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HARMONIZATION OF NATIONAL LEGAL RIGHTS WITHIN THE FRAMEWORK OF SHARIA AN CUSTOMARY LAW IN INDONESIA

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Abstract :

Indonesian law is the result of interaction among three major legal systems, namely customary law, Islamic law, and positive law. Within this context of legal pluralism, there is an ongoing need to harmonize Islamic normative values with the national legal system in order to develop a legal order that is both religious in character and responsive to modern demands. This study aims to analyze the conceptual and practical relationship between sharīʿah, fiqh, and positive law within the framework of legal pluralism, as well as to assess the extent to which Islamic values can be substantively integrated into the Indonesian national legal system. This research employs a normative legal method using conceptual, comparative, and Islamic law approaches. The study relies on secondary data sources, including scholarly literature, statutory regulations, and relevant legal documents. The findings indicate that the integration of Islamic normative values into national law has been realized through several legislative instruments, such as the Law on Hajj and Umrah Administration, the Marriage Law, the Zakat Law, and the Halal Product Assurance Law. These legal frameworks reflect a dynamic synergy between the principles of maqāṣid al-sharīʿah and the doctrine of ius constitutum in shaping laws that promote justice and public welfare (maṣlaḥah). However, this harmonization process continues to face significant challenges, particularly in the form of inconsistencies in legal politics and the tendency toward the formalization of sharīʿah norms. This study argues that a substantive approach—through the internalization of Islamic ethical values within legal policies—is more ideal than a formalistic approach. Such an approach is essential to realizing a national legal system that is pluralistic, humanistic, and aligned with the universal spirit of raḥmatan lil ʿālamīn.

Keywords: *Sharīʿah, Fiqh, Positive Law, Maqāṣid al-Sharīʿah, Legal Pluralism, Legal Harmonization*

INTRODUCTION

Law plays a very important role in creating balance and order in social life, both at the national and international levels. Essentially, law is a reflection of a nation's civilization and collective soul, representing the values, morals, and character of its society. The prevalence of conflicts and instability in various parts of the world is often caused by weak legal systems and the dominance of political interests within legal institutions. In the Islamic context, Sharīʿah is understood as a comprehensive system encompassing all aspects of human life, ranging from morality, social ethics, and spirituality to regulations governing relationships between human beings and God, among fellow humans, and with the environment. Therefore, law especially that which is rooted in Sharīʿah values

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functions not merely as a normative instrument, but also as a moral and spiritual guide that directs humanity toward order, justice, and collective welfare (Nur Hayati, 2018).

Since the pre-independence period, the existence and influence of Islamic Sharīʿah have been deeply embedded in the socio-religious life of Indonesian society. Discussions on the formalization of Islamic law within the state framework cannot be separated from the theological belief held by some Muslims that Islam constitutes a comprehensive way of life and serves as a solution to various human problems. This belief subsequently gave rise to a strong aspiration to incorporate Islamic law into the national public legal system, particularly considering that Indonesia has the largest Muslim population in the world. Historically, the aspiration to integrate Sharīʿah principles into the foundation of the state was clearly evident during the sessions of the Investigating Committee for Preparatory Work for Independence (BPUPKI) prior to the proclamation of independence. Intense debates occurred between nationalist groups and Islamic representatives regarding the formulation of the first principle of Pancasila and the proposal to include the "seven words" in the Jakarta Charter, which emphasized the obligation for Muslims to implement Islamic law (Ibnu Hadjar, 2006).

Similar ideological contestations continued during the sessions of the Constituent Assembly following the 1955 General Election, when Islamic groups once again advocated for the implementation of Sharīʿah within Indonesia's legal system. However, prolonged debates without consensus ultimately prompted President Soekarno to issue the Presidential Decree of July 5, 1959, which effectively terminated these efforts. During the New Order era, Islamic political aspirations were further suppressed by government policies that marginalized religious symbols and discourse in practical politics. Nevertheless, the idea of implementing Islamic law never completely disappeared. Following the collapse of the New Order regime and the onset of the Reformasi era, the spirit to revive the Jakarta Charter reemerged during the amendment process of the 1945 Constitution. This dynamic demonstrates that discourse on the enforcement of Islamic Sharīʿah in Indonesia has deep historical roots, while also revealing the complexity of relations between nationalist and Islamic groups in determining the direction of national law. Efforts to formalize Sharīʿah remain a sensitive issue that requires caution to avoid social and political tensions within Indonesia's pluralistic society (Ibnu Hadjar, 2006).

