

POLITICAL PARTIES AND ISLAMIC LAW POSITIVIZATION IN CONTEMPORARY INDONESIAN GOVERNANCE

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Abstract

Purpose of the study: This research aims to analyze the existence of Islamic law formalized into Indonesian law in the Reformation Era from 1999 to 2019 and explore whether it is legally stronger or weaker. Also tries to explore what Islamic law fields are formalized into Indonesian national law.

Methodology: This research is qualitative research that is doctrinal law research with juridical analysis methods. The main source of research data is the law established between 1999-2019. Data is described systematically and objectively, then analyzed using content analysis techniques.

Main Findings: During the Reformation Era 1999-2019, 17 Indonesian national laws contained ~~forma~~ Islamic law. The legal position of Islamic law became stronger in several fields, namely hajj (pilgrimage) and umrah management, management of zakat, implementation of special privileges Aceh Province, endowments (*waqf*) management, religious courts, state sharia securities, Islamic banking, halal product guarantee, marriage law and the existence of pesantren (Islamic boarding school).

Applications of this study: This study is useful as a model example of a relationship between religion and state. Islamic law can be transformed into state law without changing the state principles. This research also provides a solution to Muslims (they are the majority in Indonesia) that Islamic law can be constituted as national law constitutionally and tolerant of other religious communities.

Novelty/Originality of this study: The object of research is positivization in contemporary Indonesian governance that has been enacted between 1999-2019. In terms of time, this is very representative and updated.

Keywords: *Islamic Law, Transformation, Reform Era, Indonesia, Politicization.*

INTRODUCTION

Indonesia is a state of the law as stated constitutionally in the 1945 Constitution of The Indonesian Republic. The use of the term “rule of law” is a difference between after and before the amendment. Before The 1945 Constitution amendment, it was stated that “Indonesia was a country based on a rule of law”, whereas after the amendment it was stated that “The State of Indonesia was a law state Indonesia as a rule of law state has independent characteristics that can be seen in an application the rule of law concept ([Muntoha, 2009](#)). The concept of state adopted by Indonesia is adjusted to Pancasila as a basis. The concept of Pancasila legal state means a legal system established based on the principles, rules, or norms contained in Pancasila as the basis of social life ([Zaki, 2015](#)).

The development of Islamic law has become an interesting to study because it has a different socio-political context in every period. On the social level, the tap of freedom opens widely. Political maps are not limited, but began to open freely, so born many political parties, including the number of Islamic political parties ([Hicks, 2012](#)). The channels of ideas and interests more freely look for shapes. This condition becomes a passion-generating supplement to build the shape of Indonesia's better future ([Rosada, 2018](#)).

The law must adapt to social needs, norms, traditions, and other customs. Islamic law, as stated in the Islamic theory of jurisprudence, is highly adaptable and flexible to changes as long as it refers to the goal of sharia (*maqashid al-shariah*), or to realize the common good ([Hefner, 2012](#)). The process of Islamic law legislation in Indonesia runs democratically and peacefully without any war or swearing bleeding. This is interesting, when in some countries, the process of transforming Islamic law into positive law sometimes leads to war or swearing bleeding ([Mudzakir, 2011](#)).

The Reform Era was marked by the end of the New Order era led by Suharto as Indonesia's President. The fall of President Suharto from the reins of government on 21 May 1998 opened a new era for Indonesia, as the world's largest Muslim population, require the Muslims to participate in the economy, law, and politics ([Romli, 2019](#)). This is apparent with the emergence of 48 political parties, which previously in the Suharto period only 3 political parties, 19 of them are Islamic political parties ([Woodward, 2001](#)) ([Hara, 2001](#)).

At the beginning of the reform era, Indonesia's policy of direction and goals was set in the 1999 Guidance of State Policy (GBHN). With the 1999 Guidance of State Policy, Islamic law has a greater and more emphatic position to serve as a raw material of national law. The development of law in post-reform national encompasses three elements of legal sources that have equal standing, namely customary law, Western law, and Islamic law.

The legal development and national political law in the Reform Era have a different face to the previous era. That difference is caused by dynamics of the legal national development thinking and the study of Islamic law occur in still experiencing dichotomy, so Islamic law and national law are always considered to be opposing ([Azizy, 2003](#)).

In this regard, the concept of developing Islamic law that quantitatively influences the socio-cultural, political, and legal order in society and then changes its direction, which is qualitatively accommodated in various sets of rules and legislation legalized by government and state institutions. Concretization from this view is referred to the transformation of Islamic law into legislation form ([Anwar, 2018](#)). The reform movement in Indonesia after the collapse of the New Order regime contained two dynamic dimensions. First, there is an attempt to change the Old Order which is authoritarian, corrupt, and does not favor the people. Second, there is an effort to create a new order that is more democratic, efficient, and pro-people ([Riddell, 2002](#)).

