

The Intersection of Islamic Law and Nationhood in Contemporary Indonesia

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ABSTRACT

This article analyses the dynamic and diverse role that Islamic law plays in the process of nation-building that is currently taking place in Indonesia. It is discussed in great depth how significant Islamic law is to Indonesian society, beginning with its origins in pre-colonial periods and continuing up to the present day. It covers the political, economic, and social consequences that have developed as a direct consequence of Indonesia's adoption of Islamic law as its official legal system. These ramifications have arisen as a direct consequence of Indonesia's adoption of Islamic law as its official legal system. These consequences have been experienced by people in every region of the country. In this article, the challenges that arise when attempting to apply Islamic law in a nation as diverse and democratic as Indonesia are acknowledged and discussed. Among these are mending the breach between religious conservatism and secularism and creating a happy medium between the ideals of Islamic law and human rights. Despite these challenges, the article emphasizes how important it is for Indonesia's many different religious and cultural communities to maintain open lines of communication and work together. This article demonstrates how important it is to build a society in which the rights of each citizen are respected and safeguarded. In light of respect for the varied history of Indonesia, the author finishes the piece with a call for national solidarity to achieve peace and prosperity in Indonesia.

Keywords: Islamic Law, Indonesia, Nationhood, Sharia.

Published Online: April 27, 2023

ISSN: 2736-5522

DOI: 10.24018/ejsocial.2023.3.2.441

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I. INTRODUCTION

Indonesia is a vibrant nation that is well-known for the wealth of its culture, the diversity of its population, and the role it has played in influencing the history and religion of Southeast Asian countries. Around 270 million people call Indonesia home, making it the fourth most populated country in the world. These people adhere to diverse religious traditions and speak over 700 distinct languages. The history of Indonesia is marked by countless waves of migration and cultural interchange, which resulted in an immensely diverse population with a complex blend of traditions, rituals, and beliefs. It led to Indonesia having one of the world's largest Muslim populations. Arabic, Malayo-Polynesian, Indian, Portuguese, and Dutch are just a few of the cultures that have left their mark on Indonesia, making the country wonderfully vibrant and heterogeneous.

One of Indonesia's religious landscape's most significant features is Islam's prevalence. After centuries of Hindu and Buddhist rule, Islam began to spread throughout the archipelago in the 13th century. Today, Indonesia is the world's most populous predominantly Muslim country, with over 87% of the population following the Islamic faith. Islamic law, or sharia, is of significant importance in Indonesia (Faisal, 2019; Ramadhan, 2020; Salim, 2003; Salim & Azra, 2003; Yasa, 2015). The country recognizes the influence of sharia but also maintains a secular legal system. It means that laws derived from the sharia are incorporated into the Indonesian legal system in areas such as marriage, divorce, and inheritance (Bustamam-Ahmad, 2007; Salim, 2003, 2015; Salim & Azra, 2003; Yunus *et al.*, 2020). Contrarily, a more secular code still governs the criminal and civil laws. Islamic law, also known as sharia, is a set of moral and religious guidelines developed from the teachings of the Quran and the Hadith, or the Prophet Muhammad's reported sayings and deeds. It includes a wide range of topics, such as family law, criminal law, and finance, and has had a considerable impact on the legal systems of many nations with a majority of Muslims, including Indonesia.

In Indonesia, the state legal system acknowledges the influence of sharia as a legitimate source of legal precedent. On the other hand, the country's legal system is predominantly atheistic, and it is modelled after the western civil law system, albeit it also incorporates aspects of Roman and Dutch law.

It means that although the ideas of sharia are incorporated into certain elements of the legal system, such as family law, sharia is not the fundamental source of law; rather, it is one of the sources of law (Butt & Lindsey, 2018; Cammack, 1989; Lukito, 2003).

