be a city without fences, but there cannot be a city without places of worship".[33]

Prof. Hazairin, Professor of Law at the University of Indonesia argues, "That what is meant by God Almighty is Allah, with the consequence (absolute consequence) that 'Belief in the One and Only God' means the recognition of 'Oneness of Allah' or 'Sovereignty of Allah'."

So, said Hazairin, "The Republic of Indonesia is obliged to implement Islamic Shari'at for Muslims, Christian Shari'at for Christians and Balinese Hindu Shari'at for Balinese, simply carrying out this Shari'at requires the mediation of state power."[34]

In the field of law, the ideological impact of globalization has long created legal inequality because it is enforced without conscience and the law favors economically strong groups rather than weak groups; Law has already been understood as a source of disputes and at the same time as a solution to disputes, not a source of peace in a forum for deliberation and consensus.

Contrary to Pancasila's understanding of disputes, which is able to provide the best solution by "deliberation and consensus", not with Western ideology which views disputes as the basis for finding a solution in court. This is relevant to the opinion of Mochtar Kusumaatmadja, who refers to the views of Eugen Ehrlich, a leader of the school of "Sociological Jurisprudence", by saying:

"... which shows a balance between the desire to carry out legal reform through legislation on the one hand, and the awareness that in such an effort it is necessary to pay close attention to the values and realities that live in society".[35]

Mochtar's opinion is a fair solution in viewing the conflicting views of the legal history school and the sociological jurisprudence school, in the context of the development of Indonesian law.[36]

Savigni's premise regarding "Volkgeist" in the context of social, cultural and geographical heterogeneity within the Unitary State of the Republic of Indonesia lies in Pancasila as the ideology and unifying tool of the Indonesian nation even though it is not immune to the influence of the development of the international community today. The values of Pancasila which are a value system must manifest in the system of norms of a product of legislation, and the system of behavior of the legal apparatus and society. What must be done in responding to the various schools of thought/understanding above is how the government's efforts, with the support of legal academics, bring the legislative process closer to the reality of the development of Pancasila values.

The Seybold Report

ISSN 1533-9211

DOI 10.17605/OSF.IO/X2JMG

Development of National Law Based on the Precepts of Belief in the One and Only God (Allah)

The Prophet Muhammad succeeded in building Islamic civilization in Medina, namely a society that upholds adab in its life. Civilized society according to Islam is a society that glorifies people who are knowledgeable, people who are righteous, and people who are pious; not a powerful person, lots of wealth, royal lineage, good-looking, and lots of men. Therefore, if you want to refer to the Islamic concept of adab, a good leader is one who is able to build a civilized society. So, supposedly, in a civilized society, the degree of knowledgeable and pious people is distinguished from the degree of entertainers. Humans are equally human, but Allah SWT has distinguished human dignity according to their knowledge, faith and piety. This is adab in the concept of Islam.

This concept is placed in the second precept, it is logical to understand that this second precept is related to the concept of Tawhid in the first precept. This analysis is not making it up and only legitimizes that Pancasila is in accordance with Islam. The history and meaning of the basic vocabulary in Islam show that the inclusion of the terms and concepts of "fair" and "adab" in the Basic State of the Republic of Indonesia, can be said to be the result of the struggle of Islamic leaders at that time.

At the National Conference (Munas) of Alim Ulama Nahdlatul Ulama in Situbondo, East Java, on 16 Rabiulawwal 1404 H/21 December 1983 established a declaration regarding the Relations of Pancasila with Islam, which among other things emphasized: (1) Pancasila as the basis and philosophy of the Republic of Indonesia is not a religion, cannot replace religion and cannot be used to replace religion. (2) The precept "Belief in One Almighty God" as the foundation of the Republic of Indonesia according to article 29 paragraph 1 of the 1945 Constitution, which animates other precepts, reflects monotheism according to the understanding of faith in Islam. (3) For Nahdlatul Ulama (NU) Islam is faith and sharia, covering aspects of human relations with Allah and human relations.[37]

So, according to the decision of the Ulama National Conference, the meaning of the precepts of Belief in One God is monotheism and animates other precepts. Tawhid here is also emphasized: "according to the understanding of faith in Islam". The understanding that the first precept "Belief in the One and Only God" must be interpreted as monotheism in Islam is not an empty claim. The figures involved in the formulation of Pancasila themselves have emphasized that Belief in One Almighty God must indeed be interpreted as Tawhid. Mohammad Hatta, who has actively lobbied Islamic leaders to be willing to remove the seven words (with the obligation to carry out Islamic law for their adherents), from the first precept and replace it with "The Almighty" emphasized that what is meant by "Belief in the One and Only God" is monotheism in Islamic teachings.

Regardless of their respective religions and ideologies, the Indonesian people should be prepared to be honest, that the Pancasila formulation currently in effect is inseparable from the formulation of the Preamble to the 1945 Constitution, which was reinstated as a result of Presidential Decree July 5, 1959. Therefore, in understanding the precepts the first, for

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

example, cannot be separated from the third paragraph of the Preamble of the 1945 Constitution: "By the grace of Allah the Almighty...". Thus, the first precept, according to various Islamic mass organization figures, can be said to be an affirmation of the concept of Tawheed in Islam, because in the third paragraph it is clearly mentioned the name of the One God, namely Allah SWT.

In the book Life Is Struggle, 75 Years Old Kasman Singodimedjo, Prof. Kasman Singodimedjo emphasized: "And all the interpretations of Belief in the One and Only God, both interpretations according to their history and according to their meanings and meanings are in accordance with the interpretations given by Islam." [38]In his speech as Chairman of the Indonesian Ulema Council in a joint meeting with the National Defense and Security Council, 25 August 1976, Prof. Hamka explained the meaning of Belief in the One and Only God. Hamka says:

"There are those who are anxious to explain that the Belief in One Almighty God that we include in the 1945 Constitution, article 29, is not God as taught by a religion. There are also those who interpret that Belief in the One and Only God originates from the soul of the Indonesian nation itself, long before Islam came to Indonesia. These various interpretations sometimes unwittingly offend the feelings of religious people, as if God along with religious teachings cannot be mixed up with the God of the State. So, in order for this dispute to be appeased, or at least to be able to return things to their original proportions, just remember that in the Preambule of the 1945 Constitution it is clearly written: "by the grace of Allah". So, the Belief in the One and Only God in chapter 29 is not another God, but Allah! It is impossible for Preambul to have conflict and confusion with the law."[39] Of course, this is a valid understanding from the point of view of the islamic worldview, for the Muslim community. Other people are welcome to understand according to their wishes and their own vision. However, it is also out of place for them to impose a communist or secular (religious neutral) view on the Muslim community, by stating that the correct understanding of Pancasila is one that is neutral in religion, and not according to the understanding of only one religion. The Islamic Ummah will also respect it if Christians state that Belief in the One and Only God is the formulation of the concept of the Triune God. That is the right of Christians, which of course cannot be forced on Muslims.

Maqoshid Al-Syari'ah as the Principles of Islamic Law Legislation

In terms of language, maqashid al-shari'ah consists of two words, namely maqashid and al-shari'ah. Maqashid is the plural form of qosdul or maqsud which means intentionality or purpose.[40] Syari'ah literally means the way to a water source. The road to this water source can also be said to be the road to the main source of life.[41]

Meanwhile, in the sense of the term, according to Fathi al-Daraini, he said that the law was not made for the law itself, but was made for another purpose, namely benefit.[42] Meanwhile, according to Abu Zahra, in this case it is emphasized that the true aim of Islamic law is benefit.[43] And it is no exaggeration when Wael B. Hallaq states that maqasid al-shari'ah is an attempt to express an emphasis on the relationship between the content of God's law and the aspirations

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

of humane law.[44]

If we examine the meaning of shari'ah in the language above, it can be said that there is a relationship between the meaning of shari'ah and water in the sense that there is a link between means and ends. Something to aim for is certainly something very important. Shari'ah is a way or way. Water is something to aim for.

The link between shari'ah and water in this sense of language is intended to emphasize the importance of shari'ah in obtaining something important that it implies. This symbolism is quite appropriate because water is an important element in life. The urgency of this element is confirmed by the word of Allah in QS. Al-Anbiya: 30, "Did the disbelievers not know that the heavens and the earth, both of them, used to unite, then we separated them and we made everything that lives come from water? Then, do they not believe?"[45]

Islamic Shari'a which aims to realize human bene or maqasid al-shari'ah integrates divine and human aspe "Maslahah in God's taklif is in the form of essentials and majazi. The essential form is direct benefit in the sense of causality and the majazi form is the cause that brings benefit.[46]

Benefit in the objective of Islamic law is universally accepted which is manifested in five main elements, namely hifzu al-din (religion), hifzu al-'aql (reason), hifzu al-nafs (soul), hifzu al nasab (offspring) and hifzu al- mal (treasure).[47] Stratigraphy (layers) in realizing benefit is based on the level of needs that are in accordance with the proper levels of daruriyat, hajiyat, and tahsiniyat.[48]

Daruriyat needs are called primary needs and if they are not met, they will threaten hum safety in the world and in the hereaft All Shari'ah orders and prohibitions lead to the maintenance of the five main elements (religion, soul, mind, lineage and wealth). Without the maintenance of these five things, then maslahah will not be achieved perfectly.