Dialectics of Islamic law in the law political of Reformation Era is an effort to develop law for the realization of national law under national interests, with the preparation of legal material as a whole sourced from the Pancasila and the 1945 Constitution with the spirit of Islam. Therefore, the preparation of the National Legislation Program is an effort to change the legislation that originates from the Pancasila and the 1945 Constitution and is a smart effort in realizing the law imbued with national and religious values of the Indonesian nation. This argument emphasizes the value of Islamic law as the majority value in Indonesia based on the legal politics of the Reformation Era. The value of Islamic law also has a great opportunity in the context of the development of Pancasila democracy through scientific academic approaches ([Lukito, 2012](#)).

In the context of Indonesian law development, demands to revise and replace various laws and regulations originating from the Dutch colonial such as the Criminal Code and the Civil Code which are already incompatible with the identity of the Indonesian people, renewal of these provisions is a historical necessity and a constitutional imperative that is non-negotiable ([Umar, 2014](#)).

The enactment of Islamic law as formal law has caused widespread public debate ([Purkon, 2018](#)). Many questions regarding the formalization of Islamic law both in terms of effectiveness and its application in the frame of the Indonesian nation-state. Moreover, there are fears of discrimination in the implementation of religious law in The Indonesian state. This is politically considered to be able to open the arena of constellation between religions on the one hand and between religions and countries on the other. This concern is not strong enough because religious tolerance in Indonesia is very good ([Ghazali & Hasanah, 2020](#)) ([Muniroh et al., 2020](#)).

This article will examine the transformation of Islamic law into Indonesian national law in the Reform Era. This study is important because it is a significant part of the history of the Islamic law journey in Indonesia. The debate about the relationship between state and religion is a discussion that has always been carried out throughout the ages. One such problem is about the transformation of laws based on certain religions in non-Islamic state legislation.

LITERATURE REVIEW

In legal reform, Ismail Sunny described legal politics as a process of accepting Islamic law. It is divided into two periods. First, the persuasive source period which every Muslim is believed wants to accept the enactment of Islamic law. Second, the period of authority source in which every Muslim believes that Islamic law has a power that must be implemented. Islamic law can be applied legally-formally if it is codified in national legislation ([Sunny, 1997](#)). Mahfud explained that to birth laws that are responsive and trigger the rule of law creation, a democratic political system is needed, not an orthodox legal system so that it is expected to create responsive or progressive legal products and enforcement ([MD, 2010](#)).

In addition to the theory of legislation, there is a theory that is relatively similar to the theory of legislation, namely the theory of jurisprudence criticism. The theory places the state and society in a political dynamic that is not clashing, compromising, and sharing a role in the legal process. Edward L. Rubin, when analyzing the legislation process in establishing the "Truth in Lending Act" in the United States, using pluralism and/or community choice theory. The theory states the bargaining of the relative strength of the group with an interest in a group of legislators who have a great voice in parliament. In essence, the theory criticizes the interpretation and legal process of establishing law through state institutions and legitimates it as the only political process of legislation ([Wintgens, 2002](#)). According to Nurrohman Syarif, Tajul Arifin, and Sofian Al-Hakim, Indonesia can be a model for the application of Islamic law. Indonesia is considered successful in positioning the relationship between religion and the state in harmony ([Syarif et al., 2018](#)).

Ahmad Gunaryo explains that the long history of the political struggle of Islamic law has proved the existence of Islamic law in the archipelago that can not be separated from a cultural understanding. According to him, the adjustment of Islamic law with a variety of cultures can be explained, among others, by building a legal reconciliation that is accommodative to the dynamics of Islamic law so that through the reconciliation of Islamic law with national law can form a real national law ([Ahmad, 2006](#)). The idea of transforming Islamic law can be seen in terms of state science. For a country that adheres to the theory of popular sovereignty, the people will be the highest political policy. Likewise, a state based on God's sovereignty, the sovereignty of the state/power, and a state based on law, is very dependent on the political style of the legal power of the state itself ([Soehino, 2012](#)).

Viewed from a national perspective, the national legal system must be oriented to the aspirations and interests of the Indonesian people. This national insight is not a closed national insight, but open attention to the interests of future generations and able to absorb the values of modern law (Ali, 1994). A national law that will be realized must pay attention to differences in socio-cultural backgrounds and differences in the legal needs of certain groups in society. Therefore, besides nationalism insight, national law development must pay attention to the specific legal needs of certain groups of people as an embodiment of the unity in diversity (Ali, 2003).

In the perspective of laws and regulations formation, a legal system consists of sub-systems, namely law-making institutions, implementing institutions, and parties that will be affected or the destination of these regulations (*rule occupants*) (Arinanto, 2003). In legislation in which there are conflicting values and interests, Schuyt points out that there are two possible legal positions, namely as a means to dilute conflict, and as actions that reinforce further conflicts. This description shows that in a society that is not based on an agreement of values, the formation of law is always a kind of deposition of existing conflicts in society. Conflicting values and interests in society will tend to encourage the formation of law by making a compromise between these contradictions (Seidman, 1971). M. Atho Mudzhar explains that the different perspective in the field of Islamic legal thought is divided into four types, namely the ulama's fatwa, *fiqh* books, the laws and regulations in Muslim countries and the decisions of religious Courts (Mubarok, 2003). Munawir Sjadzali offers an approach in the application of Islamic law in Indonesia with the term re-actualization of Islamic law (Sembodo, 2005).

