LEGISLATION OF ISLAMIC LAW AND KHI
(The Politics of Identity and the Search for Recognition in The Context of Modern Indonesia)

Faisal, Adelina Nasution
Institut Agama Islam Negeri Langsa
faisalfasya@iainlangsa.ac.id, adelinanasution@iainlangsa.ac.id

ABSTRACT

The struggle for the making Islamic family law after independence still leaves debate, for those who reject Islamic law legislation considers that Islamic law does not need to be included in state law, on the contrary for those who support it, consider that the state cannot ignore Islamic law in the state legal system. Marriage regulations are the initial stage of the Islamic law legislation process because it is not comprehensive enough that a presidential instruction on the Compilation of Islamic Law was issued in 1991. This article aims to analyze the roots of the struggle for marriage law legislation and the presence of KHI in Indonesia. This research resulted from a normative study with legal politics and a historical approach. This paper argues that the birth of KHI cannot be separated from the role of Muslim parties and the insistence of Islamic religious leaders who view that the marriage law is not comprehensive in regulating marriage law. The marriage law tends to ignore traditional fiqh and customary law, so the presence of

KHI can eliminate the debate between the government and traditionalist Muslims.

Keywords: *Legislations, Islamic Family Law, Kompilasi Hukum Islam, Politics.*

Introduction

The study of law in the political order in Indonesia is a study that cannot be separated from the debate (conflict) between Islam and politics (Religion and State) which has lasted quite a long time. On the one hand (the majority) wanted the implementation of Islamic values in the life of the State. While others wanted the State to be separated from religion (secular politics).[1] Although this group is supported by a minority, yet politically very strong, and the movement always suspects and blocks any ideas of the enactment of Islamic law on the classical grounds of wanting to establish an Islamic State, this condition that makes Muslims in Indonesia almost as political nomads.[2]

The statement regarding the majority does not make the position of Islam to win the political arena in filling the space and legal dimension in this Republic. However, socially and politically, Islam always faces resistance and is even under pressure from the political control of the ruling elite who prioritizes a pluralist approach and modernization of

[1]Lukman Arake, "Agama Dan Negara Perspektif Fiqh Siyasah," Jurnal Al-Adalah, Vol.3, No. 2, Juli 2018, h. 38.

[2]M. Rusli Karim, *Negara Dan Peminggiran Politik: Studi Kajian Mengenai Implikasi Kebijakan Pembangunan Bagi Keberadaan "Islam Politik" Di Indonesia Era 1970-an Dan 1980-An,* (Yogyakarta: Tiara Wacana, 1998), h. 19.

development, and this has a major impact on the development of Islamic law at the political level in Indonesia.[3]

Law is the result of the attraction of various political forces that are manifest in the product of law. In this case, Satjipto Raharjo stated that law is an instrument of political decisions or wishes, so that the making of laws is laden with certain interests, and thus the making of laws becomes a conflict and a struggle for interests.[4] The legislature will reflect the configuration of powers and interests that exist in society. The configuration of strength and interest in the legislature is important because modern lawmaking is not just formulating legal material in a standard manner with juridical guidelines, but making political decisions in advance. Despite the configuration of powers and interests within the legislature, outside interventions cannot be ignored in legislative formation. These interventions are carried out mainly by groups who have power and strength, both socially, politically and economically.[5]

In Indonesia, government intervention in politics is common, as it is in other developing countries. Since the Dutch colonial era until now the government has been very dominant in meddling legal politics in Indonesia.[6] According to Mahfud MD, legal politics also includes an understanding of how politics affects the law by looking at the configuration of the forces

---

[3]Abdul Halim, *Politik Hukum Islam Di Indonesia,* (Jakarta: Ciputat Press, 2005), h. 2.

[4]Muhammad Sulthon, "Hukum Islam dan Perubahan Sosial (Studi Epistemologi Hukum Islam dalam Menjawab Tantangan Zaman)", *Jurnal Ilmiah Universitas Batanghari Jambi*, Vol. 19, No. 1, 2019, h. 27.

[5]Jazuni, *Legislasi Hukum Islam Di Indonesia,* (Bandung: Citra Aditya Bakti, 2005), h. 9–10.

[6]Tjuk Wirawan, *Politik Hukum Di Indonesia,* (Jember: UPT Unej, 2004), h. 8.

behind the establishment and enforcement of laws.[7] It is also considered the legal ethics, whether it is bad, fair or not, or whether the legal provisions are suitable for the community concerned, because this has something to do with whether the law is obeyed or not in a society.[8]

M.B. Hooker's[9] research and Yüksel Sezgin (et.al)[10] show that the political struggle of Islamic law in Indonesia is quite supportive of the fatwa of religious leaders (MUI), Islamic fundamentalists. Even Hooker explained that fatwas follow the law in Indonesia, fatwas with the style of the Syafi'i school helped build the substance of Islamic law in Indonesia. Research by Mark Cammack (et.al) illustrates that before 1974, the practice of marriage as a whole adopted Islamic law after the 1974 law on marriage was passed, restrictions on the practice of marriage, divorce, and arbitrary polygamy.[11] The writings of Arskal Salim and Azyumardi Azra[12] illustrate that the application of law in Indonesia cannot be separated from Islamic law because historically at the time of the formulation of the basic state, it was inseparable from the Islamic context

---

[7]Moh. Mahfud MD, *Politik Hukum Di Indonesia,* (Jakarta: Rajawali Pers, 2014), h. 1–2.

[8]Zainal Abidin Abu Bakar and Zainal Abidin, "Pengaruh Hukum Islam Dalam Sistem Hukum Di Indonesia", *Jurnal Mimbar Hukum,* Vol. 4, No. 9, Juni 1993, h. 56.

[9]M. B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law,* (Singapore: Institute of Southeast Asian Studies, 2008). h. 21

[10]Yüksel Sezgin and Mirjam Künkler, "Regulation of 'Religion' and the 'Religious': The Politics of Judicialization and Bureaucratization in India and Indonesia", *Comparative Studies in Society and History,* Vol. 56, No. 2 April 2014, h. 448–478..

[11]Mark Cammack, Lawrence A. Young, and Tim B. Heaton, "An Empirical Assessment of Divorce Law in Indonesia", *Studia Islamika,* Vol. 4, No. 4, 1997, h. 94.

[12]Arskal Salim and Azyumardi Azra, eds., *Shari'a and Politics in Modern Indonesia,* (Singapore: Institute of Southeast Asian Studies,2003). h. 53

which emphasized that the obligation to carry out Islamic law was not accommodated in the constitution.