As for hajiyat, it is not to the point of threatening but humans will experience difficulties and tahsiniyat is considered a perfecting and complementary need which is only in the order of propriety according to custom and avoids things that are not pleasing to the eye or adjustments to the guidance of norms and morals.

For example, in maintaining religious elements, the daruriyaat aspect includes establishing prayer. Prayer is an aspect of daruriyaat, the obligation to face the Qibla is an aspect of hajiyaat, and covering the genitals is an aspect of tahsiniyat.

When examined further, in an effort to achieve perfect maintenance of the five basic elements, the three maqashid levels above cannot be separated. The level of hajiyaat is a refinement of the level of daruriyaat. The tahsiniyat level is a refinement of the hajiyaat level. Meanwhile, daruriyaat is the essence of hajiyaat and tahsiniyat.[49]

The above shows that the use of dlarury rights is not only a defens measure for each individual. More than that, it is a repressive effort that must be rewarded to improve the quality of human, religious, economic, social, intellectual and cultural life.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

As well as with hajiyaat (secondary needs) which is a human need to make it easier, widen, and repeat deferred burdens and fatigue in life. In several studies of fiqh-ushul fiqh, the description of this is a vertical ritual. As previously described, this interpretation needs to be interpreted so that it is more in touch with social needs. Economic burdens, social burdens, political burdens and so on are various burdens of life which in real terms require spaciousness and convenience from religious texts. Thus maqasid al-shari'ah will never lose context with the real life of society.

The same as the third, tahsiniyat (tertiary needs), namely the needs demanded by self-esteem, norms and order of life. This image is related to the need for the beauty of human appearance. In ushul fiqh studies, this description is usually related to the provision of clothing, vehicles and additional food. This study is not wrong, but if it is related to the reality of life, the meaning as above is not grounded. Cases of drought, famine, deforestation, floods, landslides, global warnings, and others can be categorized as fulfilling pilgrimage needs.

The discussion about the formation or development of law, which in ushul fiqh terms is called ijtihad, is very closely related to social changes that occur in society. In general, ijtihad can be said as an effort to think optimally in exploring Islamic law from its source to obtain answers to legal problems that arise in society.

There is an interplay between ijtihad efforts on the one hand and the need for social change on the other. Ijtihad, either directly or indirectly, is influenced by social changes caused by, among other things, advances in science and technology, while it is realized that these social changes must be given direction by law, so as to realize the needs and benefits of mankind.

Al-Tiwana argues that ijtihad can be divided into three objects: 1) Ijtihad in the context of providing explanations and interpretations of nash, 2) Ijtihad in carrying out qiyas against existing and agreed laws, and 3) Ijtihad in the sense of using ra' yu.[50]

In the sociology of law, law in the above position is required to play a very important dual role, namely law can be used as a means of social control over changes that take place in human life, and law can be used as a social engineering tool[51] in order to realize the benefits of the ummah. Human beings as the ultimate goal of law itself.

Therefore, the regulation of some social problems is by means of texts in the main form only, then these social problems become the field of ijtihad. In this field, we can see the dynamics of Islamic law in anticipating developments and changes that occur in society.[52] This does not mean that social problems do not contain religious dimensions in Islam all human activities are a form of worship to Allah SWT.[53] The division above is more intended to regulate problems that do not accept change and development as well as problems that can accept change and development with various methods of ijtihad and considerations applied.

Theory of Application of Islamic Law in Indonesia

The theories referred to here are theories that have been experienced, recognized, and applied to Islamic law, especially in Indonesia. These theories prove that Islamic law exists and has its theory and that theory has been implemented by the Indonesian nation. On the contrary, these

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

theories can be used as implementation theories of Islamic law for now or in the future as long as these theories are still competent and tested.

A legal expert or an expert in Islamic law differs by including the amount of theory that can be applied to Islamic law. Juhaya S. Praja[54] presents five theories regarding the application of Islamic law. Juhaya's student, Jaih Mubarok, adopted seven theories of the application of Islamic law in Indonesia. The author in this study adopted six theories with the addition of 1 new theory from the author himself, namely (1) the theory of the creed; 2) the theory of receptie in complexu; (3) reception theory; (4) the theory of receptie exit, (5) the theory of receptie a contrario, and (6) the theory of legal existence, with the addition of the theory to (7) the theory of legal purification.

1. Creed Theory

The theory of the credo or shahada here is a theory that requires the implementation of Islamic law by those who have pledged two sentences of shahada as a logical consequence of pronouncing the shahada. This theory is taken from the Qur'an: QS. 1:5; QS.2: 179; QS.3: 7; QS.4: 13, 14, 49, 59, 63, 69; and 105; QS. 5:44, 45, 47, 50; QS. 24:51 and 52.[55]

Furthermore, Juhaya explained that the theory of the creed or creed is actually a continuation of the principle of monotheism in the philosophy of Islamic law. The principle of monotheism requires that every person who declares himself to believe in the oneness of Allah, then he must submit and obey what Allah and His Messenger have commanded. That is, a Muslim carries out the laws taken from these two sources.[56]

This theory is the same as the theory of legal authority as proposed by H.A.R. Gibb in his book, The Modem Trend of Islam (1950). According to this theory, when a Muslim accepts Islam as his religion, he accepts the authority of Islamic law against him. Sociologically, people who are already Muslim accept the authority of Islamic law, obeying Islamic law. This theory illustrates that in Islamic society there is Islamic law. Islamic law exists in Islamic society because Islamic law is obeyed by Muslims. Muslims obey Islamic laws as commanded by Allah and His apostle.[57]

2. Theory of Reception in Complexu

This theory states that for Muslims Islamic law is fully applicable because they have embraced Islam even though there are deviations in its implementation. This theory was developed by Lodewijk Willem Christian van den Berg (1854-1927).[58]

Lodewijk was in Indonesia in 1870-1887 (about 17 years). He is a legal expert who discovered and demonstrated the application of Islamic law in Indonesia. It was he who arranged for Islamic marriage and inheritance laws to be carried out by Dutch judges with the help of the princes, qadli.[59] Van den Berg said, "For indigenous people, what applies to them is the law of their religion."[60]

In the Indonesian context, this theory is built on the practice of Muslims who are so bound by Islamic law in the field of worship and al-ahwal ash-syakhshiyah. As for the fields of mu'amalah, jinayah, and siyasa, they are still largely ignored by Indonesian Muslims.[61]

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

Historically, this theory emerged as a formulation of existing legal conditions and originates from the principle of Islamic law that Islamic law applies to Muslims. Van den Berg drafted Staatsblad 1882 Number 152 which contains a provision that for native people or colonized people their religious law applies in their environment. The formulation of Islamic law is regulated through article 75 and article 78 of Staatsblad 1885 No. 2; Article 75 paragraph (3) stipulates, "Indonesian judges should apply religious laws (godsdientige wetten) and customs of the Indonesian population." Article 78 paragraph (2) stipulates that, "In the event of a civil case between fellow Indonesians or with those who are equalized, they are subject to the decision of a religious judge or to their community according to religious laws or their old provisions."[62]

3. The Reception Theory

The reception theory was put forward by Christian Snouck Hurgronye (1857-1936), which was later developed by C. van Valenhoven and Ter Haar. Snouck was an adviser to the Dutch East Indies government in 1898 regarding Islam. This theory states that for indigenous peoples, customary law basically applies. Islamic law applies if the norms of Islamic law have been accepted by society as customary law.[63]

This theory stems from Snouck's wish that indigenous people should not hold firmly to Islamic teachings, because if they do, it will be difficult for them to be influenced by Western civilization. On that. Snouck gave advice to his government as quoted by Tjun Soemardjan below.[64]

1. In religious activities in the true sense (religion in the narrow sense), the Dutch East Indies government should provide freedom honestly and completely and unconditionally for Muslims to carry out their religious teachings.
2. In the social field, the Dutch East Indies government should respect the prevailing customs and habits of the people by opening a path that can demand the standard of living of the colonial people at a calm progress toward approaching the Dutch East Indies government by providing assistance to those who take this path.
3. In the constitutional field, the Dutch East Indies government should prevent goals that could lead to or link other Pan-Islamic Movements in relation to facing the Dutch East Indies government towards the people of Eastern nations.

Efforts to spread this theory were carried out by developing the Indonesian state into 19 customary law areas where one custom and another differs. Article 134 IS states, "For indigenous people, if their law so requires, Islamic law shall apply as long as that law has been accepted by the customary law community". This article is often called the receptie article.