Ahmad Qodri Azizy developed the idea of Islamic law with the theory of eclecticism (a system of religion or philosophy) which was formed critically by choosing from various sources and doctrines as an effort to reformulate Indonesian Islamic law. His argument by giving an example of the Compilation of Islamic Law (KHI) regulations as a national legal product which terms of language and substance still creates a variety of interpretation. His orientation can not be separated from the idea of national political struggle with Islamic law by eliminating the dichotomy between the science of national law and the science of Islamic law in Indonesia (Azizy, 2003). The 1945 Constitution of the Republic of Indonesia contains articles that are not only a gateway for the entry of legal norms that quantitatively and qualitatively meet the needs of Indonesian people, but will also be a driving force for the birth of a positive legal system national future (Hartono, 1997).

Muhammad Alim explains that a republic like Indonesia has the potential for legal development according to the Prophet's and his Sahabat time. This potential for the realization of an independent, impartial justice in upholding justice, upholding human rights and obligations, having constitutions (al-Qur'an and Sunnah), and so on, as capital towards institutionalization and positivization of true Islamic law. To achieve this requires an accommodative step toward the value supported by the majority of the community within the framework of Pancasila (Alim, 2010).

According to Otje Salman, a modern legal system must be a good law, it is mean that the law must reflect a sense of justice for the parties involved or regulated by the law. The law must be following the conditions of the community that it governs. The law must be made under specified procedures. Also, a good law must be understood by the parties governed (Salman, 2012). Aswanto explained, theoretically, law that is contrary to the live values in society cannot be considered as modern law. Therefore, religious values as one of the values that live and develop in Indonesian society is one indicator in determining whether a law or regulation can be called a modern law (Jazuni, 2010). Malthuf Siroj, in his study, explained the need for reform of Islamic law in Indonesia with cultural acculturation. According to him, Islamic law needs to be adapted to the sociological conditions of Indonesian society, among others caused by the development and change of politics, economy, culture, science, technology, and so on. The aim is to complement the Religious Courts' pillars, equate perceptions of the application of the law, accelerate the process of unifying the elements of society and eliminate the understanding of personal affairs and classes (Siroj, 2012).

Abdul Ghani Abdullah stated that the enactment of Islamic law in Indonesia had a constitutional place based on three reasons. First, philosophical reasons. The teachings of Islam are the views of life, moral ideals, and legal ideals of the majority of Muslims in Indonesia, and this has an important role in the creation of the fundamental norms of the state (Pancasila). Second, sociological reasons. The historical development of Indonesian Islamic society shows that the legal ideals and legal awareness that embraces Islamic teachings have a continuous level of quality. Third, the juridical reasons contained in articles 24, 25, and 29 of the 1945 Constitution provide a place for the validity of formal legal juridical Islamic law (Abdullah, 1994).

The thesis written by Achmad Gunaryopada in the Diponegoro University Law Science Program mentioned the implementation of Islamic law in Indonesia. One of the main points of the study is to describe the process of institutional reconciliation between the Religious Courts and Islamic Law on the one hand and the Secular Law Court on the other. The study of Islamic law is more directed to the institutionalization of Islamic law through court institutions or the like. Studies related to the problematic efforts of the implementation of Islamic law have not been seen comprehensively in this thesis (Ahmad, 2006).

The thesis written by Afdol in the Diponegoro University Law Doctoral Program examines the positive legal basis for the enforcement of Islamic law and the implementation of Islamic law in Indonesia, especially in the field of Islamic heritage. The discussion is more about normative Islamic law from the aspect of the classic *fiqh* inheritance combined

with contemporary fiqh in the Indonesian context (Afdol, 2003). Ahmad Syafi'i Maarif explains that the development of Dutch colonization which succeeded in taking over all the power of the Islamic empire in Indonesia has resulted in little by Islamic law is cut off, until finally the left -besides worship- only part of family law (marriage, divorce, reconciliation, inheritance) with the Religious Courts as executors. So the reorientation is required according to the legal plurality in Indonesia. According to him, it is needed a strategic step by building a legal culture that is in line with the growing legal plurality in Indonesia (Maarif, 2009).

The Book "Jejak-Jejak Hukum Islam Dalam Sistem Ketatanegaraan Indonesia" written by Ismail Suny, is an anthology containing Islamic law in national law and Islamic law in Indonesian state administration. The study of this book explores Islamic law from the state law perspective. Islamic law has an important role in realizing the national law under the values that live in a society (Sunny, 2005). Ratno Lukito explains that Islamic law in Indonesia has come to the issue of positivism which is understood as an effort to make the values of Islamic teachings in harmony with various other values that developed in Indonesia integrally integrate as part of the development of the national legal system through transformation plurality of values into national law without sacrificing any particular law or value. According to him, the effort needs to unify the perception between sacred law and secular law (Lukito, 2012).