The Dynamics of Islamic Law Legislation in Indonesia

The history of the development of Islamic law in Indonesia can be read from the entry of Islam in this country. Islam entered Indonesia in the first century or seventh century AD,[13] which was brought by Arabian traders.[14]

Sociologically and culturally, Islamic law has merged and has become a living law. In some areas, such as Aceh, South Sulawesi, Minangkabau, Riau, and Padang, Islamic law is accepted without reservation, in line with customary law or local ancestral traditions.[15] This can be proven by the existence of a saying that tradition has sharia jointed, sharia-based, sharia based on the Qur'an. Both reflect how thick and unified the relationship between Islamic law and local customs is.[16] It is not an exaggeration if this era is the era where Islamic law first entered Indonesian territory.[17] It is interesting to observe that the development of Islamic law in Indonesia in the days leading up to the XVII, XVIII and XIX centuries, both at the intellectual level in the form of thoughts and books, as well as in religious practice can be said to be quite good. It is said to be quite good,

---

[13]Endang Saifuddin Anshori, *Wawasan Islam: Pokok-Pokok Pikiran Tentang Islam Dan Umatnya,* (Jakarta: Rajawali Pers, 1991), h. 253.

[14]Azymadi Azra, *Jaringan Ulama Timur Tengah Dan Kepulauan Nusantara XVII-XVIII,* (Bandung: Mizan, 1994), h. 24–36.

[15]Hani Adhani, "Menakar Konstitusionalitas Syari'at Islam dan Mahkamah Syar'iyah di Provinsi Aceh", *Konstitusi,* Vol. 16, No. 3 Oktober 2019, h. 606.

[16]Taufiq Abdullah, *"Adat Dan Islam: Suatu Tinjauan Tentang Konflik Di Minangkabau," in Sejarah Dan Masyarakat; Lintasan Historis Islam Di Indonesia*, ed. DalamTaufiq Abdullah, (Jakarta: Pustaka Firdaus, 1987), h. 104–27.

[17]Amiur Nurudin and Azhari Akmal Tarigan, *Hukum Perdata Islam Di Indonesia,* (Jakarta: Kencana, 2004), h. 3.

because Islamic law is practiced by the community in an almost perfect form, covering matters of Islamic family law, justice, and of course in matters of worship. In addition, Islamic law became an independent legal system used in the Islamic kingdoms of the archipelago.[18]

Based on the establishment of Islamic kingdoms, the authorized power that had been exercised by the *tahkim* institutions was transferred and given to the courts. This is intended so that Islamic law can truly be enforced and at the same time is a further explanation of the religious activity in providing religious services to the community.[19]

Thus, various Islamic court institutions emerged in several places, including the *Serambi* Court in Java, the *Syar'iyyah* Court in Sumatra, and the *Kerapatan qadhi* in Banjar and Pontianak. These court institutions not only resolve civil matters, but to some extent handle criminal matters.[20] It is not wrong to say that at that time long before the Dutch colonized Indonesia, Islamic law became positive law in Indonesia.[21]

The phenomenon of Islamic law as a living law in society, with the king (sultan) as the highest authority, has established a creed theory among observers of Islamic law.[22] This theory is a continuation of the principle of *tauhid* in the philosophy of

---

[18]Mohammad Idris Ramulyo, *Azas-Azas Hukum Islam Sejarah Timbul Dan Perkembangannya,* (Jakarta: Sinar Grafika, 1997), h. 38.

[19]Bustanul Arifin, *Pelembagaan Hukum Islam Di Indonesia: Akar Sejarah Dan Perspeknya,* (Jakarta: Gema Insani Press, 1996), h. 78.

[20]Mahsun Fuad, *Hukum Islam Indonesia,* (Yogyakarta: LKiS, 2004), h. 49.

[21]Muhammad Nasir, "Legislasi Hukum Keluarga Di Aceh Pasca Otonomi Khusus", *Jurisprudensi : Jurnal Ilmu Syariah, Perundangan-Undangan Dan Ekonomi Islam,* Vol. 10, No. 1, Juni 30, 2018, h. 97–108.

[22]M. Anzaikhan, "Hakikat Administrasi Pemerintahan Islam", *Al-Ijtima`i: International Journal of Government and Social Science,* Vol. 5, No. 1, October 30, 2019, h. 56–80.

Islamic law, which requires the implementation of Islamic law by those who have pronounced two sentences of *syahadat*. This is by the theory of Islamic legal authority, as initiated by H.A.R. Gibb, that people have accepted Islam as their religion means that he has accepted the authority of Islamic law over him.[23]

The Dutch Colonial Period (1760-1942)

Based on the existence of Islamic law in the era of the Islamic empire, which had been carried out with full awareness by its adherents as a reflection of the acceptance of Islam as a religion which they believed had encouraged the Dutch colonial side, when they first arrived in Indonesia in the 17th century AD, to acknowledge the existence of Islamic law.

It has been quiet for a while and has not intervened at all. The Netherlands began issuing its policy towards the existence of Islamic law, through the Dutch VOC trading office (1602-1880 AD), on May 25, 1760, the *Resolutie der Indshe Regeering* was issued which contained provisions for the imposition of a set of rules of marriage law and inheritance law according to Islamic law for use in VOC courts for Indonesians. This resolution is known as the *Friyer Compendium* and at the same time can be said to be the first Islamic law legislation in Indonesia.[24]

This is evident in the Cirebon area that there is a product of legislation called *Pepakem Cirebon*, and previously there was *Babad Tanah Jawadan Babad Mataram*, a legal book which contents adopted many Islamic legal rules.[25] Other evidence of

---

[23]HAR Gibb, *Aliran-Aliran Modern Dalam Islam, Terj. Mahnun Husein,* (Jakarta: RajaGrafika Persada, 1993), h. 145–46.

[24]Ramulyo, *Azas-Azas Hukum Islam Sejarah Timbul Dan Perkembangannya*, (Jakarta: Sinar Grafika, 1997), h. 49.