In general, the legal system in Indonesia consists of three main components: customary law, positive law or national law, and Islamic law. Customary law has limited applicability, as it operates only in certain regions that continue to uphold traditional customary legal systems. Meanwhile, positive law and Islamic law have broader scopes, as both exert influence throughout the entire Indonesian legal landscape. The dynamics and interaction between positive law and Islamic law reveal an interesting form of contestation, both in terms of conceptual foundations and legal sources (Muhammad Taufiq, 2021).

Within the context of Muslim social life, there are three categories of law

that play distinct yet interrelated roles. First, Sharīʿah refers to divine provisions that regulate the behavior of legal subjects, whether in the form of commands to perform certain acts, choices between actions, or determinations of conditions, causes, and impediments. Sharīʿah is permanent and immutable because it derives directly from revelation, and thus ideally does not generate differences of opinion. Second, fiqh is understood as the result of human intellectual effort in interpreting Sharīʿah laws related to the actions of legally accountable individuals (mukallaf), based on detailed evidences. Fiqh emerges through the process of ijtihād undertaken by scholars and is therefore dynamic, contextual, and open to differing interpretations. The issue that subsequently arises concerns the extent to which the ethical and legal values contained in Sharīʿah and fiqh can be implemented within Indonesia's legal system. This issue becomes increasingly complex because Indonesia's national legal system adheres to the Continental European legal tradition, which is based on the principle of legality and positions law as a written product embodied in statutes. Although laws such as the Hajj and Umrah Administration Act, the Marriage Act, the Zakat Management Act, the Halal Product Assurance Act, and others provide opportunities for the application of Islamic law, their realization is highly dependent on the direction and policies of legal politics adopted by the government (Ratni Kasmad, 2021).

The urgency of this study becomes more evident as Indonesia seeks to develop the concept of a "national law with Indonesian identity," namely a legal system that is not only institutionally modern but also deeply rooted in the nation's religious and moral values. In this context, a normative analysis of the relationship between Sharīʿah, fiqh, and positive law is required to identify a harmonious point of convergence among the three. Such a study is important not only for the development of Islamic legal scholarship, but also for the reform of national law based on social justice, public welfare (maṣlaḥah), and the spiritual values of the nation.

RESEARCH METHOD

This study employs a normative legal research method, which positions law as a system of norms encompassing legal principles, rules, statutory regulations, court decisions, agreements, and legal doctrines (Mukti Fajar Nur Dewata & Yulianto Achmad, 2022). The theoretical framework applied in this research includes maqasid al-shari'ah, al-aḥkam al-khamsah, ius constitutum, and legal pluralism.

The approaches utilized in this study consist of a comparative approach, a conceptual approach (Peter Mahmud Marzuki, 2022), and an Islamic law approach. The comparative approach is employed to examine the harmonization and integration between the positive legal system and Islamic law. Meanwhile, the conceptual approach refers to relevant legal doctrines and scholarly legal thought (Muhaimin, 2020).

Secondary sources include scientific articles and academic books that support the subject of this study. Tertiary sources, such as legal dictionaries, are

used to strengthen definitions and terminology. Data analysis is conducted using a descriptive analytical method, aiming to provide a comprehensive overview of the object of study (Dewata & Achmad).

FINDINGS DISCUSSION

Maqashid Syari'ah

Maqāṣid al-Sharīʿah, etymologically, refers to the objectives intended by Allah SWT and His Messenger in the enactment of Islamic laws. These objectives can be traced through the verses of the Qur'an and the hadiths of the Prophet Muhammad (peace be upon him), which serve as the rational foundations for the formulation of Islamic law oriented toward the realization of human welfare (maṣlaḥah).