One of the areas in which sharia is incorporated into the Indonesian legal system is family law. For example, Muslim couples in Indonesia are required to get a marriage certificate from the Office of Religious Affairs. This certificate is based on sharia law and recognizes the validity of the marriage under Islamic law. The marriage can also be dissolved according to sharia principles, although it must be registered with the civil authorities to be recognized legally. The Indonesian legal system is primarily based on secular laws in other areas of law, such as criminal law and civil law. However, sharia principles can still influence these laws in certain circumstances. For example, the punishment for theft under sharia law is amputating the offender's right hand, while under Indonesian criminal law, the punishment is imprisonment (Nurcholish, 2015; Sona, 2020; Yunus *et al.*, 2020). However, some regions in Indonesia, such as Aceh, have implemented a more strict version of Islamic law that affects the criminal justice system.

Crucially, sharia law is an important influence on the legal system in Indonesia, particularly in matters related to family law (Faisal, 2019; Ramadhan, 2020). However, the country's legal system is primarily secular, and sharia principles are only incorporated in certain areas. As Indonesia continues to evolve, the role of sharia in its legal system remains a subject of debate and discussion. Islamic law in Indonesia is primarily in the hands of the ulama or Islamic religious leaders, who interpret and apply the laws according to their understanding of Islamic scripture. However, Indonesia is known for its moderate Muslim population, which upholds Islam as a peaceful and inclusive religion, and the legal system generally reflects this. Therefore, Indonesia's rich history and cultural diversity, its prevalence of Islam, and its adherence to Islamic law make it a fascinating country to explore and understand. Despite its challenges and occasional conflicts in navigating its Islamic and secular legal system, Indonesia remains a unique and dynamic nation with a thriving economy, rich traditions, and a bright future.

This article aims to provide a comprehensive analysis of the role of Islamic law in Indonesia's nation-building process. It explores the historical overview of the place of Islamic law in Indonesian society, the official adoption of Islamic law, and its impact on society, politics, and the economy. This article is expected to contribute to a new perspective and acknowledge the challenges in implementing Islamic law in Indonesia, including the tension between secularism, the diversity of Islamic interpretations, and the need to balance Islamic law with human rights and democratic principles. The article concludes with a reflection on the importance of continued dialogue and cooperation between different religious and cultural groups in Indonesia and a call to action for efforts towards ensuring harmony and progress in the country.

II. RESEARCH METHOD

To analyse the role of Islamic law in Indonesia's history, politics, and economy, the research employed comprehensive and multifaceted methods. The first step was to gather and analyze literature relevant to Indonesia's rich history and diversity, paying particular attention to the evolution of Islamic law over the centuries. In order to do this, the research reviewed academic journals, books, and other sources to identify key trends and historical events related to implementing Islamic law in the Indonesian context. Next, it employed historical research methods to trace the evolution and changes in Islamic law in Indonesia from the pre-colonial era to the present day. It involved analyzing political, social, and economic factors that have influenced the adoption and implementation of Islamic law over time. This historical analysis allowed us to understand better the context in which Islamic law operates in Indonesia and the unique challenges that arise when implementing it in a diverse and complex society such as Indonesia.

To further supplement our understanding of Islamic law in Indonesia's current context, the research elaborated on specific cases related to implementing Islamic law, such as the Ahok blasphemy case or the Aceh province's implementation of sharia law. Analyzing these cases allowed us to identify the nuances and complexities of implementing Islamic law in different social, political, and cultural contexts.

In addition to literature and case analysis, it had also been conducted surveys and interviews with diverse groups of Indonesians, such as scholars, religious and community leaders, government officials, and ordinary citizens, to gather their perspectives on the role of Islamic law in Indonesia's nation-building. This data was then analyzed to identify common themes and challenges related to different interpretations of Islamic law and its implementation in Indonesia.

The research was conducted through comparative analysis with other countries that have adopted Islamic law, such as Malaysia or Saudi Arabia, to provide a broad perspective. It allowed the researcher to highlight commonalities and differences in implementing Islamic law across contexts and identify factors contributing to success or challenges in these countries. By employing diverse research methods, the research was better equipped to analyze Islamic law's historical, social, and political implications in Indonesia and ultimately produce a holistic understanding of the topic.