[25]Muhammad Yunus, Fahmi Fatwa Rosyadi Satria Hamdani, and Gusti Khairina Shofia, "Tinjauan Fikih Muamalah Terhadap Akad Jual Beli

the existence of Islamic law legislation in the Dutch colonial era can be seen with a *Mogharrer* or the complete *Compendiumder Voornamshe Javaanche Wetten Naukering Getrokken Uit Het Mohammaedache Wetboek Mogharrer* whose material is taken from the *al Muharrar* book by Imam Rifa'i which substantially contains Islamic and customary criminal law, used in the Semarang Residency, Central Java.[26]

Dutch colonial politics benefited the position of Islamic law, at least until the end of the 19th century AD, with the issuance of Staatsblad No. 152 of 1882 which regulates and acknowledges the existence of a Religious Court in Java and Madura, is a strong indication of the acceptance of Islamic law by the Dutch government. In this situation, the *Receptie in Complexu* theory emerged, which was developed by Lodewijk Willem Christian Van den Berg (1845-1927), which means that Indonesian Muslims have receptions of Islamic law as a whole and united, or in other words, the law follows the religion they adhere to someone. If that person embraces the religion of Islam, it is Islamic law that applies to him.[27]

This change in political orientation has ushered in a crisis position for Islamic law, in the sense that its existence was deemed no longer beneficial for the interests of Dutch colonial politics. They realize that if Islamic law is allowed to continue to develop and be adhered to by the wider community, it will hinder the expansion and socialization (*da'wah*) of their

---

Dalam Transaksi Online Pada Aplikasi Go-Food", *Amwaluna: Jurnal Ekonomi dan Keuangan Syariah,* Vol.2, No.1, January 2018, h. 135–46

[26]Arso Sosroatmojo and Wasit Aulawi, *Hukum Perkawinan Di Indonesia,* (Jakarta: Bulan Bintang, 1976), h. 11–12.

[27]Muhammad Daud Ali, *Hukum Islam:Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia,* (Jakarta: Raja Grafindo Persada, 1993), h. 219.

religion.[28] Through this idea which was packaged in the concept of *Het Indiche Adatrecht* with his intellectual figure Christian Snouck Hurgronje which was further developed scientifically by C. Van Vollen Hoven danter Har Bzn, which later known as the *Receptie* theory, the Dutch Government made efforts to narrow down the validity of Islamic law. According to this theory, the laws that apply to Muslims are their respective customary laws. Islamic law can apply to Muslims if it has been perceived by determining the presence or absence of Islamic law.[29]

This theory emerged because Hurgronye was concerned about the influence of the Pan Islamists pioneered by Jamaluddin al-Afghani in Indonesia.[30] If Muslims practice their religious teachings, especially their legal system as a whole, Muslims will become strong and difficult to be influenced or colonized by the Dutch.[31]

Second, about Islamic social institutions, or *muamalah* aspects such as marriage, inheritance, *waqaf*, and other social relations, the government must endeavor to maintain and respect its existence.[32] Nevertheless, the Dutch government should try to attract the attention of the Indonesian people to

---

[28]M Rahmat Effendi, "Kajian Tentang Prinsip Dasar Dan Metode Berfikir Dalam Filsafat Dakwah Yang Diturunkan Dari Al-Qur'an," n.d., h. 17.

[29]Ali, *Hukum Islam: Pengantar Ilmu Hukum Dan Tata Hukum Islam DiIndonesia*, (Jakarta: RajaGrafindo Persada, 1996), h. 20.

[30]Karlina Sofyarto, "Perlindungan Hukum Hak Kekayaan Intelektual atas Pengetahuan Tradisional terhadap Perolehan Manfaat Ekonomi", *Kanun Jurnal Ilmu Hukum*, Vol. 20, No. 1, April 18, 2018, h. 149–62.

[31]Ichtijanto, "*Pengembangan Teori Berlakunya Hukum Islam Di Indonesia," in Hukum Islam Di Indonesia Perkembangan Dan Pembentukan*, ed. Tjun Suryaman, (Bandung: Rosdakarya, 1991), h. 123.

[32]Gemala Dewi, "Kewenangan Pengadilan Agama (Mahkamah Syar'iyah) Di NAD Dalam Melakukan Eksekusi Sanksi Pidana Islam (Hukum Jinayat) Menurut Ketentuan Hukum Dan Sistem Peradilan Di Indonesia," *Jurnal Hukum & Pembangunan*, Edisi Khusus Dies natalis 85 Tahun, October 28, 2009, h. 237.

the benefits that can be made from Western culture.[33] This was done with the hope that they would be willing to replace Islamic social institutions with Western social institutions. Third, in political matters, the government is advised not to tolerate any activities carried out by Muslims that can spread calls for Pan Islamism or cause armed political resistance against the Dutch government.[34]

The existence of this *receptie* theory meant that the Dutch were strong enough to create a commission tasked with reviewing the authority of the Religious Courts in Java and Madura.[35] With the recommendation (proposal) of the commission, Staatblad 1937 No. 116 was established which contains the revocation of the authority of the Religious Courts to handle inheritance and other matters. The authority of these cases was then delegated to the *Landraad* (District Court).[36] The implications of the *receptie* theory have resulted in the growth and development of Islamic law which is very slow compared to other institutions. If Islamic thought in Indonesia began in 1970, it was long before that, while the reform of Islamic law only started in the 1970s and to be precise in 1980.[37]

---

[33]Ibnu Rozali, "Konsep Memberi Nafkah bagi Keluarga dalam Islam," *Jurnal Intelektualita: Keislaman, Sosial dan Sains,* Vol.6, No.2, December 18, 2017.

[34]Alwi Shihab, *Membendung Arus, Respon Gerakan Muhammadiyah Terhadapo Penetrasi Kristen Di Indonesia,* (Bandung: Mizan, 1998), h. 86.

[35]Rahadian Prima Nugraha, "Pembaharuan UU Perkoperasian Pasca Putusan Mahkamah Konstitusi Nomor 28/PUU-XI/2013", *Jurnal Legislasi Indonesia*, Vol.14, No.01, Maret 2017, h. 29.

[36]A. Qadri Azizy, *Elektisisme Hukum Nasional Kompetisi Antara Hukum Islam Dan Hukum Umum,* (Yogyakarta: Gama Media, 2002), h. 155.

[37]Ahmad Rafiq, *Pembaharuan Hukum Islam Di Indonesia,* (Yogyakarta: Gaya Media, 2001), h. 170.

Japanese Colonial Period (1942-1945)

The most pronounced influence of Japanese colonialism is about the judiciary. Japan made a policy to produce secular courts that were unified into a single judicial institution that served all classes of society. The impact of this judicial unification has shifted the role of traditional leaders in North Sumatra and *Ulee Balang* (Local District Leader). Their authority in the customary courts was removed and administrative matters were retained.[38]

The influence of Japanese government policies on the development of Islamic law in Indonesia is not so visible. This is because Japan did not colonize Indonesia for long. The change that appears is in the institutional structure of the Islamic Religious Court.