The term maqāṣid al-sharīʿah is composed of two interrelated words in the grammatical construction of muḍāf and muḍāf ilayh, namely maqāṣid and al-sharīʿah. The word maqāṣid is the plural form of maqṣad, meaning intention or purpose. Meanwhile, the term sharīʿah substantively refers to the law of Allah, whether directly stipulated by Him or explained by the Messenger of Allah (peace be upon him) as an elaboration of divine provisions. In addition, legal rulings may also be established through the process of ijtihād conducted by scholars, based on guidance derived from Allah and His Messenger. Because the term associated with sharīʿah is maqāṣid (objectives), its meaning does not refer to the law itself, but rather to the Lawgiver (al-Shāriʿ). Accordingly, maqāṣid al-sharīʿah can be understood as the intentions, purposes, or objectives intended by Allah in the establishment of a legal ruling.

Within the discipline of uṣūl al-fiqh, the concept of al-ḥikmah is also recognized, which is understood as the purpose intended by Allah in the enactment of a legal ruling. Therefore, the concept of maqāṣid al-sharīʿah carries a meaning that is equivalent to the notion of ḥikmah in the context of the formulation of Islamic law (Rahmi, 2021).

Al-Ahkam Al-Khamsah

In general, scholars of *uṣūl al-fiqh* classify Islamic law into two main categories, namely taklīfī law and waḍʿī law. However, this discussion focuses on *taklīfī law*. According to *uṣūl al-fiqh* scholars, *taklīfī law* refers to the rulings of Allah SWT and His Messenger that are directly related to the actions of a *mukallaf*, whether in the form of commands, recommendations to perform an act, prohibitions, recommendations to refrain from an act, or the granting of freedom to choose between performing or not performing an act.

Taklīfī law is divided into five types. First, wājib (obligatory), which refers to acts commanded by Allah and His Messenger to be performed by the *mukallaf*; performing them earns reward, while neglecting them incurs sin. Second, mandūb (also known as *mustaḥabb* or *sunnah*), namely acts recommended by the Sharīʿah, where the doer receives reward, while the one who abandons them does not incur sin. Third, ḥarām (prohibited), which includes all acts forbidden by Allah and His Messenger; committing them results in sin and disobedience, while abstaining from them earns reward. Fourth, makrūh (reprehensible),

which refers to acts recommended to be avoided; avoiding them is praiseworthy, while performing them does not result in sin. Fifth, mubāḥ (permissible), namely acts for which the Sharī'ah grants the *mukallaf* the option to perform or abandon them, without any consequence of reward or sin. These five rulings are also commonly referred to as al-aḥkām al-khamsah (Zaenuddin Mansyur & Moh. Asyiq Amrulloh, 2020).

Ius Constitutum

Ius constitutum, or positive law, is a legal system that is currently applicable to a particular society within a specific state territory. In the General Encyclopedia, ius constitutum is defined as the law enforced in a country at a given time. This term encompasses the understanding of law that has been codified in the form of statutory regulations.

The fundamental characteristic of ius constitutum lies in the existence of a basic norm (grundnorm), which functions as the foundation and umbrella for all subordinate legal regulations. Accordingly, ius constitutum is synonymous with written law that is formally in force within a state and is often referred to as positive law (Sri Warjiyati, 2018).

Law, understood as a legal order, refers to the entirety of norms or rules that operate within a legal system. These prevailing regulations are known as positive law (ius constitutum), namely legal provisions applied at a specific time and place in accordance with the authority vested in the competent institutions (Zainal Arifin Mochtar & Eddy O.S. Hiariej, 2021).

Pluralisme Hukum

Werner Menski (2006), in his work *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, defines legal pluralism as an approach to understanding the interconnection between state law (positive law), social and societal aspects (the socio-legal approach), and natural law, which encompasses moral, ethical, and religious dimensions. Based on this definition, legal pluralism can be understood as a perspective that recognizes the coexistence of multiple legal systems living within society alongside the law enforced by the state.

According to Menski, the primary characteristic of legal pluralism lies in the functional operation of all legal systems in a comprehensive and interactive manner, rather than in isolation. This element of interaction is inherent in the concept of legal pluralism because it is closely related to the realities of pluralistic societies. Law as lived in society is rooted in the social reality that every community possesses a diversity of legal systems, reflecting their social and cultural identities (Dedy Sumardi, 2016).