Real efforts made by the Dutch government in hindering the implementation of Islamic law, in the findings of Afdol and Ichtijanto, [65] are as follows:

1. Completely not including hudud and gishas issues in the field of criminal law. The criminal law was enacted and taken directly from Wetboek van Strafrect from the Netherlands which was enforced since January 1919 (Staatsblad 1915 No. 732).

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

2. In the field of state administration, Islamic teachings regarding this matter have been completely destroyed. The study of the holy verses of the Koran that provide religious lessons and the analysis of hadith in the political field of state or state administration is prohibited.
3. Narrowing down the enactment of mu'amalah law concerning marriage law and inheritance law. Specifically for Islamic inheritance, efforts are made not to apply. In this regard, the following steps have been taken:
    a. Abandoned the authority of the Religious Courts in Java and Madura, as well as South Kalimantan to try inheritance.
    b. To give authority to examine inheritance cases to Landraad.
    c. Prohibit settlement with Islamic law if the contents of customary law are not known at the place where the case is.

According to Alfian, the receptie theory is based on the assumption and idea that if indigenous people had the same culture or were close to European culture, the colonization of Indonesia would proceed well and there would be no obstacles and shocks to the power of the Dutch East Indies government. Therefore, the Dutch government approached the groups who would revive Customary Law, encouraging them to bring the Adat Law group closer to the Dutch Government.[66]

4. Reception Exit Theory

The father of this theory for Islamic law in Indonesia is Hazairin.[67] He is a Professor of Law at the University of Indonesia, who opposes the theory put forward by Snouck. He called the receptie theory the devil's theory because it contradicts the Al-Qur'an and As-Sunnah. He stated that the reception theory was broken, no longer valid, and left the Indonesian constitution since 1945 with Indonesia's independence and the enactment of the 1945 Constitution as the basis of the state; religious law that enters and becomes Indonesian law is not only Islamic, but other religious laws also apply to its adherents. Religious law in the field of civil and criminal law is absorbed into Indonesian national law. Hazairin's opinion became known as the receptie exit theory.[68]

Based on this opinion, Hazairin developed this theory, with the main ideas as follows:[69]

1. The theory of receptie has been broken, and is invalid and out of the Indonesian state administration since 1945 with the independence of the Indonesian nation and the entry into force of the 1945 Constitution and the basis of the Indonesian State. Likewise, this situation was after the Presidential Decree dated July 5, 1959 to return to the 1945 Constitution.
2. In accordance with Article 29 paragraph (1) of the 1945 Constitution, the Republic of Indonesia is obliged to establish Indonesian national law whose substance is religious law.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

3. The religious law that enters into and becomes Indonesia's national law is not only Islamic law, but also other religious law for adherents of these other religions. Religious law in the field of civil law and criminal law is absorbed into Indonesian national law. That is Indonesia's new law based on Pancasila.

The receptie exit theory put forward by Hazairin was developed by his student, Sayuthi Thalib, who wrote the book Receptio a Contrario: The Relationship between Customary Law and Islamic Law. According to this theory, for Muslims, what applies is Islamic law. New customary law is declared valid if it does not conflict with Islamic religion or Islamic law. This opinion is then called the theory of receptio a contrario.

5. Reception Exit Theory

The description of the receptie a contrario theory as explained briefly above, in Afdol's view quoting Sajuti Talib, is as follows:

1. For Muslims Islamic law applies.
2. This is in accordance with his legal beliefs and ideals, his inner and moral ideals.
3. Customary law applies to Muslims if it does not conflict with Islam and Islamic law.[70]

The theoretical framework is the opposite of acceptie theory. The difference between the recebtie exit theory and the receptie a contrario theory lies in the starting point of their thinking. Hazairin's receptie exit theory departs from the fact that since the independence of the nation, the founding of the Republic of Indonesia, the foundation of the Pancasila state, the 1945 Constitution in the Preamble and Chapter XI and the understanding of Article II of the Transitional Rules is to prioritize the basis and spirit of independence and not accept mere understanding of the transitional rules formally. The basis for the theory of receptie a contrario is based on the fact that an independent Republic of Indonesia, in accordance with inner ideals, moral ideals and awareness of the law of independence, means that there is freedom to practice religious teachings and religious law.[71]

With the formation of the Ministry of Religion and the Religious Courts, the government seems to have acknowledged the theory of receptie a contrario. However, from a legal perspective, Islamic law in Indonesia is still unwritten law.

6. Theory of Purification of Law

From previous theories on the application of Islamic law in Indonesia, it shows that Islamic law is essentially a living law in society, its existence is recognized, has colored the soul, values, principles and principles of national law, and does not conflict with the Pancasila ideology which upholds divine and human values.

However, in reality, there are still legal products that are contrary to Pancasila, which uphold local religious and cultural values, and still maintain colonial values and Western civilization. Therefore, legal purification is needed, or legal purification of the values that are considered to be contradictory. This will be further elaborated on the implementation of the principles of Islamic law in the following development of national law.

The Seybold Report

ISSN 1533-9211

DOI 10.17605/OSF.IO/X2JMG

Implementation of Islamic Law Principles in the Development of National Law

Islamic law is part of the legal system currently in effect in Islamic countries as well as in countries where the majority of the population adheres to Islam. There are countries that apply Islamic law as a whole, while others only apply certain areas. The contents contained in Islamic law cover all aspects that solve various social problems that have grown and developed since Islamic law was enacted until now. Its substance covers all aspects of human life starting from aspects of worship (al-'ubudiyah), family (ahwal al-syakhsiayah), economy (al-Mu'amalah), statehood (siyasah al-syar'iyah), criminal (al-jinayah) as well as other aspects.

All legal systems that apply in the world have legal principles and principles. Principles and legal principles are very important because they are the foundation or basis for thinking and reasoning in law enforcement and implementation.[72] Principles and legal principles are very important because they are the foundation or basis for thinking and reasoning in law enforcement and implementation. There are many legal principles, both in all fields of Islamic law, and in each field. Likewise, the principles of Islamic law are general and specific. General principles of Islamic law exist in all areas of Islamic law. Meanwhile, specific Islamic law principles exist specifically in certain fields of Islamic law such as criminal, civil, mu'amalah, and so on. Principles and principles of Islamic law are explored based on revelation which is full of values, revealed by Allah SWT. for all mankind. Its originality and internalization are adhered to by all Muslims throughout the world.[73]

The development of the principles of Islamic law and istinbath al-hukm (the methodology of interpreting and extracting law which is usually carried out in Islamic law) in the development of the science of law is very important. Islamic law has been born earlier than the law that was introduced and developed later. The principles of Islamic law are the foundation of Islamic law. Islamic law is strong or weak and compatible or not in society, depending on the principles and principles that are developed so that it is reflected in the characteristics of Islamic law in accordance with its fields. In general, the characteristics of Islamic law are: 1). Simplify and eliminate difficulties, 2). Pay attention to the stages of time or gradually, 3). Drop from the ideal value to reality in an emergency situation, 4). Everything that harms or misery the people must be eliminated or eliminated, 5). Kemudharotan cannot be eliminated with kemudharotan, 6). Typical harm is used for general harm, 7). Mild harm is used to reject heavy harm, 8). Circumstances forced to facilitate prohibited actions or actions, 9). What is permissible out of necessity, is measured according to the size required, 10). Closing the source of damage takes precedence over bringing benefit. 11). What can't be done by all, don't be abandoned by all.[74]

For the author, if there is an assumption that the principles contained in law in general or in the West are entirely derived from Western law, this is an assumption that is not quite right. Because long before Western law was born, there were already legal rules originating from the Koran and the hadith/sunnah of the Prophet Muhammad. In fact, it is very possible for Western law to be influenced by Islamic law which existed long before the birth of Western law. In general, laws that are born later cannot be free from the influence of pre-existing laws.

Philosophical values, principles, and application of techniques for the development of

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

prospective Islamic law contribute to the development of law in a broader dimension.[75] In general, the contribution of the principles and principles of Islamic law to the science of law can be seen in the application of the general principles of Islamic law to the science of law, such as the principles of justice, the principle of legality, and the principle of expediency.

The most important trait or character in Islamic law is the construction of regulations that are oriented towards worship or self-serving to Allah SWT. Implementing Islamic law means obedience and the perpetrator has the right to receive a reward from God, and leaving or violating it is an act of disobedience that will result in sin or sanction from God. Compliance with Islamic law is a measure of one's faith.