Old Order Period (1954-1965)

After independence, Indonesia experienced several periods of government including the old order, the new order, and reformation. The Old Order is the term for the period of government under President Soekarno. In this period, President Soekarno acted as Head of State and Head of Government.

The old order government was the government of the Indonesian state which took place under the leadership of Soekarno. The old order government lasted from the proclamation of independence of the Republic of Indonesia on 17 August 1945 to 1965.

Observing the historical journey that existed in the post-independence era, the awareness of Muslims to implement Islamic law has arguably increased. Their struggle over Islamic law does not stop at the level of recognition of Islamic law as a

[38]Lukito, *Pergumulan Antara Hukum Islam Dan Adat Di Indonesia*, (Jakarta: INIS, 1998), h. 51.

subsystem of law that lives in society, but has reached further levels, namely legalization and legislation. They wanted Islamic law to be part of the national legal system, not only in substance, but legally formally and positively. This phenomenon first appeared at the same time as the establishment of the Jakarta Charter on June 22, 1945, in which the first precept reads:

"God Almighty with the obligation to carry out the Islamic religious sharia for its adherents".[39] The struggle for Islamic law legislation began to fade after on 18 August 1945, the Muslim success team was unable to defend the last seven words of the frenzy of the basic polarization of the State. With the disappearance of these seven words, it becomes difficult to legalize Islamic law within the framework of the State constitution.[40]

The spirit of struggle to maintain the existence of Islamic law in the post-independence era has been strived for by raising several theories as a counter to the *receptie* theory,[41] there are at least three theories, namely: first, the *receptie* theory put forward by Hazairin. This theory states that the *receptie* theory must exit from the Indonesian legal theory, because it contradicts the 1945 Constitution as well as the al-Qur'an and al-Hadits. This theory by Hazairin is called the devil theory. Second, the *receptie a Contrario* theory put forward by Sayuti

[39]Ahmad Yani and Megawati Barthos, "Transforming Islamic Law in Indonesia from a Legal Political Perspective," *Jurnal Al-Ahkam*, Vol. 30, No.2 October 2020, h.161.

[40]Fuad, *Hukum Islam Indonesia*, (Yogyakarta: LKiS, 2004), h.50.

[41]Dianto Dianto, "The Effect of Receptie Theory on Legal Concept of "Adat Barenti Lako Syara, Syara Barenti Lako Kitabullah", *Journal of Transcendental Law,* Vol. 2, No. 2, December 2020), h.77–78.

Thalib,[42] that the law that applies to the Indonesian people is the law of their religion, customary law only applies, if it is not contrary to religious law. Third, the theory of existence, which was put forward by Ihtjanto. This theory only reinforces the theory of *receptie a contrario* to national law.[43]

According to this theory of existence, Islamic law has the following specifications: (a) it has existed in the sense of being an integral part of National law; (b) it has existed in the sense that utilizing its independence and power of authority, it is recognized by national law and given the status of national law; (c). It has existed in the sense that Islamic legal norms function as a filter for materials of national law; and (d) already exist in the sense of the main material and source of National law.[44]

However, it can be said that during the Old Order era, the position of Islamic law was no better than during the Dutch colonial period. Soekarno's view of Islam seemed very secularistic. Even though at the beginning of the formation of the State of Indonesia, at the BPUPKI (The Investigating Committee for Preparatory Work for Independence) session Soekarno was able to accept and agree with the existence of the Jakarta Charter. However, after Sukarno came to power, his siding with Islam diminished.[45]

In fact, if the Jakarta charter failed to become part of the State Constitution, Islamic law was at a disadvantage. It was not

---

[42]Kasman Bakry and Edi Gunawan, "The Implementation Of Islamic Law At The Early Spread Of Islam In Indonesian Archipelago", *Jurnal Ilmiah Al-Syir'ah*, Vol.16, No.2, December 2018, h.117.

[43]Juhaya S Praja, "Aspek Sosiologi Dalam Pembaharuan Fiqh Di Indonesia," in *Epistemologi Syara': Mencari Format Baru Fiqh Indonesia*, ed. Anang Haris Himawan (Yogyakarta: Pustaka Pelajar, 2002), 126–30.

[44]Abdul Halim, *Peradilan Agama Dalam Politik Hukum Islam Di Indoensia* (Jakarta: Raja Grafindo Persada, 2000), 83–84.

[45]Nurudin and Tarigan, *Hukum Perdata Islam Di Indonesia*, (Jakarta: Kencana, 2004), h.19.

an exaggeration, if the Jakarta Charter was assumed to be part of the Constitution, the process of transforming Islamic law into National law would take place very quickly and would achieve more than what we could feel today. However, the Jakarta Charter was not a desire to make Indonesia an Islamic State and this idea has been realized as impossible. Actually what they wanted is how Islamic law as a living law that has experienced crystallization in Muslim society was recognized in its true meaning.[46]

The fact that the Jakarta Charter was only a historical record. Thus, the desire to transform Islamic law into national law was delayed by about 29 years (1945-1974). This era is what makes the relationship between Islam and the State was not harmonious. At least during the Soekarno era, this disharmonious relationship reached its peak in 1955 which was known as the debate in the Constituent Assembly.[47]

In this era, Sukarno increasingly showed his less sympathetic attitude towards Islam. Some people doubted Soekarno's Islam simply because Soekarno was a Javanese syncretist while syncretism was the enemy of religion.[48] However, it seems unfair not to mention some forms of development of Islamic law in this era. At least the Department of Religion, which was founded on January 3, 1946, is a milestone in the early history of the journey of Islamic law. By the formation of the Ministry of Religion, the authority of the Religious Courts has been transferred from the Minister of Law to the Minister of Religion.[49]

---

[46] *Ibid*, h. 20.

[47]A.Syafi'i Ma'arif, *Islam Dan Masalah Kenegaraan, Studi Tentang Percaturan DalamKonstituante* (Jakarta: LP3S, 1985), h. 2.

[48]Nurudin and Tarigan, *Hukum Perdata Islam Di Indonesia…*, h. 20.