Doctrinally, legal pluralism gains legitimacy within the teachings of the Qur'an as manifested through the concept of Sharī'ah. By its nature, Sharī'ah is law derived from divine revelation, universal, eternal, and absolute, and is intended for all humankind as a manifestation of *raḥmatan li al-'ālamīn*, guiding toward welfare in both worldly life and the hereafter. However, the practical application of Sharī'ah requires human interpretation in order to respond to evolving social dynamics and communal challenges. This interpretive process depends on the conditions and cultures of society, which are relative and local in

nature, thereby rendering the implementation of Islamic law in specific social contexts particularistic and contextual (Dedy Sumardi, 2016).

Synergy between Sharīʻah and National Law

The application of Islamic law within Indonesia's national legal system cannot be separated from the dynamics of legal pluralism recognized in the state structure. As explained in Werner Menski's theory of legal pluralism, legal systems in plural societies operate through the interaction of positive law (state law), natural law (morality and religion), and the socio-legal approach (social realities). Indonesia, as the country with the largest Muslim population in the world, represents a concrete example of how Islamic law does not operate exclusively, but rather integrates with national law and customary law within a single legal system characterized by Indonesian identity.

This integration operates within the framework of ius constitutum, namely the positive legal system that is formally binding and in force. In this context, Islamic law does not exist outside the legal system, but is accommodated through substantive statutory regulations. The formal incorporation of Islamic law through state mechanisms demonstrates a harmonization between religious norms and the principles of modern legality. This is clearly reflected in several statutes, such as the Law on the Administration of Hajj and Umrah, the Marriage Law, the Zakat Management Law, and the Halal Product Assurance Law.

First, Law Number 8 of 2019 on the Administration of Hajj and Umrah represents a manifestation of *maqāṣid al-sharīʻah*, particularly in the aspect of *ḥifẓ al-dīn* (protection of religion). Through this regulation, the state not only guarantees the rights of Muslim citizens to perform the fifth pillar of Islam, but also ensures that its implementation complies with the principles of fiqh. Within the framework of *al-aḥkām al-khamsah*, the obligation of pilgrimage is classified as *wājib* (obligatory), and the state bears the responsibility to facilitate its performance so that it is legally valid from a Sharīʻah perspective. Thus, this law illustrates the synergy between the normative demands of Sharīʻah and the implementation of positive law (*ius constitutum*) in safeguarding citizens' religious rights.

Second, Law Number 1 of 1974 on Marriage, together with the Compilation of Islamic Law (KHI) of 1991, constitutes a form of codification of Islamic law in the field of family law. Marriage law for Muslims is structured based on Sharīʻah principles and administered by the state through the Office of Religious Affairs (KUA). From the perspective of *maqāṣid al-sharīʻah*, marriage law serves to protect *ḥifẓ al-nasl* (preservation of lineage) and *ḥifẓ al-ʻird* (protection of honor). Meanwhile, within the framework of *al-aḥkām al-khamsah*, marriage falls under the category of *sunnah mu'akkadah*, strongly recommended to safeguard moral integrity and social harmony. Through the enactment of these provisions, Sharīʻah values acquire formal legal legitimacy without altering the fundamental character of the state based on Pancasila.

Third, Law Number 23 of 2011 on Zakat Management illustrates the institutionalization of the socio-economic dimension of Islamic law. Zakat, as a religious obligation (*wājib* within the classification of *al-aḥkām al-khamsah*), is

regulated through a modern administrative system managed by BAZNAS and authorized Zakat Institutions (LAZ). This approach demonstrates the application of *maqāṣid al-sharīʿah* in the aspects of *ḥifẓ al-māl* (protection of wealth) and *ḥifẓ al-nafs* (protection of life), as zakat functions to balance wealth distribution and reduce social inequality. Here, *ius constitutum* serves as a channel through which Islamic normative values are transformed into public policies oriented toward social welfare (*maṣlaḥah*).

Fourth, Law Number 33 of 2014 on Halal Product Assurance (JPH Law) reflects the development of Islamic law in the realm of consumer protection. This regulation not only emphasizes the importance of product permissibility (*ḥalāl*) in accordance with Sharīʿah, but also provides legal certainty through a certification mechanism administered by BPJPH in cooperation with the Indonesian Ulama Council (MUI). From the perspective of *maqāṣid al-sharīʿah*, this regulation embodies the values of *ḥifẓ al-dīn* and *ḥifẓ al-nafs*, as it aims to protect Muslims from consuming unlawful or harmful products. Thus, the JPH Law demonstrates how Islamic law can be transformed into positive law that provides universal protection for all citizens.