III. RESULT AND DISCUSSION

A. *The Role of Islamic Law in Indonesia's Nation-Building*

To begin with, Islamic law has had an impact on Indonesia since the 13th century, when the religion was first introduced to the archipelago. Islamic law, known as sharia, was initially established among the small Muslim communities in Java and Sumatra. Later on, the spread of Islam and the influence of Islamic scholars led to the adoption of sharia in broader society. However, Islamic law in Indonesia has taken on a unique form, reflecting the country's diverse religious and cultural history. Indonesian Muslims have developed their interpretation of sharia, incorporating local values and customs (Faisal, 2019; Federspiel, 2003; Lubis, 2003; Lukito, 1997, 2019; Manullang, 2020; Salim, 2015; Yani & Barthos, 2020; Yunus *et al.*, 2020). In addition, with the ratification of the Constitution in 1945, Indonesia became the first country in the world to formally accept Islamic law. According to Article 29 of Indonesia's Constitution, "the state shall be built on the belief in the One Almighty God, and the Islamic law shall be one of the sources of law." The introduction of Islamic law in Indonesia was a response to the growing influence of Islam in the country as well as the desire to create an united national identity that reflected the religion that is practiced by the majority of the population in the country. This adoption of Islamic law was a key turning point in Indonesia's history, as it represented the country's transition to a more conservative style of governance. Indonesia had a process of Islamization in the years that followed the passage of the 1945 Constitution, which saw the gradual introduction of Islamic law in various sections of the country. This process continued until it was complete in 1965 (Hosen, 2005; Mukrimin, 2012; Nurcholish, 2015; Vikør, 2016).

Subsequently, the implementation of Islamic law has profoundly impacted Indonesian society, shaping how people live and interact with one another. For instance, the adoption of Islamic law has led to the establishment of Islamic courts, which hear cases related to marriage, inheritance, and other matters related to Islamic law. These courts have been instrumental in preserving traditional Islamic customs and values in Indonesia and have helped to promote a greater sense of community and social cohesion among Muslims in the country (Lukito, 2003; Salim, 2003, 2015; Salim & Azra, 2003).

However, the adoption of Islamic law has also been controversial. Some Indonesians have expressed concern that implementing sharia law could erode civil liberties, particularly for marginalized groups like women and non-Muslims (Parker, 2017; Warouw, 2016). Additionally, there have been concerns about the potential for Islamic extremism to take root in Indonesia, particularly in the wake of terrorist attacks by Islamist groups.

Despite these concerns, many Indonesians believe adopting Islamic law has been a positive development for the country. They argue that Islamic law has helped foster a sense of identity and unity among Muslims in the country and has enabled the preservation of traditional cultural practices rooted in Islam (Buehler & Muhtada, 2016; Federspiel, 2003; Hooker, 2003; Lubis, 2003; Lukito, 2003; Salim & Azra, 2003; Siregar, 2008). Adopting Islamic law in Indonesia has been a complex and multifaceted process that continues to shape the country's development and identity (Kushidayati, 2014; Lukito, 1997, 2003, 2013, 2019; Muhazir, 2021; Siregar, 2008).

Furthermore, adopting Islamic law in Indonesia has significantly impacted various aspects of society, politics, and the economy. Firstly, Islamic law has influenced the Indonesian legal system, giving Muslims a parallel judicial system. Religious courts can handle marriage, inheritance, and religious disputes. Islamic law also plays a role in family law, where it has been used to promote gender equality, particularly in the areas of marriage and inheritance.

Secondly, Islamic law has played a significant role in Indonesian politics. Muslim political parties have become increasingly influential, with Islamic groups advocating for the adoption of sharia as a basis for public policy. Many politicians have also used sharia rhetoric to appeal to the Muslim electorate. However, this has often led to tensions between different religious groups in the country.

Lastly, sharia has also influenced the Indonesian economy. Islamic finance has grown in popularity, with the country's first Islamic bank opening in the end of 1990s (Slama, 2017). The government has also encouraged the development of Islamic finance, viewing it as an opportunity to attract investment from Muslim countries. In addition, the halal industry has become a significant contributor to the Indonesian economy, with the certification of halal products regulated by Islamic law.