[49]*Ibid*, h. 22. Kementerian memiliki kedudukan yang kedua setelah imam atau pimpinan negara di dalam suatu negara, bahkan di dalam tataran

Therefore, we can explain that in the Soekarno era or during the old order in terms of structuring Islamic law, whether it was in the context of administration and Islamic legal institutions regulating marriage, reconciliation, divorce and *waqaf* had been carried out well and directed even though it was imperfect under supervision of the Minister of Religion.

Islamic Law and Islamic Family Law During The Old Order Period

Historically, rules regarding Islamic family law have existed and been practiced in Indonesia since the beginning of the arrival of Islam in the archipelago. This is indicated by the phenomenon of the indirect application of *fiqh madzhab Syafi'iyyah* in the past. After the State of the Republic of Indonesia was established, the reformation of Islamic family law through political institutions began in the old order era until the reform era. The reform movement grew stronger after the Counter Legal Draft - Islamic Law Compilation was announced to make Islamic Law Compilation a new Marriage Law. Unfortunately, this movement received a negative response from several Islamic organizations so that the plan was canceled by the Government. Even so, the struggle between liberal Islamic thought and fundamentalist-conservative continues today.

The Islamic Movement in the Old Order era began with a mutual agreement on Pancasila (The Five Principles of the Indonesian State Philosophy) and the birth of the Ministry of Religion. However, the provisions of family law in that era still followed Dutch colonial legacy laws, such as: (1) Customary law

---

prakteknya kementerian itu mempunyai kesamaan dengan pemimpin negara dala kontekas ketinggian peranannya; Lihat M. Dhiauddin Rais, *Teori Politik Islam* (Jakarta: Gema Insani, 2001), h. 210.

applies to indigenous Indonesians; (2) For indigenous Indonesians who are Muslim, the Islamic marriage law applies; (3) For indigenous Indonesians who are Christian (Javanese, Minahasa and Ambon) the Christian Marriage Ordinance (*Huwelijks Ordonnantie Christen Indonesiaers* or HOCI) applies; (4) For citizens of European and Chinese descent, the Civil Code (*Burgerlijk Wetboek* or BW) applies; (5) For mixed marriages, mixed marriage regulations (Staatsblad 1898 No. 158) or *Regeling op de Gemengde Huwelijken* apply.[50]

This situation finally received special attention from the government in 1946, by enacting Law no. 22 of 1946 concerning the Registration of Marriage, Divorce and Referral which applies to the Java and Madura regions, then by the Indonesian Emergency Government in Sumatra, the Law is declared to apply also to all regions of Sumatra.[51]

To implement the law, the state-issued Instruction of the Minister of Religion No. 4 of 1947 concerning the appointment of a Marriage Registration Officer, with the task of trying to prevent the marriage of underage children, explaining the obligations of husbands who are polygamous, seeking peace for troubled spouses, explaining the ex-husband to his former wife and children if forced to divorce, explaining about the *'iddah* period (a waiting period in which a woman has been divorced by her husband because her husband died or is still alive who will marry another man), and getting the divorced couple to reconcile.[52]

---

[50]Wirjono Prodjodikoro, *Hukum Perkawinan Di Indonesia* (Bandung: Sumur, 1984), h. 14–15.

[51]Nani Soewondo, *Kedudukan Wanita Indonesia Dalam Hukum Dan Masyarakat* (Jakarta: Timun Mas, 1968), h. 96.

[52]*Ibid*, h. 78–79.

This provision was valid until 1954, because that year the government finally issued Law no. 32 of 1954, as a reference for the enforcement of Law no. 22 of 1946 for all parts of Indonesia. The journey of the spirit of reforming family law in Indonesia did not stop there, because in August 1950, the Women's Front in Parliament urged the government to review the marriage regulations and draft a permanent marriage law. Consequently, at the end of 1950, through the Order of the Minister of Religion No.B/2/4299 dated October 1, 1950, a Committee to Investigate the Rules and Laws of Marriage, Divorce and Referral was formed for Muslims.[53]

In 1952, the committee was finally able to finish their work, by producing a draft bill that applies to all groups and religions, along with special regulations governing their respective religious groups. On December 1, 1952, the committee submitted the General Marriage Bill to all central and local organizations with a request that each member can give their opinions or views on the bill until February 1, 1953.[54] The formulation was: (a) Marriage must be based on the unanimity of both parties, to prevent forced marriage the age limit is set at 18 for men and 15 for women. (b) Husband and wife have equal rights and positions in household life and social life together in society. (c) Polygamy is allowed if permitted by the religious law applicable to the person concerned and is regulated in such a way that it fulfills the requirements of justice. (d) Personal assets and assets acquired during the marriage become joint property. (e) Divorce is regulated by a decision of the State Court, based on certain reasons, regarding divorce and reconciliation as stipulated in the rules of Islamic

[53]Sosroatmojo and Aulawi, *Hukum Perkawinan Di Indonesia…*, h. 9.

[54]Soewondo, *Kedudukan Wanita Indonesia Dalam Hukum Dan Masyarakat…*, h. 177.

law. (f) The status of the child is legal or not, the recognition of the child, adopting and legalizing the child, the rights and obligations of the parents towards the child, deprivation of parental power and guardianship.[55]

After the submission of the bill above, on April 24, 1953, the committee held a hearing with Islamic social organizations, and decided in May to draft a Marriage Law following the applicable legal system, namely: (a) Basic Law which contains all regulations that apply to the public together, without offending religion. (b) The Organic Law, which regulates marriage matters according to their respective religions, namely for Muslim, Catholic Christian and Protestant Christian groups.(c) Laws for neutral groups, namely those that do not belong to a religious group.[56]

Characteristics of the Struggle for the Compilation of Islamic Law

In connection with the characteristics of the struggle that resulted in the establishment and promulgation of the Compilation of Islamic Law, at first the formation of national law via jurisprudence by the Supreme Court, and at that time Islamic law was still seen as merely unwritten law which began to be used as a basis for decisions and or at least a source of value. As seen in 1959, through a bilateral inheritance decision, the Supreme Court has adopted the spirit of Islamic law as the basis for its decision.

The preparation of the Compilation of Islamic Law can be explained again by looking at its characteristics in the background of its preparation such as the need for the

[55]*Ibid*., h. 178–79.

[56]T. Jafizham, *Persentuhan Hukum Di Indonesia Dengan Hukum Perkawinan Islam* (Medan: Mestika, 1977), h. 180.