METHODOLOGY

Types of Research

The research conducted was a qualitative study using the doctrinal law research method. Doctrinal law research makes abstract legal norms a measure of truth in legal studies. The objects and references referred to in doctrinal research are the rules of norms, concepts, and doctrines that develop in legal thinking. The reasoning method used in this doctrinal research is deductive syllogism reasoning. The normative legal approach is used because the object of study is legal material.

Object of Research

The object of this research is the Laws established by the Indonesian House of Representatives from 1999 to 2019.

Data Retrieval Method

The data collection method in this research is an analysis document. The analysis was carried out on the legislation established during the Reform Era between 1999-2019.

Data Analysis Method

At the stage of data analysis, simplification of data is collected in a form that is easier to read and understand. Stages of data analysis conducted in this study are: first, data collection. At this stage, the data that have been collected from the results of observations, namely to convert it into a form of writing that is easily understood. After that, the collected data is selected according to the focus of this research. Second, data reduction. Reducing data means summarizing, choosing the things that matter, focusing on the things that the object of research, looking for themes and patterns, and remove things that are not related to the theme of research. Third, presentation of data. The data has been summarized and interpreted and explained. Presentation of data that has been interpreted and explained in the form of narrative descriptions. And Fourth is to make conclusions from the data analysis that has been done.

FINDINGS

During the Reformation Era from 1999 to 2019, 639 laws were passed by the Indonesian House of Representatives. Among these are laws that are textually charged with Islamic law. For more details on the number of laws that have been passed, see table 1 below:

Table 1: Percentage of Laws with Textual Islamic Law

No.	Year	Legalized Law	Law with Textual Islamic law	%
1.	1999	56	3	5%
2.	2000	38	-	-
3.	2001	22	1	5%
4.	2002	32	-	-
5.	2003	41	-	-
6.	2004	41	1	2%
7.	2005	14	-	-
8.	2006	23	1	4%
9.	2007	48	-	-
10.	2008	56	3	5%
11.	2009	52	2	4%
12.	2010	13	-	-
13.	2011	24	1	4%

14. 2012	24	-	-
15. 2013	24	-	-
16. 2014	42	2	5%
17. 2015	14	-	-
18. 2016	20	-	-
19. 2017	18	-	-
20. 2018	13	-	-
21. 2019	24	3	13%
Total	639	17	3%

Source: (*Jaringan Dokumentasi Dan Informasi Hukum Dewan Perwakilan Rakyat Republik Indonesia, n.d.*)

From table 1 it can be seen that the laws contain Islamic law textually is 17 or 3% of the 639 laws that have been passed. Quantitatively, this number is small. The distribution is evenly distributed except in 2019 which was quite jumping at 13%. This happened after 4 years before none of the laws containing Islamic law was passed by the House of Representatives.

The material of the law containing textual Islamic law which was legalized in the period 1999 to 2019 can be seen in the following table 2:

Table 2: List of Laws Contain Textual Islamic Law

No.	Year	Number and Name of Law
1.	1999	1. Law Number 17 of 1999 concerning Organizing Hajj 2. Law Number 38 of 1999 concerning Management of Zakat 3. Law Number 44 of 1999 concerning Implementation of Special Privileges Province of Aceh
2.	2001	Law Number 18 of 2001 concerning Special Autonomy for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam
3.	2004	Law Number 41 of 2004 concerning Endowments (<i>waqf</i>)
4.	2006	Law Number 3 of 2006 concerning Amendment to Law Number 7 of 1989 concerning Religious Courts
5.	2008	1. Law Number 13 of 2008 concerning the Management of Hajj 2. Law Number 19 of 2008 concerning State Sharia Securities 3. Law Number 21 of 2008 concerning Islamic Banking
6.	2009	1. Law Number 34 of 2009 concerning Stipulation of Government Regulation in place of Law (Perppu) Number 2 of 2009 concerning Amendment to Law Number 13 of 2008 concerning the Management of Pilgrimage into Law 2. Law Number 50 of 2009 concerning Second Amendment to Law Number 7 of 1989 concerning Religious Courts
7.	2011	Law Number 23 of 2011 concerning Management of Zakat
8.	2014	1. Law Number 33 of 2014 concerning Halal Product Guarantee 2. Law Number 34 of 2014 concerning Hajj Financial Management
9.	2019	1. Law Number 8 of 2019 concerning the Organization of Hajj and Umrah 2. Law Number 16 of 2019 concerning Amendment to Law Number 1 The Year 1974 concerning Marriage 3. Law Number 18 of 2019 concerning Pesantren (Islamic Boarding School)

Source: (*Jaringan Dokumentasi Dan Informasi Hukum Dewan Perwakilan Rakyat Republik Indonesia, n.d.*)

Table 2 describes that the legal materials containing Islamic law that has been legalized are quite diverse. The law materials are about financial management and the implementation of the hajj pilgrimage, zakat management, special autonomy for Aceh Province in the implementation of Islamic sharia, *waqf*, religious court, state sharia securities, sharia banking, halal product guarantees, marriages, and pesantren (Islamic boarding school).