The principle of legal legislation or the formation of Islamic law is included in the main objective of the formation of Islamic law itself (maqoshid al-Syari'ah). We then refer to Maqoshid al-Syari'ah as the main principle in the formation of law, where in general the determination of Islamic law is for the benefit of the ummah. This is in accordance with the word of God in many verses of the Qur'an including: Surah Al-Baqorah (2) verses 201-202; "Among them there are also those who pray, "O our Lord, give us good in this world and good in the hereafter and protect us from the punishment of hell." "They are the ones who get a share of what they have done. Allah is swift in His reckoning."[76]

As well as in Surat Ali Imran (3) verse 159 Allah says; "So, thanks to Allah's mercy you (Prophet Muhammad) are gentle with them. If you had been tough and rough-hearted, they would have drifted away from around you. Therefore, forgive them, ask forgiveness for them, and consult with them in all matters (important). Then, when you have made up your mind, put your trust in Allah. Verily, Allah loves those who trust."[77]

Al-Qur'an Surat al-Anbiya (21) verse 107 "We did not send you (Prophet Muhammad), except as a mercy to all the worlds."[78]

From the several verses above, it can be understood that the purpose of establishing Islamic law is for the benefit, happiness and welfare of mankind both in this world and in the hereafter. Maslahah theory is the main principle of Islamic law which is able to accommodate the integration of Islamic law with other laws. As-Syathibi's theory of maslahah is grouped into three levels, namely maslahah daruriyyah (primary), maslahah hajiyah (secondary) and maslahah tahsiniyyah (tertiary). From this, the concept of Maqosid Al-Syari'ah (shari'ah meanings) or the objectives of Islamic law is known.[79]

Asy-Syathibi then formulated five primary objectives for the formation of Islamic law, namely preserving religion (din), preserving the soul (nafs), preserving the mind (aql), preserving offspring (nasl) and preserving property (mal). These five objectives of Islamic law are then known as al-maqashid al-khamsah or maqashid al-shari`ah (means of shari'at).[80]

The aims of the shari'ah are the goals that are the target of the text and particular laws to be realized in human life. Both in the form of orders, prohibitions, and permissibility (permissibility). For individuals, families, congregations, and ummah. "Intents" can also be referred to as wisdoms which are the objectives of establishing Islamic law. Either required or

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

not.

From the above, it shows that maqosid al-shari'ah (objectives of Islamic law) is a principle of Islamic law, which can be used as a principle of national legal legislation because it does not contradict and is compatible with any system as long as it contains real benefits, and is very much in line with with Pancasila as the philosophical basis for establishing just and civilized legislation and having a mission to prosper society. The State of Indonesia a country that believes in the One Supreme God, and has a just and civilized humanity, is a unitary state in the form of a republic with sovereignty in the hands of the people and fully exercised by the People's Consultative Assembly (MPR).[81] Pancasila is the ideal basis of the state and the 1945 Constitution is the structural basis of the state which illustrates that the Indonesian state values and respects religious life.[82]

National law which is based on the values of Pancasila which upholds divine and human values in a just and civilized way, it is not excessive if the Muslim community interprets it from the point of view (Islamic worldview) as a guide in the development and drafting of laws in accordance with Islamic values, which reflected in Pancasila itself.

In fact, there are still many national legal products that are still unable to contain moral content, manners, morals, local cultural values, and religion. There are still many legal products that are not in accordance with the purpose of the law itself. Ironically, there are too many policy makers and legislators who are immoral, do not reflect the values of Pancasila which are always echoed. The issue of adultery offenses is a clear example of a conflict between the meaning and meaning of adultery in the Criminal Code and the social interests/values of society. Clashes that often occur in society often give rise to new crimes such as murder, persecution, and vigilanteism. This is exacerbated by the weak practice of law enforcement. Provisions for adultery in the laws and regulations in Indonesia have not been effective in overcoming the problem of adultery that occurs in communities in the territory of Indonesia. This can be seen from the increasingly widespread cases of adultery. There has also been a shift in the values of decency in certain societies, which can be seen from the behavior of some adulterers who are becoming bolder and do not feel guilty. This attitude is an indication or a sign of the success of the colonial legacy of adultery contained in Article 284 of the Criminal Code which has been in effect in Indonesia for nearly 104 (one hundred and four) years, namely from January 1918 to December 6, 2022 of the New Criminal Code. According to Article 284 of the Old Criminal Code, adultery committed by people who are both adults, both willing, willing to do it intentionally and consciously, is not considered adultery. In the New Criminal Code, even though there is an expansion of adultery perpetrators, a maximum sentence of 1 year as an absolute complaint offense, still does not view adultery as an offense that requires a severe sentence even though it is a crime. The above describes the strong values of Western civilization in Indonesian legal products, characterized by individualism, liberalism and secularism, contrary to the values of Pancasila as a reflection of religious values and local culture. The legal products produced by legal practitioners and academics are the output of the science of law, which in its development is in line with the development of secular thought, in which the influence of religious teachings on law is slowly being removed. This is what Syed

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

Muhammad Naquib al-attas describes as the westernization of knowledge.[83]

Islamic worldview is the main principle in the integration of Islamic law, while Pancasila is the principle or foundation of the integration of national law. Here we see that Islam and Pancasila are a unity in which Pancasila is strengthened by the Islamic values contained therein.

The actualization and integration of the values contained in Islamic Law into national law must be through legal process efforts produced by the people's representatives together with the Government, or DPRD together with the local Regional Government, as a manifestation of the precepts of deliberative representation in the framework of the unity and integrity of the Unitary State of the Republic of Indonesia. For this reason, a joint effort is needed in the development of just and civilized national law, including the formulation of the Legal Integration method. Legal integration must start from identifying the wordview of Islam and at the same time being able to understand Western culture. The Islamic view of life includes both the world and the hereafter, in which the world aspect must be related in a very profound way to the hereafter aspect, and the hereafter aspect has ultimate and final significance. The Islamic view of life is not based on dichotomous methods such as objective and subjective, historical and normative. However, reality and truth are understood by a unifying method (tawhid). The Islamic view of life is based on revelation which is supported by reason and intuition. The Islamic worldview consists of various interrelated concepts such as the concept of God, revelation, creation, human psychology, science, religion, freedom, values and goodness and happiness. These concepts determine the form of change, development and progress.[84] To facilitate understanding regarding the differences between Islamic and Western legal principles can be seen in the following table;

Table 1: Differences in the Principles of Islamic and Western Law

WESTERN LAW	ISLAMIC LAW
1) The purpose of law is formulated based on a person's thoughts which of course were influenced by various other ideas of his time. The world is growing more and more pragmatic, so the ideas that emerge are also affected.	1) Maqasyid al-shari'ah is formulated based on the same source. Al-Juwaini, al-Ghazali, and al-Syatibi etc., both explored magasiid al-shari'ah from the main sources of Islamic law: Al-Qur'an and Hadith.
2) Based on the Western worldview which has dichotomic, secular and liberal principles (separating the world and the hereafter, public and private), based on reason and philosophical speculation.	2) Based on the Islamic worldview which has the principle of monotheism, (not separating the world and the hereafter, public and private), based on revelation, hadith, reason, experience, and intuition.
3) The first basic human right is physical primary needs.	3) Basic human rights are five things (maqosyid al-syari'ah) and are an inseparable unit.
4) Attention to rights is greater than obligations.	4) Between rights and obligations is an inseparable unit and is tawazun (balanced).
5) Rights are free of value, such as the permissibility of same-sex marriage and adultery.	5) Value-bound rights and obligations (limited by values), such as the prohibition of same-sex marriage, and the prohibition of adultery.
6) The right of a person is not limited by the rights of others. Spt: On the grounds of human rights freedom, adultery must be accepted as a profession and a person's personal choice.	6) A person's rights are limited by the rights of other people, such as: It is prohibited to

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

7) Do not see the interests of religion as something that is considered, because the concept is built on secular understanding. 8) There is no clarity regarding the relationship between private rights and interests on the one hand, and public rights and interests on the other hand.	commit adultery in Indonesia because it conflicts with local religion and culture. 7) Religious interests are above all interests. 8) Public rights and interests must take precedence over individual rights and interests.

After knowing the wordview of Islam in depth, then after that carry out a systematic integration involving two interrelated processes, namely Purification and Integration. The first process is Purification or isolation of the main elements and concepts from sources of law other than Islam that are considered contrary to the principles of Islamic law, by taking something positive from concepts, theories and principles of other civilizations that are compatible with Islam and leave something that is not in accordance with Islam. That process is actually what is called Purification.

Second, Integration or the unification of two concepts that are almost the same, or two different concepts, but have the same principles, principles, and values, by taking something positive from other civilizations, and including it in the realm of Islamic thought, Islamic worldview of life

The product of Islamic law legislation that has been integrated is then not named the "Shari'at Law" but "National Law" in accordance with the Indonesian national constitution which does not state that the Republic of Indonesia is an Islamic state.

From the integration above, it will produce a national legal product that is fair and civilized, it is no longer visible in it, the origins of the concepts that we take from Western civilizatio and that's where we really implement Pancasila as a whole, which we can trace its origins or based on the Al-Qur'an and Hadith, and from the Islamic intellectual tradition, this is where the National Law is built in accordance with the values of God and Humanity that are Fair and Civilized.