Compilation of Islamic Law in Indonesia, which is the basis for obtaining a legal agreement in examining as well as in deciding a case in the Religious Courts environment by judges that have long been deemed necessary. And this is all proven by the issuance of a circular letter on February 18, 1958, with circular letter no. B/1/735, where the purpose of the circular was to use 13 kinds of books as the basis for guidelines in making the Compilation of Islamic Law. It was realized that it is very necessary to have the Compilation of Islamic Law because of the existence of a Religious Court.

The preparation of the Compilation of Islamic Law can be likened to the Medina Charter that occurred during the time of the Prophet Muhammad in the city of Medina. The Prophet Muhammad at that time was politically wise and with the hope that legal problems would not occur, the Prophet made and created the Medina Charter. The Medina Charter is a political document that can unite the inhabitants of Medina, which are heterogeneous and multi-ethnic, religious and social. Here we can illustrate the contents of the Medina Charter, including: (a) Communities consisting of various ethnic groups and groups have rights in the field of religion and politics.(b) Communities consisting of various ethnicities and groups have guarantees of religious freedom. (c) Communities consisting of various ethnicities and groups have an obligation to maintain security from various disturbances to the City of Medina. (d) Prophet Muhammad was the leader for Medina and all problems were resolved by the Prophet Muhammad.[57]

The establishment of the Compilation of Islamic Law in Indonesia was preceded by demands for the existence of standard and permanent legal provisions against every decision

[57]Abd. Basyir, "Islam, Peradilan Dan Hukum Materiilnya", *Mimbar Hukum*, No. 64, XV, 2004, h. 96.

in the Religious Court, which is judicial and by Islamic religious law in adjudicating and settling cases. After going through a fairly optimal compilation process and stages, finally with presidential instruction No. 1 the year 1991 Jo. Minister of Religion Decree No. 154 of 1991 dated 24 July 1991, was established the Compilation of Islamic Law in the Indonesian National Law System which is a characteristic of the positivization of Islamic law in Indonesia. The positivization of Islamic law is formulated and systematic in a legal book called "Compilation of Islamic Law".[58]

The presence of the Compilation of Islamic Law is legal legalization in the Religious Courts, so it is not justified for judges in the Religious Courts if they want to issue different decisions on the same cases. Therefore, with the Compilation of Islamic Law, the judges at the Religious Court can decide cases fairly and uniformly. However, it cannot be denied that each decision is guaranteed to be different and varied, but all of them are still based on the freedom of judges in deciding cases while still guided by each case must be proportional.

The Political Configuration of the Present Old Order Against Legalization of Islamic Law and the Compilation of Islamic Law

This period is known as the liberal era. Marked by the practice of a democratic political system with a parliamentary system of government, the political dynamics of the Indonesian state government experience three different constitutions. The three constitutions are the 1945 Constitution, the United

[58]Euis Nurlaelawati, "Muslim Women in Indonesian Religious Courts", *Jurnal Islamic Law and Society*, Vol. 20, No. 3, Oktober 2013, h. 242–271.

Republic of Indonesia (RIS) Constitution, and the 1950 Provisional Constitution.[59]

In this period, the political configuration that emerged was a democratic political configuration. Through the Government Declaration dated November 3, 1945, the government announced: (1) The government likes the emergence of political parties, because with the existence of these parties it can be led in an orderly manner all the schools of understanding that exist in society; (2) The government hopes that the parties will be organized before the election for members of the Parliament is held.[60]

This boosted the spirit of the fighters to become involved in politics with the emergence of several political parties, apart from political parties that already existed before independence. Political life which was very dynamic and full of democratic spirit at that time was known as a liberal democracy. Since then, several political parties have been established, including the Indonesian Communist Party (PKI), the Indonesian Muslim Syuro Council (Masyumi), the Indonesian Labor Party (PBI), the Jelata Party, the Indonesian Christian Party (PARKINDO), the Indonesian Socialist Party (PSI), the Sarekat Islam Indonesian Party (PSII), Indonesia Raya Party (PIR), Nahdatul Ulama (NU), etc.

This political configuration of liberal democracy is marked by the existence of political parties that play a very dominant role in the process of state policy formulation through

---

[59]Irvan Tasnur and Muhammad Rijal Fadli, "Republik Indonesia Serikat: Tinjauan Historis Hubungan Kausalitas Peristiwa-Peristiwa Pasca Kemerdekaan Terhadap Pembentukan Negara Ris (1945-1949)", *Candrasangkala: Jurnal Pendidikan dan Sejarah*, Vol 5, No 2, Juli 2019, h. 11.

[60]Bintan Regen Saragih, *Politik Hukum* (Bandung: CV Utomo, 2006), h. 56–57.

its constitutional forum (parliament).[61] These parties played an important role in KNIP (Central Indonesian National Committee), DPR (Parliament) RIS (Republic of the United States of Indonesia), the Provisional DPR as parliamentary institutions at that time. Even though it experienced a tumble during the RIS era, because state power was divided between the center and the states, during the time of the 1950 Constitution, the role of political parties was very strong.

The role of political parties is so strong that the government is known as political party government. The government has ups and downs because of the very strong political dynamics of the parties, but there is no single dominant party. Along with this, the executive branch is in a less powerful position than the political parties so that the government often has ups and downs and the political situation runs unstable.

This period is marked by the ups and downs of government, so it is called the period of the fall of the cabinet. Several days after the text of the proclamation was read by Bung Karno, from the city to the remote areas there had been a struggle for power in various fields, including the press. Mainly grabbed was printing equipment. This kind of power struggle has occurred in Japanese-owned newspaper companies, namely *Soeara Asia* (Surabaya), *Tjahaja* (Bandung) and *Sinar Baroe* (Semarang). And on August 19, 1945, these newspapers had been published with a priority on news about Free Indonesia.

In line with the configuration and changes in the political climate and democratization of the Indonesian government until now, the recognition of Islamic law with the promulgation of the Compilation of Islamic Law shows significant progress as

---

[61]Yahya Muhaimin, *Bisnis Dan Politik: Kebijaksanaan Ekonomi Ekonomi Indonesia 1950-1980, Terj. Hasan Basari Dan Muladi Sugiono,* (Jakarta: LP3ES, 1990), h. 43.

shown by positive signals on the development of Islamic law in all dimensions of community life. And it all starts with the emergence of structuralization and harmonization in the process of reforming Islamic law or the process of Islamization in every institution, whether social, cultural, economic, political or legal conditions are wide open. All of which makes the transformation of Islamic law or the legalization of Islamic law into national law carried out and exist until now and play a very significant role in advancing and developing a just Indonesia.