The process of determining the law in the House of Representatives is determined by the attitude of the party or members of the council. During 1999-2019, the House of Representatives experienced 4 periods. The composition of seats in the House of Representatives for each period can be seen in table 3, table 4, table 5, and table 6 below:

Table 3: Members Composition of Indonesian House Representatives 1999-2004

No.	Party Name	Set Amount	%
1.	Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Struggle Party)	153	33,1
2.	Partai Golongan Karya (Work Group Party)	120	26
3.	Partai Persatuan Pembangunan United Development Party)	58	12,6
4.	Partai Kebangkitan Bangsa (National Awakening Party)	51	11

5.	Partai Amanat Nasional (National Mandate Party)	34	7,36
6.	Partai Bulan Bintang (Moon Star Party)	13	2,81
7.	Partai Keadilan (Justice Party)	7	1,52
8.	Partai Demokrasi Kasih Bangsa (Party of Love Nations Democratic)	5	1,08
9.	Partai Nahdlatul Ummat (Nahdlatul Ummat Party)	5	1,08
10.	Partai Keadilan dan Persatuan (Justice and Unity Party)	4	0,87
11.	Partai Demokrasi Indonesia (Indonesian Democratic Party)	2	0,43
12.	Partai Daulat Rakyat (People Sovereign Party)	2	0,43
13.	Partai Kebangkitan Ummat (Ummah Awakening Party)	1	0,22
14.	Partai Syarikat Islam Indonesia (Indonesian Islamic Syarikat Party)	1	0,22
15.	Partai Politik Islam Indonesia Masyumi (Masyumi Indonesian Islamic Political Party)	1	0,22
16.	Partai Nasional Indonesia-Front Marhaenis (Indonesian National Party-Marhaenis Front)	1	0,22
17.	Partai Ikatan Pendukung Kemerdekaan Indonesia (Indonesian Independence Supporters' Party)	1	0,22
18.	Partai Nasional Indonesia-Massa Marhaen (Indonesian National Party-Massa Marhaen)	1	0,22
19.	Partai Bhinneka Tunggal Ika Indonesia (Bhineka Tunggal Ika Indonesian Party)	1	0,22
20.	Partai Persatuan (United Party)	1	0,22
	Number of seats based on general election results	462	100
21.	Indonesian National Army / Indonesian National Police (Appointed based on applicable laws and regulations)	38	
Total		500	

Source: (*Komisi Pemilihan Umum Republik Indonesia, n.d.*); (*Buehler, 2009*); (*Tanuwidjaja, 2010*); (*Santoso, 2010*)

From the composition of Indonesian House Representatives in 1999-2004, parties based on Islam or based on the Muslim community are the United Development Party, the National Awakening Party, the National Mandate Party, the Crescent Star Party, the Justice Party, the Nahdlatul Ummat Party, the Ummah Awakening Party, Indonesian Islamic Syarikat Party, and Indonesian Islamic Political Party Masyumi. From table 3 it can be seen that the seats of these parties are 171 seats or 37.03%. The number of seats is smaller than the nationalist parties.

Table 4: Members Composition of Indonesian House Representatives 2004-2009

No.	Party Name	Set Amount	%
1.	Partai Golongan Karya (Work Group Party)	128	23
2.	Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Struggle Party)	109	20
3.	Partai Persatuan Pembangunan United Development Party)	58	11
4.	Partai Demokrat (Democratic Party)	55	10
5.	Partai Amanat Nasional (National Mandate Party)	53	9,6
6.	Partai Kebangkitan Bangsa (National Awakening Party)	52	9,5
7.	Partai Keadilan Sejahtera (Prosperous Justice Party)	45	8,2
8.	Partai Bintang Reformasi (Reform Star Party)	14	2,5
9.	Partai Damai Sejahtera (Prosperous Peace Party)	13	2,4
10.	Partai Bulan Bintang (Moon Star Party)	11	2
11.	Partai Persatuan Demokrasi Kebangsaan (United National Democratic Party)	4	0,7
12.	Partai Karya Peduli Bangsa (Creation Cares Nation Party)	2	0,4
13.	Partai Pelopor (Pioneer Party)	3	0,5
14.	Partai Keadilan dan Persatuan Indonesia (Indonesian Justice and Unity Party)	1	0,2
15.	Partai Penegak Demokrasi Indonesia (Indonesian Democratic Enforcement Party)	1	0,2
16.	Partai Nasional Indonesia Marhaenisme (Marhaenism Indonesian National Party)	1	0,2
Total		550	100

Source: (*Komisi Pemilihan Umum Republik Indonesia, n.d.*); (*Riddell, 2002*); (*Hamayotsu, 2011*); (*Santoso, 2010*)

Parties based on Islam or Islamic society in the composition of the Indonesian House of Representatives in 2004-2009 are United Development Party, National Mandate Party, National Awakening Party, Prosperous Justice Party, Reform Star Party, and the Moon Star Party. From table 4 it can be read that the number of seats won by these parties is 233 seats or 42.80%. This number increased from the previous period and almost offset the number of seats of nationalist parties.