CONCLUSION

The description of the research on the principles of Islamic law in the criminal act of adultery in the National Criminal Code presented in the previous chapters can be summed up in the following points.

First, Islamic law has had a lot of influence on the development of national law, especially on the principles, principles and values in it. Many legislative products have been produced, but it is undeniable that there are still many legislative products that are still inconsistent and even contradictory to Pancasila, including crimes related to adultery (overspel) in the Old Criminal Code, as well as the 2022 Criminal Code. As an effort to foster and develop national law. Islamic law has made a very large contribution, at least in ms of its soul. This statement is strengthened by the promulgation of the following matters: Law Number 5 of 1960 concerning Agraria Principles. Government Regulation Number 28 of 1977 concerning Waqf of Owned Land, Law Number 14 of 1970 concerning Principles of Judicial Power which has been

The Seybold Report

ISSN 1533-9211

DOI 10.17605/OSF.IO/X2JMG

amended by Law Number 35 of 1999 which has been amended again by Law Number 4 of 2004. Law Number 1 1974 concerning Marriage. Government Regulation Number 9 of 1975. Law Number 7 of 1992 concerning Banking, Government Regulation Number 72 of 1992 concerning Banks Based on Profit Sharing Principles, Law Number 4 of 1979 concerning Child Welfare, Law Number 41 of 2005 concerning Waqf and The Compilation of Islamic Law which was enacted based on Presidential Decree No. 1 of 1991 which is currently being initiated to be upgraded to become applied law in the religious courts, and etc.

Second, the implementation of the principles of Islamic law in the development of national law through two interrelated processes. positive from the concepts, theories, and principles of other civilizations that are compatible with Islam, and leave something that is not in accordance with Islam. That process is actually what is called Purification. Second, the integration or unification of two concepts that are almost the same, or two different concepts, but have the same principles, principles, and values, by taking something positive from other civilizations, and including it in the realm of Islamic thought, Islamic worldview or worldview. Islam. The product of Islamic law legislation that has been integrated is then not named the "Shari'at Law" but "National Law" in accordance with the Indonesian national constitution which does not state that the Republic of Indonesia is an Islamic state.

Third, the Overspel Delict Article 284 of the Old Criminal Code is contrary to Pancasila values which uphold religious and cultural values. As for the 2022 Criminal Code, article 411 of the offense of adultery, although it includes an expansion of the meaning and an increase in punishment from the previous Criminal Code, it is not fully in accordance with the principles of Islamic law, so it is necessary to reformulate it. The light punishments in both the Old Criminal Code and the 2022 Criminal Code reflect the views of Western civilization which still have influence in the National Criminal Code, that in their view that adultery is an act that does not require a heavy penalty, even though it is a crime (misdrijven). Therefore, even though "adultery" is included in the category of criminal offenses, it will absolutely not be able to control let alone eradicate "adultery" in its true sense. In this study, the authors also enrich the theory of the application of Islamic law in Indonesia with its theory of purification. Then formulate 10 general principles of implementing the principles of Islamic law in the Criminal Code on adultery offenses, from these principles a reformulation of the Criminal Code on adultery offenses is prepared, as material for preparing the revision of the Criminal Code on adultery offenses in the future.

References

1. Abdurrohman Kasdi, Tafsir Ayat-Ayat Hukum, Telaah tentang ayat-ayat hukum yang berkaitan dengan ibadah, pidana, dan perdata, Jakarta: Pustaka Al-Kautsar, 2014.
2. Achmad Ali, Menguak Tabir Hukum, Jakarta: Kencana, 2017.
3. Achmad Ali, Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence) Termasuk Interpretasi Undang-Undang (Legisprudence)., Jakarta: Kencana, 2009.
4. Achmad Ali, Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence) Termasuk Interpretasi Undang-Undang (Legisprudence), Jakarta: Kencana, 2009.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

5. Adian Husaini, Islam dan Pancasila (Kumpulan Artikel Pilihan), Depok: YPI Attaqwa Depok, 2020.
6. Adnin Armas, Krisis Epistemologi dan Islamisasi Ilmu, Ponorogo: CIOS ISID Gontor, 2007.
7. Afdol, Kewenangan Pengadilan Agama Berdasarkan UU No.3 Tahun 2006 dan Legislasi Hukum Islam di Indonesia, Surabaya: Airlangga University Press, 2013.
8. Ahmad Bashiej, Tinjauan Yuridis atas Delik Pezinahan (Overspel) dalam Hukum Pidana Indonesia, Coretan Dinding: Tinjauan Yuridis atas Delik Perzinaan (Overspel) dalam Hukum Pidana Indonesia (ahmadbahiej.blogspot.com). 23 Desember 2003
9. Aidil Susandi, Ahmad Zuhri, Pergulatan Hukum Islam dalam Ayat-Ayat Hukum, Medan: CV. Manhaji, 2018.
10. Al-Jauziyyah, Ibnul Qayyim, Jangan Dekati Zina, Jakarta: Qisthi Press, 2012.
11. Al-Mawdudi, The Process of Islamic Revolution, Lahore, 1967.
12. Al-Qaradhawi, Yusuf, Dirosah Fi Fiqhi Maqoshid Al-Syari'ah, baina al-maqoshid al-kulliyyah wa an-nusus al-juziyyah, Daru As-syuruk, Mesir: 2008.
13. Al-Qoradhawi, Yusuf, Fiqih Maqashid Syariah, Moderasi Islam antara Aliran Tekstual dan Aliran Liberal, Penerjemah Alif Munandar Riswanto, Jakarta: Pustaksa Al-Kautshar, 2006.
14. Al-Qur'an Al-Karim.
15. al-Raysuni, ahmad, Nazhariyyat al-Maqashid 'Inda al-Syathibi, Rabat: Dar al-Aman, 1991.
16. Al-Zuhaili, Wahbah, Fiqih Islam Wa Adillatuhu, Gema Insani, Darul Fikr.
17. Ali Nadwi, Abul Hasan, Penerjemah: Adang Affandi, Islam dan Dunia, Bandung: Angkasa Bandung, 2008.
18. Alparslan Acikgence, Islamic Science, Towards Definition, Kuala Lumpur: ISTAC 1996.
19. Alparslan Acikgence, "The Framework for A history of Islamic Philosophy", Al-Shajarah, Journal of The International Institute of Islamic Thought and Civlization, (ISTAC, 1996, vol.1. Nos. 1&2.
20. Amir Syarifuddin, Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau, Jakarta: Gunung Agung, 1984.
21. Angeles, Pater A, Dictionary of Philosophy, New York: Barnes and Noble Books, Adivision of Harper and Ron Publishers, 1981.
22. Apeldoorn, Van, Pengantar Ilmu Hukum, Jakarta: Pradnya Paramita, Cetakan Kedua Puluh Empat, 1990.
23. Arief H. Hanafi, Pengantar Hukum Indonesia dalam Tataran Historis, Tata Hukum dan Politik Hukum Nasional, Yogyakarta: LKiS, 2016.
24. Aristotle, "The Ethics of Aristotle" Pennsylvania State University, 2004.
25. Asy-Syathibi, Abu Ishaq, Al-Muwafaqat, Daru Ibn Affan, Jilid II, 1997.
26. Azhary, Muhammad Tahir, Beberapa Aspek Hukum Tata Negara, aHukum Pidana, dan Hukum Pidana Islam, Jakarta: Kencana, 2015.
27. Badri Khoiruman, Hukum Islam dalam Perubahan Sosial, Bandung: Pustaka Setia, 2010.
28. Bahtiar Efendi, Islam dan Negara, Tranformasi Gagasan dan Praktik Politik Islam di Indonesia, Jakarta: Democracy Project, 2011.
29. Basiq Djalil, Peradilan Agama di Indonesia, Jakarta: Kencana, 2006.
30. Besar, Utilitarianisme dan Tujuan Perkembangan Hukum Multemedia di Indonesia, https://s.id/utilitarianisme, Binus Business-Law Website, 2016, dikunjungi pada tanggal 16 Desember 2022.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