These four examples indicate that the integration of Islamic law in Indonesia is not merely symbolic, but has substantively penetrated key aspects of national legal life. This process affirms the applicability of legal pluralism, wherein Islamic law, customary law, and state law operate simultaneously and complement each other. On one hand, *ius constitutum* provides a legal framework that ensures legal certainty; on the other hand, *maqāṣid al-sharīʿah* and *al-aḥkām al-khamsah* offer moral and spiritual legitimacy that animates the substance of the law.

Nevertheless, the implementation of Islamic law in Indonesia continues to face challenges, particularly with regard to the consistency of legal politics and the interpretation of Sharīʿah values. Some groups tend to emphasize a formalistic approach to Islamic law, while others advocate a substantive approach oriented toward public welfare (*maṣlaḥah*). Therefore, the implementation of Islamic law should ideally be directed toward achieving the objectives of *maqāṣid al-sharīʿah*, namely justice, public welfare, and social balance, rather than mere religious symbolism.

In conclusion, the application of Islamic law within Indonesia's national legal system reflects a pattern of integration that aligns with the theoretical framework of legal pluralism and is grounded in *maqāṣid al-sharīʿah*. The synergy between positive law (*ius constitutum*), religious law, and social values demonstrates that Islamic law can actively contribute to realizing a national legal vision that is just, humane, and civilized, without undermining the nation's pluralistic character.

Harmonization of Sharia and National Law

Efforts to realize harmonization between Islamic law and national law in Indonesia constitute a long process involving historical, political, and normative dimensions. As a country that upholds the principle of legal pluralism, Indonesia recognizes the existence of Islamic law, customary law, and positive law as

integral parts of its legal system. From the perspective of legal pluralism according to Werner Menski, the legal system in a plural society operates through the interaction between state law, religious law, and social norms (customs and social morality). This means that the law in Indonesia is not singular but rather the result of a dialogue between divine values, state institutional structures, and social culture that exists within the community.

Conceptually, the harmonization of Islamic law and national law is not intended to formally Islamize the state's legal system but to bring Islamic values into the framework of positive law oriented toward justice and public welfare. Within the framework of *ius constitutum*, Indonesia's national law is positive and formally binding. Meanwhile, Islamic law is normative-transcendental and morally oriented. While they differ in terms of sources and forms, they share a common goal: to create order and social welfare. This is where the concept of *maqasid al-shari'ah* becomes a meeting point between the two, as it contains universal principles such as justice (*al-'adl*), public interest (*al-maslahah*), and balance (*tawazun*), which align with the values of Pancasila and the ideals of national law.

Empirically, various legal products in Indonesia show progress in harmonizing Islamic values with the national legal system. For instance, laws concerning the Administration of Hajj and Umrah, Marriage, Zakat Management, and Halal Product Assurance have successfully integrated Sharia norms into the state's legal framework. These regulations not only accommodate religious values but also strengthen social protection and public welfare functions. This confirms that the state does not ignore the spiritual aspect in public policy-making but rather positions Islamic values as a source of legal ethics and morality.

In the context of *al-ahkam al-khamsah*, the harmonization of Islamic law and national law is also evident in the process of translating levels of religious obligations into positive law. Provisions that are mandatory, such as the performance of Hajj and zakat, are strictly regulated by law to ensure effective implementation and legal certainty. Meanwhile, acts that are recommended (*mandub*) or permissible (*mubah*) are still given autonomy for individuals and community institutions to carry out without legal coercion. This approach demonstrates how the state respects the normative structure of Islam while maintaining the principle of freedom of religion guaranteed by the constitution. Thus, Indonesia's *ius constitutum* has transformed into a framework for implementing Islamic values selectively and contextually.

Nevertheless, this harmonization still faces several challenges. Practically, Islamic law in Indonesia has not been fully implemented consistently because it depends on legal political dynamics and the orientation of the ruling government. Some policies based on Islamic values are often interpreted narrowly and used for identity politics purposes. Consequently, the *maqasid al-shari'ah* values emphasizing public interest (*maslahah 'ammah*) and social justice have not been fully realized. Furthermore, the diversity of interpretations of Islamic law among organizations, scholars, and state institutions often results in

inconsistencies in implementation. This indicates that the harmonization of Islamic law and national law requires continuous dialogue among religious authorities, the government, and civil society to reach a mutual understanding regarding the limits and forms of applying Islamic law in the public sphere.