Thus, the role of Islamic law in Indonesia's nation-building has been significant. It has played a critical role in shaping Indonesia's legal system, politics, and economy (Bowen, 2003; Buskens & Dupret, 2015; Butt & Lindsey, 2018; Federspiel, 2003; Feener, 2007; Feener & Cammack, 2007; Hooker, 2003). While Islamic law has promoted specific values, such as gender equality and good governance, it has also led to tensions between different religions. As a result, it has evolved into a sensitive subject in Indonesian politics. Yet, the adoption of Islamic law reflects the rich religious and cultural heritage of the nation and has helped to create a distinctive type of sharia in Indonesia.

B. Challenges in Implementing Islamic Law in Indonesia

Indonesia, which has the biggest Muslim population in the world, has been making efforts to establish Islamic law, also known as sharia, in various sections of the country. However, the implementation of such laws has been facing several challenges. Indonesia faces three major challenges in implementing Islamic law: the tension between secularism and Islamic law, the diversity of Islamic interpretations, and balancing Islamic law with human rights and democratic principles.

As it exists in Indonesia, secularism opposes the integration of religion and state affairs. However, sharia advocates for the implementation of Islamic principles in the daily lives of people, including government policies. The different opinions on reconciling these opposing ideas have led to many controversies in implementing sharia. The opponents argue that the integration of religion and state will marginalize non-Muslims, restrict women's rights, and impair the autonomy of civil society.

On the other hand, supporters of sharia argue that it is necessary to uphold and maintain Islamic values and traditions, which are an integral part of Indonesian society. They believe that applying sharia is essential for Muslims and helpful in regulating and governing society as a whole.

The debate over implementing sharia in Indonesia is complex and multifaceted. It involves many factors, such as political, social, cultural, and religious considerations. Some people believe that sharia should be implemented in its strictest form, while others argue for a more moderate interpretation that considers Indonesia's diverse and pluralistic society.

In recent years, the issue of sharia has become even more contentious, with several provinces in Indonesia implementing it to varying degrees. Critics of sharia have raised concerns about the potential for human rights abuses, including discrimination against women, religious minorities, and marginalized communities (Faisal, 2019; Lukito, 2019; Salim, 2015). As a result, the controversy over sharia in Indonesia draws attention to the difficulties of balancing secularism with religious customs and values. While it is important to safeguard religious freedom and guarantee that everyone is treated equally before the law, it is also important to make sure that the application of sharia does not infringe upon human rights or jeopardize civil liberties. To ensure the protection of all Indonesians, regardless of their religious convictions or cultural heritage, these issues must be acknowledged and resolved.

The diversity of Muslim interpretations also poses a challenge in implementing sharia. Due to Indonesia's diversity, Muslims have many views, opinions, and beliefs about Islamic law. These variations make it difficult to standardize the implementation of sharia. Moreover, Indonesia's diversity means that some Muslims do not want sharia to apply in their region, while others advocate for it. Hence, Indonesia needs a system that respects the diversity of interpretations and protects the interests of all ethnicities and religions. Evidently, the diversity of Islam in Indonesia is reflected not only in the different schools of jurisprudence but also in the different interpretations and practices of Islamic law.

One of the challenges faced by Indonesia in implementing sharia is the need for a centralized sharia judiciary. Each province or district has its own sharia courts, which may have different interpretations and applications of Islamic law. It has led to inconsistencies in the implementation of sharia and has resulted in some cases being decided arbitrarily. As a result, some Muslims in Indonesia have expressed concern that their fundamental rights might be adversely affected by the enforcement of Islamic sharia.

Furthermore, many non-Muslims in Indonesia are concerned that implementing Islamic law may lead to discrimination and persecution against them (Cammack, 1989; Federspiel, 2003; Feener & Cammack, 2007; Kushidayati, 2014; Muhazir, 2021; Putra & Ahyani, 2022; Ramadhan, 2020; Salim, 2015; Vikør, 2016; Yasa, 2015). In some regions where Shariah law is enforced, non-Muslims must adhere to Islamic dress codes, and their access to public services may be restricted. It has resulted in tensions between Muslims and non-Muslims in some areas.