31. Biography.com Editors, 2019, "Thomas Hobbes Biography", https://s.id/Hobbes, The Biograp hy.com Website, dikunjungi pada tanggal 17 Desember 2022.
32. Boy Nurdin, Filsafat Hukum, Tokoh-Tokoh Penting Filsafat: Sejarah dan Intisari Pemikiran, Jakarta: Litera Antar Nusa, 2014.
33. Budiardjo, Miriam, Dasar-Dasar Ilmu Politik, Jakarta: Gramedia Utama, 1989.
34. Bustanul Arifin, "Eksistensi, Konsolidasi dan Aktualisasi Pengadilan Agama". PidatoPenganugrahan Gelar Doktor Kehormatan (Doctor Honoris Causa) dalam Ilmu Agama Islam, IAIN Syarif Hidayatullah Jakarta, 22 Desember 1993.
35. Bustanul Arifin, Pelembagaan Hukum Islam di Indonesia, (Jakarta: Gema Insani Press, 1996).
36. Chenu, Marie Dominique, "St. Thomas Aquinas: Italian Christian Theologian and Philospher" https://s.id/Aquinas, Encyclopedia Britannica, dikunjungi pada tanggal 17 Desember 2022.
37. Dedi Supriayadi, Sejarah Hukum Islam, (Dari Kawasan Jazirah Arab sampai Indonesia), Bandung: Pustaka Setia, 2018.
38. Duski Ibrohim, Metode Penetapan Hukum Islam, Membongkar Konsep Al-Istiqra Al-Ma'nawi Asy-Syatibi, Jogjakarta: Ar-Ruzz Media, 2017.
39. Edwin Hung, The Nature of Science: Problem and Perspectives, Belmont, California, Wardsworth, 1997.
40. Fitri Wahyuni, Hukum Pidana Islam, Aktualisasi Hukum-Hukum Pidana Islam Dalam Pembaharuan Hukum Pidana Indonesia, Tangerang: Nusantara Persada Utama, 2018.
41. Frontline, "Timeline of Islam", https://s.id/Muhammad, PBS.org, dikunjungi pada tanggal 17 Desember 2022.
42. Fuad Thohari, Hadis Ahkam: Kajian Hadist Hukum Pidana Islam (Hudud, Qishash, Ta'zir), Yogyakarta: Deepublish, 2018.
43. Gonda Yumitro, Masalah Politik Dunia Islam, Malang: UMM Press, 2017.
44. Gustafsson, Johan E, Bemtham's binary form of maximizing utilitarianism, British Journal for the History of Philosophy, 2018, Vol.26, No.1
45. Hamid Fahmy Zarkasyi, MINHAJ, Berislam, dari Ritual hingga Intelektual, Jakarta: Insists, 2020.
46. Hamid Fahmy Zarkasyi, Misykat, Refleksi Tentang Westernisasi, Liberalisasi, dan Islam, Jakarta: INSISTS-MIUMI, 2012.
47. Hamka, Islam Revolusi dan Ideologi, Depok: Gema Insani, 2018.
48. Hans Kelsen, What Justice?: Justice, Politic, and Law in the Mirror of Science, University of California Press, 1957.
49. Hazairin, Demokrasi Pancasila, Jakarta: Penerbit Rineka Cipta, 1990.
50. History World, "History of Islam', https://s.id/Khalifah, historyworld.net, dikunjungi pada tanggal 17 Desember 2022.
51. Ija Suntana, Pemikiran Ketatanegaraan Islam, Bandung: Pustaka Setia, 2010.
52. Irianto, Sulistyowati dan Shidarta: Metode Penelitian Hukum: Konstelasi dan Refleksi, Jakarta: Yayasan Pustaka Obor Indonesia. 2013.
53. Jubair Sitomorang, Model Pemikiran dan Penelitian Politik Islam, Bandung: CV Pustaka Setia, 2014.
54. K. Bertens, 2004. Etika, Jakarta: Gramedia Pustaka Utama.
55. Khalaf, Abdul Wahhab, Khulashoh Tarikh al-tasri' al-islami, Kuwait: Darul Qalam.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

56. Khisni, Perkembangan Pemikiran Hukum Islam, Semarang: Unissula Press, 2016.
57. Kholid Ibrohim, Teori Pemerintahan Islam Menurut Ibnu Taimiyah, Jakarta: PT. Rineka Cipta, 1994.
58. Kholid Muslih, Worldview Islam, Pembahasan tentang Konsep-Konsep Penting dalam Islam, Ponorogo: UNIDA Gontor Press, 2018.
59. Khudori Sholeh, Filsafaat Islam dari Klasik Hingga Kontemporer, Jogjakarta: Ar-Ruzz Media, 2016.
60. Kitab Undang-Undang Hukum Pidana
61. Kosim, Pengantar Filsafat Hukum Islam, Nurjati Press, 2014.
62. Laporan Hasil Pengkajian Hukum Islam Badan Pembinaan Hukum Nasional, Jakarta: 1983/1984.
63. Lawrence M. Friedman, The Republic of Choice: Law, Authority and Culture, London: Harvard University Press, 1990.
64. Leaman, Oliver dan Salman Albdour, 1998, "Abul Ma'ali al-Juwayni", https://s.id/alJuwayni muslimphilosphy.com, dikunjungi pada tanggal 17 Desember 2022.
65. Mahmud Syaltut, Al-Islam, 'Aqidah wa Syari'ah, Mesir: Dar al-Qalam, 1966.
66. Mahmud Syaltut, Al-Islam, 'Aqidah wa Syari'ah, Mesir: Dar al-Qalam, 1966.
67. Maimun Nawawi, Reformasi Pemikiran Hukum Islam, Surabaya: Pena Salsabila, 2013.
68. Mardani, Hukum Islam dalam Hukum Positif Indonesia, Depok: PT Rajagrafindo Persada, 2018.
69. Mardani, Hukum Islam dalam Hukum Positif Indonesia, Depok: Raja Grafindo Persada, 2018.
70. Mardani, Hukum Keluarga Islam di Indonesia, Jakarta: Kencana, 2017.
71. Mardani, Hukum Pidana Islam, Jakarta: Prenada Media Group, 2019.Warkum Sumitro, Nujaid Kumkelo, Moh Anas Kholish, Politik Hukum ISlan, Reposisi Eksistensi Hukum Islam dari Masa Kerajaan Hingga Era Reformasi di Indonesia, Malang: Universitar Brawijaya Press, 2014.
72. Marsaid, Al-Fiqh Al-Jinayah, (Hukum Pidana Islam), Memahami tindak pidana dalam hukum Islam, Palembang: Rafah Press, 2020.
73. Maryanto, Pengaruh Filsafat Positivisme Dalam Penegakan Hukum Di Indonesia,https://media.neliti.com/media/publications/23570-ID-pengaruh-filsafat-positivisme-dalam-penegakan-hukum-di-indonesia.pdf.
74. Marzuki, Peter Mahmud, Pengantar Ilmu Hukum, cet. ke-10, Jakarta: Kencana-PrenadaMedia Group, 2017.
75. Mohammad Daud Ali, "Hukum Islam dan Pembangunan Hukum Nasional: Suatu Analisa Terhadap RUU Peradilan Agama" dalam Hukum dan Pembangunan, No. 6, Tahun Ke-XIX, Desember 1989.
76. Mohammad Daud Ali, Hukum Islam, Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia, Jakarta: PT. Raja Grapindo Persada, 2000.
77. Mohammad Daud Ali, Hukum Islam, Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia, Depok: Rajawali Press, 2017.
78. Muhammad Alim, Asas-Asas Negara Hukum Modern dalam Islam, Kajian Komprehensif Islam dan Ketatanegaraan, Yogyakarta: LKIS, 2010.
79. Muhammad Fuad Abdul Baqi', al-Mu'jam al-Mufahras li Alfaz Al-Qur'an al-Karim, Jakarta: Maktabah Dahlan Indonesia
80. Muhammad Tahmid Nur, Menggapai Hukum Pidana Ideal, Kemaslahatan Pidana Islam dan Pembaruan Hukum Pidana Nasional, Yogyakarta: Deepublish, 2018.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