Conclusion

In the case of Islamic family law in the old order era, the Muslim scholars who sat in the parliament had done it by establishing Law no. 22 of 1946 until the establishment of Law no. 32 of 1954 as a reference for the enforcement of Law no. 22 of 1946 for all regions of Indonesia, so that it became the forerunner to the establishment of a codifier of Islamic law and family law in the Compilation of Islamic Law. The presence of the Compilation of Islamic Law is legal legalization in the Religious Courts, so it is not justified for judges in the Religious Courts if they wanted to issue different decisions on the same cases. Therefore, with the Compilation of Islamic Law, judges at the Religious Court can decide cases fairly and uniformly.

The process of Islamic law legislation debates emerged from three groups; *First*, the nationalist group considers that the legislation on Islamic family law will create jealousy in non-Muslim-majority regions; *Second*, secular groups consider that religious affairs do not need to enter the realm of the state; *Third*, the traditionalist group argues that the state must accommodate Islamic law into state law, considering the commitment to struggle and the majority of Indonesian people being Muslim.

BIBLIOGRAPHY

Abdullah, Taufiq, *Adat Dan Islam: Suatu Tinjauan Tentang Konflik Di Minangkabau In Sejarah Dan Masyarakat; Lintasan Historis Islam Di Indonesia*, edited by Dalam Taufiq Abdullah, Jakarta: Pustaka Firdaus, 1987.

Adhani, Hani, "Menakar Konstitusionalitas Syari'at Islam dan Mahkamah Syar'iyah di Provinsi Aceh", *Jurnal Konstitusi*, Vol.16, No. 3, October 2019.

Ali, Muhammad Daud, *Hukum Islam:Pengantar Ilmu Hukum Dan Tata Hukum Islam DiIndonesia*, Jakarta: Raja Grafindo Persada, 1993.

Anshori, Endang Saifuddin, *Wawasan Islam: Pokok-Pokok Pikiran Tentang Islam Dan Umatnya*, Jakarta: Rajawali Pers, 1991.

Anzaikhan, M, "Hakikat Administrasi Pemerintahan Islam", *Al-Ijtima`i: International Journal of Government and Social* Science, Vol.5, No. 1, Oktober 2019.

Arake, Lukman, "Agama Dan Negara Perspektif Fiqh Siyasah", *Jurnal Al-Adalah*, Vol.3, No. 2, Juli 2018.

Arifin, Bustanul, *Pelembagaan Hukum Islam Di Indonesia: Akar Sejarah Dan Perspeknya*, Jakarta: Gema Insani Press, 1996.

Azizy, A. Qadri, *Elektisisme Hukum Nasional Kompetisi Antara Hukum Islam Dan Hukum Umum*, Yogyakarta: Gama Media, 2002.

Azra, Azymadi, *Jaringan Ulama Timur Tengah Dan Kepulauan Nusantara XVII-XVIII*, Bandung: Mizan, 1994.

Bakar, Zainal Abidin Abu, and Zainal Abidin, "Pengaruh Hukum Islam Dalam Sistem Hukum Di Indonesia", *Jurnal Mimbar Hukum,* Vol.4, No. 9, Juni 1993.

Bakry, Kasman, and Edi Gunawan, "The Implementation Of Islamic Law At The Early Spread Of Islam In Indonesian Archipelago," *Jurnal Ilmiah Al-Syir'ah,* Vol. 16, No. 2 December, 2018.

Basyir, Abd, "Islam, Peradilan Dan Hukum Materiilnya", *Mimbar Hukum*, No. 64, XV, 2004.

Cammack, Mark, Lawrence A. Young, and Tim B. Heaton, "An Empirical Assessment of Divorce Law in Indonesia", *Studia Islamika*, Vol. 4, No.4, April 1997.

Dewi, Gemala, "kewenangan pengadilan agama (mahkamah syar'iyah) di nad dalam melakukan eksekusi sanksi pidana islam (hukum jinayat) menurut ketentuan hukum dan sistem peradilan di indonesia", *Jurnal Hukum & Pembangunan,* Edisi Khusus Dies Natalis, October 28, 2009.

Dianto, Dianto, "The Effect of Receptie Theory on Legal Concept of "Adat Barenti Lako Syara', Syara Barenti Lako Kitabullah", *Journal of Transcendental Law*, Vol.2, No. 2, December 2020.

Effendi, M Rahmat, "Kajian Tentang Prinsip Dasar Dan Metode Berfikir Dalam Filsafat Dakwah Yang Diturunkan Dari Al-Qur'an", n.d., 17.

Fuad, Mahsun, *Hukum Islam Indonesia*, Yogyakarta: LKiS, 2004.

Gibb, HAR, *Aliran-Aliran Modern Dalam Islam, Terj. Mahnun Husein*, Jakarta: Raja Grafika Persada, 1993.

Halim, Abdul, *Peradilan Agama Dalam Politik Hukum Islam Di Indoensia*, Jakarta: Raja Grafindo Persada, 2000.

———, *Politik Hukum Islam Di Indonesia*, Jakarta: Ciputat Press, 2005.

Hooker, M. B, *Indonesian Syariah: Defining a National School of Islamic Law*, Singapore: Institute of Southeast Asian Studies, 2008.

Ichtijanto, "*Pengembangan Teori Berlakunya Hukum Islam Di Indonesia In Hukum Islam Di Indonesia Perkembangan Dan Pembentukan*, Bandung: Rosdakarya, 1991.

Jafizham, T, *Persentuhan Hukum Di Indonesia Dengan Hukum Perkawinan Islam*, Medan: Mestika, 1977.

Jazuni, *Legislsi Hukum Islam Di Indonesia*, Bandung: Citra Aditya Bakti, 2005.

Karim, M. Rusli, *Negara Dan Peminggiran Politik: Studi Kajian Mengenai Implikasi Kebijakan Pembangunan Bagi Keberadaan "Islam Politik" Di Indonesia Era 1970-an Dan 1980-An*, Yogyakarta: Tiara Wacana, 1998.

Lukito, Ratno, *Pergumulan Antara Hukum Islam Dan Adat Di Indonesia*, Jakarta: INIS, 1998.

Ma'arif, A.Syafi'I, *Islam Dan Masalah Kenegaraan, Studi Tentang Percaturan DalamKonstituante*, Jakarta: LP3S, 1985.