Table 5: Members Composition of Indonesian House Representatives 2009-2014

No.	Party Name	Set Amount	%
1.	Partai Demokrat (Democratic Party)	150	27
2.	Partai Golongan Karya (Work Group Party)	107	19

3.	Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Struggle Party)	95	17
4.	Partai Keadilan Sejahtera (Prosperous Justice Party)	57	10
5.	Partai Amanat Nasional (National Mandate Party)	43	7,7
6.	Partai Persatuan Pembangunan United Development Party)	37	6,6
7.	Partai Kebangkitan Bangsa (National Awakening Party)	27	4,8
8.	Partai Gerakan Indonesia Raya/Gerindra (Great Indonesia Movement Party)	26	4,6
9.	Partai Hati Nurani Rakyat (People's Conscience Party)	18	3,2
Total		560	100

Source: (*Komisi Pemilihan Umum Republik Indonesia, n.d.*); (Aspinall & Mietzner, 2014)

From the composition of the Indonesian House Representatives in 2009-2014, parties based on Islam or the Muslim community are Prosperous Justice Party, National Mandate Party, United Development Party, and National Awakening Party. From table 5 it can be seen that the seats of these parties are 164 seats or 29.1%. The number of seats is smaller than the nationalist parties.

Table 6: Members Composition of Indonesian House Representatives 2014-2019

No.	Party Name	Set Amount	%
1.	Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Struggle Party)	109	19
2.	Partai Golongan Karya (Work Group Party)	91	16
3.	Partai Gerakan Indonesia Raya/Gerindra (Great Indonesia Movement Party)	73	13
4.	Partai Demokrat (Democratic Party)	61	11
5.	Partai Amanat Nasional (National Mandate Party)	49	8,8
6.	Partai Kebangkitan Bangsa (National Awakening Party)	47	8,4
7.	Partai Keadilan Sejahtera (Prosperous Justice Party)	40	7,1
8.	Partai Persatuan Pembangunan United Development Party)	39	7
9.	Partai Nasional Demokrat (Democratic National Party)	35	6,3
10.	Partai Hati Nurani Rakyat (People's Conscience Party)	16	2,9
Total		560	100

Source: (*Komisi Pemilihan Umum Republik Indonesia, n.d.*)

The parties based on Islam or the Islamic community in The Indonesian House of Representatives 2014-2019 are National Mandate Party, National Awakening Party, Prosperous Justice Party, and United Development Party. From table 6 it can be read that the number of seats won by these parties is 175 seats or 31.30%.

RESULT AND DISCUSSION

Religion is believed to have belief values that are dynamic and can be applied following the context surrounds it (Hsiung & Djupe, 2019). The practice of religion will occur from the existence of social and political beliefs (Clifford & Gaskins, 2016). The Indonesian Reformation Era that began in 1999 reopened the door to democratization. One of the forms of democratization is the existence of religiously oriented demands (Liddle & Mujani, 2007). At that time many parties were born based on Islam or the Muslim community (Assyaukanie, 2004). One aspiration that develops in Muslim societies is the demand for the application of Islamic law in legislation (Nawawie, 2013).

During the Reformation Era in 1999-2019, 17 laws were passed containing textual Islamic law (Table 1). The laws that have been passed are Law Number 17 of 1999 concerning Organizing Hajj, Law Number 38 of 1999 concerning Management of Zakat, Law Number 44 of 1999 concerning Implementation of Special Privileges Province of Aceh, Law Number 18 of 2001 concerning Special Autonomy for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam, Law Number 41 of 2004 concerning Endowments (*waqf*), Law Number 3 of 2006 concerning Amendment to Law Number 7 of 1989 concerning Religious Courts, Law Number 13 of 2008 concerning the Management of Hajj, Law Number 19 of 2008 concerning State Sharia Securities, Law Number 21 of 2008 concerning Islamic Banking, Law Number 34 of 2009 concerning Stipulation of Government Regulation in Lieu of Law (Perppu) Number 2 of 2009 concerning Amendment to Law Number 13 of 2008 concerning the Management of Pilgrimage into Law, Law Number 50 of 2009 concerning Second Amendment to Law Number 7 of 1989 concerning Religious Courts, Law Number 23 of 2011 concerning Management of Zakat, Law Number 33 of 2014 concerning Halal Product Guarantee, Law Number 34 of 2014 concerning Hajj Financial Management, Law Number 8 of 2019 concerning the Organization of Hajj and Umrah, Law Number 16 of 2019 concerning Amendment to Law Number 1 Year 1974 concerning Marriage and Law Number 18 of 2019 concerning Pesantren (Islamic Boarding School) (Mardani, 2008).