81. Muhyar Fanani, Membumikan Hukum Langit, Nasionalisasi Hukum Islam dan Islamisasi Hukum Nasional Pasca Reformasi, Yogyakarta: Tiara Wacana, 2008.
82. Mulyadi, Teori Hukum Pembangunan PROF. DR. MOCHTAR KUSUMAATMADJA, S.H., LL.M, Sebuah Kajian Deskriftip Analitis, www.google.com.
83. Munir Fuady, Teori-teori besar dalam hukum (Grand Theory), Jakarta: Kencana, 2014.
84. Mutakin, Ali, Teori Maqasyid al-Syari'ah dan Hubungannya dengan Metode Istinbath Hukum, Kanun Jurnal Ilmu Hukum, 2017, Vol. 19, No. 3
85. Nakamura, Kojiro, Abu Hamid al-Ghazali, 1998, https://s.id/alGhazali, muslimphilosophy.com dikunjungi pada tanggal 17 Desember 2022.
86. Nasution, Filsafat Hukum Islam, Jakarta: Rajagrafindo Persada, 2014.
87. Nasution, hammad Syukri Al-Bani, Rahmat Hidayat, Filsafat Hukum Islam dan Maqashid Syariah, Jakarta: Kencana, 2020.
88. Nasution, Khoirul Bahri, Bukhori, dkk, Hukum Islam Kontemporer, (Dari teori ke Implementasi Tafsir Ayat-Ayat Hukum), Aceh Utara: Sefa Bumi Persada, 2019.
89. Ninian Smart, Worldview, Crosscultural Explorations of Human Belief, Charles Sribner's sons, New York
90. Nurasiah Faqihsutan, Filsafat Hukum Barat dan Alirannya, Medan: Utul 'Ilma Publishing, 2010.
91. Nurul Irfan, Masyrofah, Fiqh Jinayah, Jakarta: Amzah, 2013.
92. Poerwadarminta, Kamus Umum Bahasa Indonesia, Jakarta: Balai Pustaka, 1976.
93. Putera Astomo, perbandingan pemikiran hans kelsen tentang hukum Dengan gagasan satjipto rahardjo tentang hukum Progresif berbasis teori hukum https://jurnal.uns.ac.id/yustisia/article/download/28720/20092
94. Rancangan Undang-Undang Republik Indonesia Tentang Kitab Undang-Undang Hukum Pidana, Jakarta: 2019.
95. Rifyal Ka'bah, Hukum Islam di Indonesia, Jakarta: Universitas Yarsi, 1999.
96. Rifyal Ka'bah, Peradilan Islam Kontemporer, Saudi Arabia, Mesir, Sudan, Pakistan, Malaysia dan Indonesia, Jakarta: Universitas Yasri, 2009.
97. S.M.N, al-Attas Islam and Secularism, Kuala Lumpur: ISTAC, 2003.
98. S.M.N, al-Attas, Prolegomena to The Metaphysics of Islam An Exposition of the Fundamental Element of the Worldview of Islam, Kuala Lumpur, ISTAC, 1995.
99. Sahid HM, Epistemologi Hukum Pidana Islam, Dasar-dasar fiqh jinayah, Surabaya: Pustaka Idea, 2015.
100. Satjipto Rahardjo, Hukum Dan Perubahan Sosial, Bandung: Alumni, 1983.
101. Sayyid Qutb, Muqawwamat al-Tasawwur al-Islami, Dar al-Shuruq, tt
102. Schachat, Yosef, An Introduction to Islamic Law, London: The Clarendon Press, 1971.
103. Sharifah Shifa al-Attas ed. Islam and the Challenge of Modernity, Proceeding of the inaugural Symposium on Islam and the Challenge of Modernity: Historical and Contemporary Context, Kuala Lumpur Agustus, 1-5, 1994, ISTAC, Kuala Lumpur, 1996.
104. Shaykh Atif al-Zayn, al-Islam wa Idulujiyyat al-Insan, Dar al- Kitub al-Lubnani, Beirut, 1989.
105. Sudaryono, Natangsa Surbakti, Hukum Pidana, Dasar-Dasar Hukum Pidana Berdasarkan KUHP dan RUU KUHP, Surakarta: Muhammadiyah University Press, 2017.

The Seybold Report
ISSN 1533-9211
DOI 10.17605/OSF.IO/X2JMG

106. Sukarno Aburaira, Muhadar, Maskur, Filsafat Hukum Teori dan Praktek, Jakarta: Kencana, 2017.

107. Suparman Usman, Filsafat Hukum Islam, Banten: Laksita Indonesia, 2015.

108. Suparmin, Sudirman, Peran Maqosyid Syari;ah dalam Kehidupan, Al-Kaffah, 2001, Vol. 4, No.1,

109. Suriansyah Murhaini, Hukum dan Sejarah Hukum Pengantar Singkat Memahami Sejarah Hukum Indonesia, Yogyakarta: Laksbang Pressindo, 2017.

110. Taringan, Azhari Akmal, Sejarah Sosial Hukum Islam, Dinamika Fiqih Abad Pertengahan, Cita Pustaka Media.

111. Teguh Prasetyo, Abdul halim Barkatullah, Filsafat, Teori, dan Ilmu Hukum Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat, Depok: Rajawali Pers, 2017.

112. Thalib, Prawira, Syari'ah: Konsep dan Hermeneutika, Surabaya: Shareat Fakultas Hukum Universitas Airlangga dan Lutfansah Mediatama, 2013.

113. Theo Huijbers, Filsafaat Hukum Dalam Lintasan Sejarah, (Yogyakarta: Penerbit Kanisius, 2001.

114. Thomas F Wall, Thinking Critically About Philosophical Problem, A Modern Introduction, Wadsworth, Thomson Learning, Australia, 2001.

115. Thomas S Kuhn, The Structure of Scientific Revolution, International Encyclopedia of Unified Science, vol.2, no 2 (Chicago: Univerity of Chicago Press, 1970.

116. Undang-Undang Dasar 1945 Pasal 1 dan 2 tentang kebebasan beragama berdasarkan atas ketuhanan yang maha esa.

117. Undang-Undang Dasar 1945 Pasal 31 Ayat 3 sampai 5 tentang Tujuan Pendidikan Nasional.

118. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

119. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

120. Undang-Undang Kitab Undang-Undang Hukum Pidana 2022

121. Van den. Berg, Dari Panggung Peristiwa Sejarah Dunia, terj. H. Koeskam I.P. Simandjoentak, (Jakarta: J.B. Walters, 1951), jilid I.

122. Wikipedia, al-Shatibi, https://en.wikipedia.org/wiki/Al-Shatibi, dikunjungi pada tanggal 17 Desember 2022.

123. Wirani Aisiah, Hukum Islam dan Hukum Adat (Studi Kasus tentang Kawin Lari), Summatra Barat: Lembaga Pendidikan dan Pelatihan Balai Insan Cendikia, 2020.

124. Yoseph Schachat, An Introduction to Islamic Law, London: The Clarendon Press, 1971.

125. Zainal Asikin, Mengenal Filsafat Hukum, Mataram: Pustaka Bangsa, 2018.

PRINCIPLE OF ISLAMIC

ORIGINALITY REPORT

19%	15%	11%	%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	etheses.uin-malang.ac.id Internet Source	1%
2	Caraballo Lucas Ramón Ángel. "Impacto del clima espacial en el sistema eléctrico nacional de México", TESIUNAM, 2022 Publication	1%
3	giapjournals.com Internet Source	1%
4	en.mkri.id Internet Source	1%
5	www.scribd.com Internet Source	1%
6	jmi.stekom.ac.id Internet Source	1%
7	jurnalhunafa.org Internet Source	<1%
8	journal.uinsgd.ac.id Internet Source	<1%
	jurnalfsh.uinsby.ac.id	

9	Internet Source	<1%
10	ediss.sub.uni-hamburg.de Internet Source	<1%
11	repo.unida.gontor.ac.id Internet Source	<1%
12	journal.uinsi.ac.id Internet Source	<1%
13	ijmmu.com Internet Source	<1%
14	ijtihad.iainsalatiga.ac.id Internet Source	<1%
15	journal.unnes.ac.id Internet Source	<1%
16	123dok.com Internet Source	<1%
17	iosrjournals.org Internet Source	<1%
18	Roni Pebrianto, Asasriwarni Asasriwarni, Ikhwan Matondang. "The Contribution of L.W.C. Van Den Berg's Thoughts in Dutch Colonial Legal Politics on The Development of Religious Courts in Indonesia", AJIS: Academic Journal of Islamic Studies, 2022 Publication	<1%

19	journal.iain-samarinda.ac.id Internet Source	<1 %
20	archive.org Internet Source	<1 %
21	al-afkar.com Internet Source	<1 %
22	journal.uinjkt.ac.id Internet Source	<1 %
23	Meti Fatimah, Muh Nur Rochim Maksum, Deddy Ramdhani. "THE ROLE OF THE PRINCIPAL IN DEVELOPING A RELIGIOUS CULTURE AT SMPN 4 BOYOLALI", Profetika: Jurnal Studi Islam, 2021 Publication	<1 %
24	ijssrr.com Internet Source	<1 %
25	journal.iaincurup.ac.id Internet Source	<1 %
26	journal.walisongo.ac.id Internet Source	<1 %
27	lingcure.org Internet Source	<1 %
28	Budi Kisworo. "The Implementation of Islam as Rahmah Li Al-'Alamin in Indonesia:	<1 %

	Contributions, Challenges and Opportunities", AJIS: Academic Journal of Islamic Studies, 2017 Publication	
29	jurnal.radenfatah.ac.id Internet Source	<1 %
30	"Faith and Ethnicity", Brill, 2002 Publication	<1 %
31	Wardin Tolodo, Muhammad Akbar, M. Taufan B.. "Socio Juridical Analysis of Underage Marriage Caused by Pre-Marital Pregnancy: a Case Study in Banggai Islands Regency", INTERNATIONAL JOURNAL OF CONTEMPORARY ISLAMIC LAW AND SOCIETY, 2022 Publication	<1 %
32	cpd.org.au Internet Source	<1 %
33	Maimunah, Norwili, Junaidi, Thabrani. "Environmental Jurisprudence Approach in Maslahat-Based Development", IOP Conference Series: Earth and Environmental Science, 2020 Publication	<1 %
34	journal.iainlangsa.ac.id Internet Source	<1 %
35	ejournal.idia.ac.id Internet Source	<1 %