MD, Moh. Mahfud, *Politik Hukum Di Indonesia*, Jakarta: Rajawali Pers, 2014.

Mudzhar, M. Atho, "Pengaruh Faktor Sosial Budaya Terhadap Produk Pemikiran Hukum Islam", *Jurnal Mimbar Hukum,* Vol. 20*,* No. 4, Oktober 1991.

Muhaimin, Yahya, *Bisnis Dan Politik: Kebijaksanaan Ekonomi Ekonomi Indonesia 1950-1980*, Jakarta: LP3ES, 1990.

Muhazir, Muhazir, "Dualisme Peraturan Perceraian Di Aceh: Kontestasi Fatwa Dan Hukum Negara", *Al-Ahwal: Jurnal Hukum Keluarga Islam,* Vol.13, No. 2, December 28, 2020.

———, "Islamic Law Politics in The Contemporary Era (Revealing The Struggle for The Positivization of

Islamic Law in Indonesia)", *Al Hurriyah : Jurnal Hukum Islam,* Vol.6, No.1, 2021.

Nasir, Muhammad, "Legislasi Hukum Keluarga Di Aceh Pasca Otonomi Khusus", *Jurisprudensi : Jurnal Ilmu Syariah, Perundangan-Undangan Dan Ekonomi Islam*, Vol.10, No. 1, Juni 2018.

Nugraha, Rahadian Prima, "Pembaharuan UU Perkoperasian Pasca Putusan Mahkamah Konstitusi Nomor 28/PUU-XI/2013", *Jurnal Legislasi Indonesia*, Vol.14, No.01, Maret 2017.

Nurlaelawati, Euis, "Muslim Women in Indonesian Religious Courts", *Jurnal Islamic Law and Society*, Vol. 20, No.3, 2013.

Nurudin, Amiur, and Azhari Akmal Tarigan, *Hukum Perdata Islam Di Indonesia*, Jakarta: Kencana, 2004.

Praja, Juhaya S, "Aspek Sosiologi Dalam Pembaharuan Fiqh Di Indonesia", In *Epistemologi Syara': Mencari Format Baru Fiqh Indonesia*, Yogyakarta: Pustaka Pelajar, 2002.

Prodjodikoro, Wirjono, *Hukum Perkawinan Di Indonesia*. Bandung: Sumur, 1984.

Rafiq, Ahmad, *Pembaharuan Hukum Islam Di Indonesia*, Yogyakarta: Gaya Media, 2001.

Rahmatunnair, Rahmatunnair, "Paradigma Formalisasi Hukum Islam Di Indonesia", *AHKAM : Jurnal Ilmu Syariah,* Vol. 12, No. 1, 2012.

Rais, M. Dhiauddin, *Teori Politik Islam*, Jakarta: Gema Insani, 2001.

Ramulyo, Mohammad Idris, *Azas-Azas Hukum Islam Sejarah Timbul Dan Perkembangannya*, Jakarta: Sinar Grafika, 1997.

Rozali, Ibnu, "Konsep Memberi Nafkah bagi Keluarga dalam Islam", *Jurnal Intelektualita: Keislaman, Sosial dan Sains* Vol.6, No. 2, December 2017.

Safe'i, Abdulah, "Redefinisi Ijtihad Dan Taqlid: Upaya Reaktualisasi dan Revitalisasi Perspektif Sosio-Historis", *ADLIYA: Jurnal Hukum dan Kemanusiaan*, Vol. 11, No.1, Juni 2019.

Salim, Arskal, and Azyumardi Azra, eds., *Shari'a and Politics in Modern Indonesia*, Singapore: ISEAS Publishing, 2003.

Saragih, Bintan Regen, *Politik Hukum*, Bandung: CV Utomo, 2006.

Sezgin, Yüksel, and Mirjam Künkler, "Regulation of 'Religion' and the 'Religious': The Politics of Judicialization and Bureaucratization in India and Indonesia", *Comparative Studies in Society and History*, Vol. 56, No. 2, April 2014.

Shihab, Alwi, *Membendung Arus, Respon Gerakan Muhammadiyah Terhadapo Penetrasi Kristen Di Indonesia*, Bandung: Mizan, 1998.

Soewondo, Nani, *Kedudukan Wanita Indonesia Dalam Hukum Dan Masyarakat*, Jakarta: Timun Mas, 1968.

Sofyarto, Karlina, "Perlindungan Hukum Hak Kekayaan Intelektual atas Pengetahuan Tradisional terhadap Perolehan Manfaat Ekonomi", *Kanun Jurnal Ilmu Hukum*, Vol.20, No.1, April 2018.

Sosroatmojo, Arso, and Wasit Aulawi, *Hukum Perkawinan Di Indonesia*, Jakarta: Bulan Bintang, 1976.

Sulthon, Muhammad, "Hukum Islam dan Perubahan Sosial (Studi Epistemologi Hukum Islam dalam Menjawab Tantangan Zaman)", *Jurnal Ilmiah Universitas Batanghari Jambi*, Vol.19, No.1, Januari 2019.

Suminto, Aqib, *Politik Islam Hindia Belanda*, Jakarta: LP3ES, 1996.

Tasnur, Irvan, and Muhammad Rijal Fadli, "Republik Indonesia Serikat: Tinjauan Historis Hubungan Kausalitas Peristiwa-Peristiwa Pasca Kemerdekaan Terhadap Pembentukan Negara Ris (1945-1949)", *Candrasangkala: Jurnal Pendidikan dan Sejarah*, Vol.5, No.2, Juli 2019.

Tohari, Chamim, "Fiqh Keindonesiaan: Transformasi Hukum Islam Dalam Sistem Tata Hukum Di Indonesia", *Analisis: Jurnal Studi Keislaman*, Vol.15, No. 2, Juni 2015.

Wirawan, Tjuk, *Politik Hukum Di Indonesia*, Jember: UPT Unej, 2004.

Yani, Ahmad, and Megawati Barthos, "Transforming Islamic Law in Indonesia from a Legal Political Perspective", *Al-Ahkam,* Vol.30, No. 2, October 2020.

Yunus, Muhammad, Fahmi Fatwa Rosyadi Satria Hamdani, and Gusti Khairina Shofia, "Tinjauan Fikih Muamalah Terhadap Akad Jual Beli Dalam Transaksi Online Pada Aplikasi Go-Food", *Amwaluna: Jurnal Ekonomi dan Keuangan Syariah*, Vol.2, No.1, January 2018.