Hajj (Pilgrimage) and Umrah Management

During the reform period in 1999, a new era began in the operation of hajj in Indonesia with the issuance of Law Number 17 of 1999 concerning the Organization of Hajj. With the promulgation of this Act, it is hoped that the Hajj Organization in Indonesia can be carried out with higher quality. Article 5 of Law Number 17 of 1999 regulates that

"The implementation of the pilgrimage aims to provide guidance, service, and protection as well as possible through a good management system and implementation so that the implementation of the pilgrimage can run safely, orderly, smoothly, and comfortably by the guidance of religion and worshippers hajj can perform worship independently so that hajj success is obtained. This is what is intended in the Act in terms of the implementation of the Hajj, namely providing guidance, service, and the best protection through the system and management of good management ([Darmadi, 2013](#)).

With various considerations, Law Number 17 of 1999 was revised with Law Number 13 of 2008 which emphasized that the Government in this case the Ministry of Religion was still the operator of the Indonesian pilgrimage. This is stated clearly in Article 10 paragraph (1) which reads "The Government as the organizer of the Hajj is obliged to manage and implement the Hajj Implementation". Although the pilgrimage system has been amended and improved many times, dissatisfaction continues until today. The right formula and fulfilling the main principles of good Hajj implementation, which is safe, comfortable, and perfectly sharia are still in search. This pilgrimage problem does not only cover religious issues, but also economics and politics ([Ichwan, 2008](#)).

Zakat Management

The paradigm of zakat management in Indonesia has changed with the existence of a legal basis for developing and inspiring top-down administrative efforts in the country's zakat system. The purpose of this is to find a new external perspective on the role of zakat in achieving sustainable development in Indonesia. Zakat is an effective tool in promoting social welfare through philanthropy, empowerment, and community development in Indonesian Muslim communities. In other words, the institutional approach to zakat helps to find new areas of intervention and, without ignoring the original poverty alleviation program, the zakat approach has found a way to support the development and empowerment of people in Indonesia today ([Retsikas, 2014](#)).

Special Autonomy for Aceh Province

The role of the State in the context of implementing Islamic law in Aceh is based on the 1945 Constitution which recognizes and respects special local government units. One of the specialties and features of Aceh is the implementation of Islamic law. In article 1 paragraph 7 of Law Number 44/1999 stated that Islamic law is the guidance of Islamic teachings in all aspects of life. So the Islamic law applied in Aceh is not only in the aspects of belief and worship, but also in the field of economic and criminal law ([Fahmi, 2012](#)).

Law Number 11 of 2006 requires several other organic laws and regulations, especially the Aceh Qanun in the context of implementing Islamic law. Qanun functions as operational laws and regulations to carry out the mandate of the Government of Aceh. To make Islamic law positive law, it must go through a legislative process that results in the Aceh Qanun. This qanun will be the material and formal law of Islamic law in Aceh ([Feener, 2012](#)) ([Kamaruzzaman, 2007](#)).

Wakaf Management

In legal politics, Law Number 41 of 2004 concerning Waqf is a political step by the government in the success of PROPENAS (National Development Program) in the field of national legal development. By a letter submitted by the Directorate of Zakat and Waqf Development c.q. The Minister of Religion to the Minister of Justice and Human Rights regarding the licensing initiative for the Drafting of the Law. The letter contained the need for improvement of the laws and regulations concerning waqf, after considering Law Number 25 of 2000 concerning the National Development Program (PROPENAS) 2000-2004, which states that one indicator of the success of national development in the legal sector is the enactment of the Law on Law Applied Religious Courts, one of which is about the Act of Waqf. Provisions on waqf that have been in force cannot be used as a strong enough foundation to solve the problems of waqf, not to mention its empowerment in the economic sector ([Hidayatullah & Sidqi, 2019](#)) ([Aam & Devi, 2018](#)).

In religious review, Law Number 41 of 2004 concerning Waqf is a new breakthrough in waqf fiqh towards a dynamic and contextual fiqh waqf paradigm. The development of the waqf law in the fiqh review was made as a framework of ideas when the Minister of Religion submitted a proposal to the President for the formation of the Indonesian Waqf Board (BWI) ([Hasanah, 2012](#)) ([Haneef et al., 2017](#)).

Religious Court

With the enactment of Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989, the Religious Court was given a new authority that is in the field of Islamic economics. Likewise with Law Number 4 of 2004 concerning the main points of judicial power, the contents of which, among other things, state that religious court institutions as executors of judicial power are increasingly clear in their authority. As mentioned in article 2 that the Religious Court is one of the actors of judicial power for people seeking justice in the Muslim religion regarding certain cases. This means that institutionally, the position of the Religious Court has become stronger and parallel with other judicial environments. Even institutionally the Religious Court has also expanded, particularly in Nanggroe Aceh Darussalam. This is under Law Number 3 of 2006 which states that the Religious Courts a special court can be arranged in accordance with the Law. The purpose of the article is the existence of an Islamic Sharia Court which is regulated separately by the Sharia Court Law in the Province of Nanggroe Aceh Darussalam which was formed based on the

Special Autonomy Law for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam ([Cammack, 1997](#)) ([Ibrahim, 2018](#)) ([Hariyanto & Warka, 2016](#)).