36	www.kemalapublisher.com Internet Source	<1 %
37	www.neliti.com Internet Source	<1 %
38	ejournal.iainbengkulu.ac.id Internet Source	<1 %
39	ejournal.unida.gontor.ac.id Internet Source	<1 %
40	ejournal.radenintan.ac.id Internet Source	<1 %
41	internationaljournalcorner.com Internet Source	<1 %
42	"The International Conference on ASEAN 2019", Walter de Gruyter GmbH, 2019 Publication	<1 %
43	Ismatu Ropi. "Religion and Regulation in Indonesia", Springer Science and Business Media LLC, 2017 Publication	<1 %
44	Rosdian Rosdian, Ikbal Ikbal, Abraham Kekka. "Fulfillment of The Right to Clean Water for Post-Disaster Communities in Gumbasa District, Sigi Regency", Administrative and Environmental Law Review, 2022 Publication	<1 %

45	jurnal.uin-antasari.ac.id Internet Source	<1 %
46	yurisdiksi.unmerbaya.ac.id Internet Source	<1 %
47	Ade Dedi Rohayana, Ali Muhtarom. "Islamic Jurisprudence Implementation in Indonesia: Perspective of the Objectives of Islamic Law", Global Jurist, 2021 Publication	<1 %
48	Muhammad Fadlan Is Is, Defel Fakhyeldi, Azizatur Rahmah. "The Effectiveness of Compilation of Islamic Law in Resolving Inheritance Disputes at the Religious Courts of Panyabungan and Padang Sidempuan City", WARAQAT : Jurnal Ilmu-Ilmu Keislaman, 2022 Publication	<1 %
49	www.ajhssr.com Internet Source	<1 %
50	id.123dok.com Internet Source	<1 %
51	www.ijrrjournal.com Internet Source	<1 %
52	"W212 22J Unit 11C Comparative contract law Canada ITM5130327", Open University Publication	<1 %

53	endless-journal.com Internet Source	<1 %
54	epdf.pub Internet Source	<1 %
55	journal.uii.ac.id Internet Source	<1 %
56	Mulizar Mulizar, Asmuni Asmuni, Dhiauddin Tanjung. "Maqashid Sharia Perspective of Legal Sanction for Khalwat Actors in Aceh", Al-Istinbath : Jurnal Hukum Islam, 2022 Publication	<1 %
57	eprints.iain-surakarta.ac.id Internet Source	<1 %
58	vuir.vu.edu.au Internet Source	<1 %
59	Bambang Sutrisno. "Constitutionality Degree of Indonesia Local Regulation in Political Law Perspective", Rechtsidee, 2016 Publication	<1 %
60	ebin.pub Internet Source	<1 %
61	versita.com Internet Source	<1 %
62	Supriadi Supriadi. "Marriage Contract Through Teleconference During the Covid-19	<1 %

	Pandemic: An Overview of Maqashid Syariah", Al-Bayyinah, 2021 Publication	
63	isalegal.info Internet Source	<1 %
64	edoc.pub Internet Source	<1 %
65	en.m.wikisource.org Internet Source	<1 %
66	jim.iainkudus.ac.id Internet Source	<1 %
67	ojs.iainbatusangkar.ac.id Internet Source	<1 %
68	aauf.unida.gontor.ac.id Internet Source	<1 %
69	ejournal.iainpurwokerto.ac.id Internet Source	<1 %
70	qoryatulquran.wordpress.com Internet Source	<1 %
71	www.thejhpm.com Internet Source	<1 %
72	Andrew Shandy Utama. "Law Enforcement to Copyright Infringement of Songs on the Internet Media", FIAT JUSTISIA, 2018 Publication	<1 %

73	Firdaus Firdaus, Ahmad Juneidi, Lola Astari, Firda Mustika Sari. "Various Methods of Establishing Contemporary Islamic law", Ulumuddin : Jurnal Ilmu-ilmu Keislaman, 2020 Publication	<1%
74	Harry Pribadi Garfes. "Law Enforcement of Unregistered Marriage Practices in Indonesia Lawrence Meir Friedman's Legal Effective Perspective", Jurnal Ilmiah Kebijakan Hukum, 2022 Publication	<1%
75	Muhammad Ali, Ardilafiza Ardilafiza, Jonny Simamora. "BENCHMARK FOR DETERMINATION OF FORCED MONEY IN EXECUTION OF STATE ADMINISTRATIVE COURT JUDGMENT", Bengkoelen Justice : Jurnal Ilmu Hukum, 2020 Publication	<1%
76	Muhammad Fahmi Al Amruzi. "MEMBUMIKAN HUKUM ISLAM DI INDONESIA", Al-Banjari : Jurnal Ilmiah Ilmu-Ilmu Keislaman, 2016 Publication	<1%
77	Nur Afti Aulia, La Ode Husen, Agussalim A. Gadjong. "The Presidential System with a Multiparty System is Based on the 1945 Constitution of the Republic of Indonesia", Sovereign: International Journal of Law, 2021 Publication	<1%

78	ejournal.iainkendari.ac.id Internet Source	<1 %
79	prizrenjournal.com Internet Source	<1 %
80	www.atlantis-press.com Internet Source	<1 %
81	"Asian Futures, Asian Traditions", Brill, 2005 Publication	<1 %
82	LexisNexis Publication	<1 %
83	M. Khoirul Hadi Al-Asy Ari. "Fiqh Renewal of Gamal Al-Banna and Its Relevance of Fiqh Developments in Indonesia", Millati: Journal of Islamic Studies and Humanities, 2017 Publication	<1 %
84	Paul Heck. "The Construction of Knowledge in Islamic Civilization", Brill, 2002 Publication	<1 %
85	Syafri Hariansah. "Social Perspectives; Legal Policy Post-Constitutional Court Decision No. 46/PUU-XIV/2016 Concerning Immoral Provision of Indonesia Criminal Code", Berumpun: International Journal of Social, Politics, and Humanities, 2018 Publication	<1 %
86	conferences.uin-malang.ac.id	

	Internet Source	<1%
87	core.ac.uk Internet Source	<1%
88	dinamikahukum.fh.unsoed.ac.id Internet Source	<1%
89	Asman Asman. "THE RED YARN OF CONTEMPORARY ISLAMIC LAW REFORM: A Critical Study of Abdullahi Ahmed An-Na'im's Thought", Syariah: Jurnal Hukum dan Pemikiran, 2021 Publication	<1%
90	Ermin Sinanović. "Islamic Revival as Development: Discourses on Islam, Modernity, and Democracy since the 1950s", Politics, Religion & Ideology, 2012 Publication	<1%
91	Marisa Kurnianingsih, Muhammad Risal Fitrah Ramadhan, Arief Budiono. "The Judge's Considerations Regarding Evidence Of Handphones In The Crime Of Defamation On Social Media", Fundamental: Jurnal Ilmiah Hukum, 2023 Publication	<1%
92	Olaf Köndgen. "A Bibliography of Islamic Criminal Law", Brill, 2022 Publication	<1%

93	Prasasti Dyah Nugraheni. "THE IMPLEMENTATION OF MARRIAGE DIFFERENT RELIGION AND THEIR DUE TO THE LAW OF THE RELIGION OF MARRIAGE STATUS", Law and Justice, 2019 Publication	<1 %
94	Zainuddin Zainuddin, Zaki Ulya. "Recording Siri's Marriages In Obtaining Legal Certainty (Reflections on the rise of Siri marriages in Aceh)", Syariah: Jurnal Hukum dan Pemikiran, 2021 Publication	<1 %
95	digilib.iain-palangkaraya.ac.id Internet Source	<1 %
96	ejournal.uin-malang.ac.id Internet Source	<1 %
97	ejurnal.ung.ac.id Internet Source	<1 %
98	eprints.unmer.ac.id Internet Source	<1 %
99	ijbel.com Internet Source	<1 %
100	ijssr.ridwaninstitute.co.id Internet Source	<1 %
101	islamic-law-in-indonesia.blogspot.com Internet Source	<1 %

102	j-las.lemkomindo.org Internet Source	<1 %
103	journal.iaimnumetrolampung.ac.id Internet Source	<1 %
104	media.neliti.com Internet Source	<1 %
105	medicopublication.com Internet Source	<1 %
106	repository.uin-malang.ac.id Internet Source	<1 %
107	www.ssbfnet.com Internet Source	<1 %
108	www.ukm.my Internet Source	<1 %
109	zombiedoc.com Internet Source	<1 %
110	jurnal.stiq-amuntai.ac.id Internet Source	<1 %
111	"Digital Economy: Complexity and Variety vs. Rationality", Springer Science and Business Media LLC, 2020 Publication	<1 %
112	e-journal.staima-alhikam.ac.id Internet Source	<1 %

113 Ayu Asmara. "Legal Protection Perspective of Underage Marriage", Damhil Law Journal, 2023 <1%
Publication

Exclude quotes	On	Exclude matches	Off
Exclude bibliography	On		