From the *maqasid al-shari'ah* perspective, ideal harmonization occurs when national law can achieve the five main objectives of Sharia: protecting religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*). Evaluation of several regulations shows that most Islamic-based laws have aimed to fulfill these objectives. For example, the Hajj Law and the Halal Product Assurance Law reflect *hifz al-din*; the Zakat Law contains values of *hifz al-mal* and *hifz al-nafs*; while the Marriage Law protects *hifz al-nasl* and *hifz al-'ird* (honor). In this context, national law serves not only as a regulatory instrument but also as a mechanism to safeguard fundamental human values as mandated by Sharia.

Furthermore, the harmonization of Islamic law and national law in Indonesia has successfully avoided ideological conflicts between religion and state. This demonstrates that Indonesia's legal system is moving toward substantive integration, namely the combination of values and objectives of law, rather than formalistic unification, which could potentially lead to religious exclusivity. This principle aligns with the spirit of *rahmatan lil 'alamin*, where Islamic law functions as a source of ethical and moral values underpinning national law without needing to dominate structurally.

Thus, the harmonization of Islamic law and national law in Indonesia is the result of a dynamic interaction between *ius constitutum* and *maqasid al-shari'ah* values within the framework of legal pluralism. Although not yet perfect, the development shows positive progress. National law is increasingly open to religious and moral values, while Islamic law can adapt to social needs and legal modernity. This synergy demonstrates that Indonesia's legal system has great potential to become a model of law that is just, welfare-oriented, and nationally distinctive, combining the rationality of positive law with the spirituality of Islamic law in a harmonious unity.

Final Conclusion: Implementation of Sharia in Indonesia Substantive or Procedural?

A fundamental question that always arises in the discourse on Islamic law in Indonesia is: should Islamic Sharia be implemented substantively as a set of values that animates the national legal system, or procedurally as positive law applicable to all citizens? The struggle between these two approaches has persisted since the formulation of the state's foundation, when tensions emerged between nationalist groups and Islamic groups in determining the position of Sharia within the constitution. To this day, the debate remains relevant because it concerns the direction of an ideal national legal system in a plural society.

Within the framework of legal pluralism as explained by Werner Menski, the law applicable in Indonesia is the result of the interaction between state law, religious law, and social norms. Accordingly, the implementation of Islamic Sharia cannot be separated from the social and political context that shapes the

national legal system. Indonesia is not a religious state, but neither is it a purely secular state. The constitution allows space for the expression of religious values as long as they do not conflict with principles of social justice and citizen equality. Therefore, the implementation of Sharia in Indonesia, realistically, is more substantive, taking the form of the adoption of moral, spiritual, and welfare-oriented Islamic values into positive legal policy.

This substantive approach aligns with the concept of *maqasid al-shari'ah*, which situates the objectives of Islamic law in the preservation of five essential aspects of life: religion, life, intellect, lineage, and property. In other words, Sharia implementation does not have to be realized through rigid positive law, but rather through policies that uphold justice (*al-'adl*) and public interest (*al-maslahah*). For instance, the Laws on Zakat Management, Halal Product Assurance, and Marriage have accommodated Sharia principles within the national legal system without altering the state's foundation. This demonstrates that the essence of Sharia is already present in Indonesian law through its values, not merely through formal legal form.

In line with the implementation of regional autonomy policies that grant each region authority to regulate and manage its own governance, various movements for formalizing Islamic law have emerged in several regions of Indonesia. This phenomenon indicates an increasing enthusiasm to bring Islamic law into the realm of local public policy (Ahmatunnair, 2012).

In regions such as Aceh, Islamic Sharia is implemented procedurally through regional legislation with the force of positive law. This phenomenon illustrates a territorial and administrative form of Sharia implementation, where Islamic law is formally applied to Muslims in certain areas. Nevertheless, this model often generates debate, especially regarding its effectiveness, justice, and impact on non-Muslims. Evaluation of procedural Sharia implementation shows that its success is highly dependent on socio-cultural context and the capacity of regional legal institutions to uphold the principle of *rahmatan lil 'alamin*.