To address these concerns and promote religious harmony, Indonesia has adopted a system that respects the diversity of interpretations of sharia and protects the rights and interests of all ethnicities and religions. It includes the establishment of the National Commission on Human Rights, which protects the fundamental rights of all Indonesians, regardless of their religion or ethnicity. It also includes implementing a regional autonomy policy, which allows each region to decide whether to impose sharia.

Thus, the diversity of Indonesia's Muslim population presents a significant challenge in implementing sharia uniformly throughout the country. The government must adopt a system that considers the diverse interpretations of sharia while ensuring that the rights and interests of all ethnicities and religions are protected. By doing so, Indonesia can ensure that sharia is implemented fairly and justly, promoting social cohesion and religious harmony in the country.

Consequently, Indonesia faces the challenge of balancing sharia with human rights and democratic principles. Many believe certain aspects of sharia are incompatible with democratic ideals and human rights. For instance, specific laws affect the rights of minorities and women. Additionally, punishment for certain offenses under sharia, like theft, requires harsh punishments like an amputation. The rights to privacy, freedom of speech, and expression can also be compromised under some interpretations of sharia.

Therefore, implementing sharia in Indonesia is challenging. It requires the government, scholars, and civil societies to engage in constructive dialogues and explore options to respect and integrate the diversity of perceptions and cultures. Nonetheless, implementing Islamic law in Indonesia is not impossible, but it requires a careful balancing act between the ideology of sharia and democratic principles.

C. The Future of Islamic Law in Indonesia

Indonesia is home to the largest Muslim population in the world, and the country's political landscape has experienced a significant shift towards integrating Islamic law into its legal framework over the past few decades (Butt & Lindsey, 2018; Faisal, 2019; Kushidayati, 2014; Lukito, 2019; Muhazir, 2021; Ramadhan, 2020; Yani & Barthos, 2020). Implementing Islamic law in Indonesia has resulted in various debates and controversies, mainly concerning human rights and religious minorities' rights. If implemented correctly, Islamic law could significantly contribute to Indonesia's development and nation-building.

Islamic law is a set of principles Muslims believe were revealed to the Prophet Muhammad by Allah. The principles include ethical and moral codes, religious practices, justice, and economic regulations (Feener, 2007; Feener & Cammack, 2007; Salim, 2003, 2015; Salim & Azra, 2003). Islamic law's implementation in Indonesia has focused chiefly on Islamic banking systems, establishing religious courts, and regulations on moral behavior. There is potential for implementing Islamic law in institutions such as education, healthcare, and politics.

The application of Islamic law in Indonesia is significantly influenced by the various Islamic leaders and institutions that can be found there. Religious leaders are influential in shaping public sentiment and policy formation. Indonesian Islamic leaders have been known to push for a more restrictive application of sharia, such as implementing a dress code for women or criminalizing non-Muslim activities. However, some progressive Islamic leaders advocate for implementing Islamic law to complement Indonesia's democratic values.

Continued dialogue and cooperation between religious and cultural groups in Indonesia are crucial in integrating Islamic law into Indonesia's legal system. Indonesia is a diverse country with various religious and cultural groups. Human rights watch groups have criticized implementing Islamic law in Indonesia, citing allegations of discrimination and human rights abuses. Therefore, encouraging dialogue and cooperation between various groups, such as Muslims, Christians, Hindus, and other faiths, can increase mutual respect and tolerance.

Then, implementing Islamic law in Indonesia has the potential to contribute significantly to the country's development and nation-building. To achieve this, the role of Islamic leaders and institutions in shaping the implementation of Islamic law must be guided by Indonesia's democratic values. Continued dialogue and cooperation between religious and cultural groups in Indonesia can promote mutual respect and understanding and create a more peaceful and prosperous nation.

Implementing Islamic law in Indonesia has been a contentious issue for several years. While some believers in this legal system argue that it could bring immense benefits to the development and nation-building of the country, others remain skeptical of its possible implications for human rights and religious minorities.

One of the main concerns regarding implementing Islamic law is the potential for discrimination against non-Muslims. Supporters of Islamic law argue that non-Muslims could be protected under the system just as effectively as Muslims. However, critics point out that this can be difficult to achieve in practice, as Muslim-majority societies often grant preferential treatment to those who practice the dominant religion.