State Sharia Securities and Sharia Banking

Law Number 19 of 2008 concerning State Sharia Securities (SBSN) was passed on May 7, 2008. The birth of the SBSN Law aims to finance the state budget that is always in deficit, including project funding. The existence of the SBSN Law will provide more varied development financing so that it can absorb more funds from investors extensively. This law has become a legal basis for the Indonesian government to issue state Sukuk to attract funds from investors. Sukuk is seen as a better alternative than borrowing abroad because it contains elements of investment cooperation, risk-sharing, and the involvement of assets (real projects) that also underlie the issuance of Sukuk. This shows the government's support to fund the state budget with Islamic financial instruments, and it is proven that the development of global and retail Sukuk is very rapid after the political will of the government bypassing the law ([Hasnita, 2017](#)) ([Choiruzzad, 2013](#)).

Law Number 21 of 2008 concerning Sharia Banking was passed on June 17, 2008. The birth of the Sharia Banking Act marked a new era of sharia banking that already had a clear legal. This Sharia Banking Law further strengthens the legal basis of Sharia banking so that it can be on par with conventional banks. Also, this law further strengthens the existence of sharia banking in Indonesia and can also further spur the increased role and contribution of sharia banking in alleviating poverty, public welfare, and job creation and national development ([Pratama et al., 2019](#)) ([Utama, 2018](#)).

Halal Product Guarantee

The law of Halal Product Guarantee is one form of protection from the state to Muslim consumers in Indonesia. This is under Article 29 Paragraph (2) of the 1945 Constitution which mandates that the state guarantee the independence of each Indonesian people to embrace their respective religions and to worship according to their religion and beliefs. To guarantee that every religion adheres to worship and practice its religious teachings, the state is obliged to provide protection and guarantee regarding the halal products that are consumed and used by the community, especially Muslim communities ([Muslimin, 2019](#)) ([Suparto et al., 2016](#)).

The Halal Product Guarantee Law also states that the guarantee of halal products is legal certainty of the halal status of a product as evidenced by a halal certificate. The object of halal certification regulated in this law is not only in the form of food products. This can be seen from the provisions of Article 1 Number 1 which states that certified products include goods and/or services related to food, beverages, medicines, cosmetics, chemical products, biological products, genetic engineering products, and other things used by the community ([Ahyar, 2020](#)) ([Aziz et al., 2019](#)).

Pesantren (Islamic Boarding School)

Pesantren or Islamic boarding school is a traditional educational institution that was born and grew together with the arrival of Islam to the Java land (Indonesia). Pesantren is the oldest and original educational institution in Indonesian society. Since its arrival, pesantren have been able to emerge as an educational institution that grows and develops on their ability and is not co-opted from the pesantren's external interests ([Pohl, 2006](#)) ([Ni'am, 2015](#)) ([Permani, 2011](#)).

The Law on Pesantren aims to fulfill the development, aspirations, and legal needs of the community on aspects such as recognition of the pesantren independence, recognition of the pesantren variants, and recognition of pesantren education as part of national education. This law also serves as a legal basis for affirming the guarantee of equal quality of graduates, equality of access to education for graduates, and equality in employment opportunities, including recognition of qualifications, competencies, and professionalism of educators and education personnel in pesantren education and the establishment of funding instruments to ensure the availability and adequacy of the budget in developing pesantren. And the important thing from the Pesantren Law is as a legal basis to strengthen the role of pesantren in national development to answer the challenges of the future times.

Nationalist Party and Aspirations of Islamic Law

From the composition of Indonesian House Representatives members in [table 3](#), [table 4](#), [table 5](#), and [table 6](#) it can be read that the sets of Islamic parties or those based on the Muslim community have a smaller seat than purely nationalist-based parties. During the 4 periods, the legislative composition never changed. Nevertheless, the aspiration to transform Islamic law into national law was successfully carried out. This shows, among other things, that the aspirations of Islamic law are not only within Islamic parties but also widespread in nationalist parties.

CONCLUSION

This study concludes that laws containing Islamic law established in the Reformation Era from 1999 to 2019 further strengthen the legal position of Islamic law in several fields. Areas that are becoming stronger legally are hajj (pilgrimage) and umrah management, management of zakat, implementation of special privileges Aceh Province, endowments (*waqf*) management, religious courts, state sharia securities, Islamic banking, halal product guarantee, marriage law, and the existence of pesantren (Islamic boarding school).

LIMITATION AND STUDY FORWARD

The object of this research study is limited to the general law contained in Islamic law established in 1999-2019. For future research, there needs to be a special study for the development of each Islamic law field. Also, there is also a need to study the content of Islamic law in the form of other regulations such as Regional Regulations (Perda), Government Regulations (PP), Presidential Regulations (Perpres), Presidential Instruction (Inpres), and others.

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Arip Purkon is the author. All the research work and article writing are conducted by Arip Purkon on his own.

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