From the *ius constitutum* perspective, the comprehensive application of Sharia within the national legal system still faces structural and philosophical obstacles. Indonesian positive law is built on the principles of legality and universality, whereas Islamic law is rooted in religiosity and particularity of its adherents. Therefore, implementing Islamic law in its entirety as national law has the potential to create tension within the constitutional framework and societal pluralism. The most rational middle path is to regard Islamic Sharia as a source of ethical and moral values in the formation of national law a form of substantive integration that respects pluralism.

Thus, the implementation of Islamic Sharia in Indonesia is more accurately understood as a moral and social project rather than merely a political or legalistic one. Sharia functions to guide the direction of legal policy to favor public welfare and social justice. If the national law successfully internalizes the values of *maqasid al-shari'ah* in its policies, then the substance of Sharia is already present, even if it does not always take the formal shape of Islamic law.

As long as a state does not deviate from the fundamental principles of

Sharia in administering governance, Muslims should rightly support the struggle and existence of that state. This aligns with the view that governance is a worldly domain (*mu'āmalah dunyawiyyah*), which is dynamic and can be adapted to the socio-political context of society. As the Prophet Muhammad (peace be upon him) is reported to have said, "You are more knowledgeable about your worldly affairs," governance is among matters that can be regulated through human ijtihad according to necessity and public interest.

In this context, the primary obligation is not the enforcement of the formal structures of an Islamic state, but rather the realization of justice, public welfare, and security for all citizens. Therefore, the application of the substance and principles of Islam within the national legal system is considered sufficient without requiring the entire legal system to be explicitly labeled "Islamic law."

Conversely, if a state claiming to be an Islamic state fails to embody Islam as *raḥmatan lil 'ālamīn*, it risks undermining the very image of Islam itself. This phenomenon can be observed in several countries that adopt formal Islamic systems but have yet to achieve justice and universal welfare as envisioned by Islamic teachings (Alda Kartika Yudha, 2017).

Therefore, the final reflection on the overall dynamics of Sharia implementation in Indonesia shows that what is needed is not full formalization of Islamic law but the strengthening of the substantive values of Sharia within national law. Through this approach, Indonesia can affirm its identity as a God-fearing state that regards religion as the source of legal morality, while also functioning as a modern rule-of-law state that respects diversity and social justice for all its citizens.

CONCLUSION

Jurnal ini menegaskan bahwa sistem hukum Indonesia merupakan hasil interaksi dinamis antara syariat Islam, fiqh, dan hukum positif dalam kerangka pluralisme hukum. Syariat berfungsi sebagai sumber nilai ilahiah yang bersifat universal dan tetap, fiqh sebagai produk ijtihad yang kontekstual dan dinamis, sementara hukum positif (ius constitutum) menjadi instrumen formal negara yang mengikat secara konstitusional. Ketiganya tidak berada dalam posisi saling meniadakan, melainkan saling melengkapi dalam pembentukan hukum nasional yang berkepribadian Indonesia.

Hasil kajian menunjukkan bahwa integrasi nilai-nilai Islam ke dalam hukum nasional telah terwujud secara substantif melalui berbagai peraturan perundang-undangan, seperti Undang-Undang Penyelenggaraan Ibadah Haji dan Umrah, Undang-Undang Perkawinan, Undang-Undang Pengelolaan Zakat, serta Undang-Undang Jaminan Produk Halal. Integrasi ini mencerminkan sinergi antara prinsip maqāṣid al-syarī'ah dan asas hukum positif dalam mewujudkan keadilan dan kemaslahatan sosial.

Namun demikian, harmonisasi tersebut masih menghadapi tantangan berupa inkonsistensi politik hukum dan kecenderungan formalisasi syariat yang berpotensi mengaburkan tujuan substantif hukum Islam. Oleh karena itu, jurnal ini menegaskan bahwa pendekatan substantif melalui internalisasi nilai-nilai etis

dan moral Islam lebih relevan dibandingkan pendekatan formalistik. Pendekatan ini memungkinkan terwujudnya hukum nasional yang religius, humanis, dan inklusif, sekaligus tetap menghormati kemajemukan masyarakat Indonesia dan prinsip rahmatan lil ʻālamīn.

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