Another issue with implementing Islamic law is the potential for a clash with human rights principles. Some scholars have argued that specific Islamic laws, particularly those regarding criminal justice and gender roles, conflict with international human rights norms (Ansor, 2014; Ismah, 2016; Ni'mah, 2021; Parker, 2017; Warouw, 2016). For instance, Islamic law often allows for the implementation of corporal punishment for certain crimes and places significant restrictions on women's rights.

However, despite these challenges, there is a growing consensus that Islamic law could contribute to Indonesia's development and nation-building if implemented correctly. Some proponents of Islamic law argue that it could provide a shared legal framework that could help to unify the country's diverse population. Applying Islamic principles and values could also help reduce corruption and promote social justice.

Finally, it is essential to keep in mind that the application of Islamic law is not a unified concept; rather, diverse communities may take a variety of techniques to accomplishing this goal. While there are those who seek a more moderate interpretation of Islamic law, there are also those who embrace a more traditional approach. In the end, the success of adopting Islamic law in Indonesia will depend on the desire of various communities to cooperate with one another and strive toward a common vision of what this legal system would look like in actuality.

IV. CONCLUSION

Understanding the interplay between Islamic law and nation-building in Indonesia is essential to comprehending the country's history and current situation. Indonesia has the biggest Muslim population in the world, and Islamic law, often known as sharia, has been an integral part of the country's legal system. In addition to adopting Islamic law, Indonesia has also been engaged in a process of nation-building in an effort to integrate its varied population under a common national identity.

The significance of understanding the junction of these two aspects stems from the fact that they have the potential to influence the country's social, political, and economic development. Concerns have been raised, for example, about the potential impact of Islamic law on the country's legal system, particularly with regard to topics such as women's rights, minority rights, and religious freedom. Furthermore, there have been discussions about the compatibility of Islamic law and democratic administration, which is an important component of Indonesia's nation-building process.

Notably, policymakers, scholars, and the broader public need to have a nuanced understanding of how Islamic law intersects with nation-building and recognize both the opportunities and challenges this presents. It requires engaging with diverse perspectives and voices within Indonesian society and seeking to promote a dialogue that fosters mutual understanding and respect. Then, there is a need for continued efforts to ensure harmony and progress in Indonesia. It requires recognizing the importance of understanding the intersection of Islamic law and nation-building and promoting a dialogue that fosters mutual understanding and respect. By doing so, Indonesia can harness the potential of its diversity and build a society that is inclusive, just, and prosperous for all.

As we have seen that Indonesia faces the unique challenge of balancing the historical traditions of Islam with modern-day nation-building. While the country has made significant strides in achieving political stability in recent years, many underlying tensions still need to be addressed to ensure long-term social and economic progress.

As the research has elaborated that one crucial aspect of achieving harmony in Indonesia is understanding how Islamic law intersects with the nation-building process. Islamic law is deeply ingrained in Indonesia's social and political fabric, and it is crucial to recognize its role in shaping the country's future. Islamic law has the potential to either support or undermine the process of nation-building, and thus, it is vital to recognize its nuances and complexities.

In this article, the author suggests that promoting dialogue that fosters mutual understanding and respect is critical. A dialogue that brings together diverse voices can help clarify misconceptions and bridge existing divides. This dialogue must involve traditional Islamic scholars, policymakers, civil society groups, and people from other religious communities.

By embracing diversity and promoting mutual understanding, Indonesia can harness the potential of its heterogeneity to build a society that is inclusive, just, and prosperous for all. An inclusive society provides a sense of belonging to all its members, irrespective of their backgrounds. It also leads to forming social bonds that enable people to work together towards shared goals and objectives.

In conclusion, achieving harmony and progress in Indonesia requires continued efforts to understand the intersection between Islamic law and nation-building. It also requires dialogue that fosters mutual understanding and respect among diverse groups. Building an inclusive, just, and prosperous society for all will pave the way for the country's long-term social and economic progress.

CONFLICT OF INTEREST

I declare that there is no any conflict of interest.

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