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FROM SHARIA TO CODIFICATION: THE HISTORICAL DEVELOPMENT OF ISLAMIC FAMILY LAW IN INDONESIA

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ABSTRACT

This study employs a qualitative method using library research and a literature review approach. Data were obtained through the examination of scholarly journal articles, academic books, historical documents, and relevant laws and regulations. The analysis was conducted descriptively and analytically by grouping sources according to historical periods, identifying legal changes, and synthesizing findings from previous studies. The findings indicate that Islamic family law developed gradually, beginning with the application of religious norms in society, continuing through legal dynamics during the colonial period, the enactment of Law Number 1 of 1974 concerning Marriage, and the dissemination of the Compilation of Islamic Law through Presidential Instruction Number 1 of 1991. This codification represented an effort to systematize Islamic law in order to support legal certainty within the religious courts. Nevertheless, the development of family law continues through regulatory changes and legal interpretation. This study concludes that the transformation of Islamic family law reflects a dynamic relationship between sharia principles and the needs of Indonesia's national legal system.

Keywords: *Islamic Family Law, Legal History, Shariah, Codification, Complication of Islamic Law,*

1. INTRODUCTION

Islamic family law is one of the fields of law that holds an important position in the lives of Muslim communities because it regulates various aspects of family relations, ranging from marriage, the rights and obligations of spouses, divorce, child maintenance, to inheritance. The existence of Islamic family law is not only related to the implementation of religious teachings, but is also connected to the protection of rights, social order, and legal certainty in society. In the Indonesian context, Islamic family law has undergone a long process of development alongside the spread of Islam, socio-cultural changes, the dynamics of legal politics, and the involvement of the state in formulating laws and regulations. This development demonstrates that Islamic family law is not entirely static, but instead undergoes processes of interpretation and adjustment when confronted with societal needs. Therefore, the history of Islamic family law should be discussed within a historical framework that considers the relationship among sharia principles, fiqh thought, community traditions, and the national legal system (Masodi, 2023; Rambe et al, 2023).

Historically, the development of Islamic family law in the Indonesian archipelago cannot be separated from the process of the acceptance and spread of Islam through various social, cultural, commercial, and religious educational channels. As it developed, Islamic teachings interacted with customs that were already embedded in society. This interaction generated dynamics in the application of family law, because social practices were not always shaped by a single source of law. Religious norms, the thought of religious scholars, and local customs could influence one another in determining how communities understood and implemented provisions relating to marriage, divorce, and inheritance (Siregar, 2024; Rambe et al ,2024). Thus, the history of Islamic family law in Indonesia should be understood as a gradual process of legal tradition formation rather than a direct transition from sharia to state law. Historical study is therefore important for explaining how Islamic law gained a place in social life while continuing to develop in accordance with the social and political context of each period.

During the colonial period, Islamic family law developed within a complex legal-political environment. The colonial government implemented legal policies that differentiated population groups and took into account the various legal systems operating in the colony. These conditions influenced the scope of Islamic law and the position of judicial institutions handling family cases for Muslim communities. The relationship between Islamic law and customary law was also an important aspect of these dynamics, since both coexisted and developed within the same society. The impact of colonialism concerned not only the restriction or recognition of particular legal norms, but also shaped the state's approach to regulating legal pluralism in society (Siregar, 2024). This historical background is necessary to understand why the formation of Islamic family law in Indonesia later became closely associated with efforts to organize judicial authority, unify certain rules, and establish a national legal system after independence.

After Indonesia gained independence, the need to build a national legal system encouraged various efforts to reform family law. Before the establishment of a national marriage law framework, marriage was regulated within a plural legal environment that

included customary law, Islamic law, and other provisions applicable to particular social groups. This situation created a need for more structured regulation in order to provide certainty regarding the implementation of marriage and its legal consequences. One important milestone in this process was the enactment of Law Number 1 of 1974 concerning Marriage. The law formed part of the state's effort to establish a national regulatory framework for marriage, although Indonesian marriage law continued to take account of the religions professed by the population. This development shows that the formation of family law was influenced not only by religious normative requirements, but also by the objectives of legal organization and the administration of family life in a modern state (Wirastri & van Huis, 2024).

The next stage of development was marked by the formulation of the Compilation of Islamic Law (KHI), which was disseminated through Presidential Instruction Number 1 of 1991. The KHI became an important instrument for providing Islamic legal guidance within the religious courts, particularly in cases involving marriage, inheritance, and waqf. Its presence reflects an effort to arrange various fiqh provisions into a more systematic formulation that can be used as a reference in dispute resolution (Melinda & Nurrohman, 2024). Nevertheless, the KHI must be properly understood in terms of its legal status because its dissemination through a presidential instruction is not equivalent to the enactment of a statute through a formal legislative process. This distinction is important in explaining that codification does not merely mean collecting religious norms in a written document, but also involves questions of authority, legitimacy, and the position of norms within the national legal system.

In its development, the codification of Islamic family law has also faced challenges arising from social change, the evolution of legal thought, and growing attention to the protection of the rights of women and children. Changing social needs have stimulated discussions regarding the relevance of several family law provisions, including the minimum age of marriage, justice in family relations, and the resolution of post-divorce matters. Research on the development of Islamic family law shows that reform does not always occur through legislative amendments, but may also take place through legal interpretation and judicial decisions. This demonstrates that the existence of written regulations does not bring the development of law to an end. On the contrary, family law continues to be adjusted through the interaction between applicable norms, considerations of justice, and the need to provide legal protection to society (Wirastri & van Huis, 2024).

The study of these developments becomes increasingly relevant when Islamic family law is understood as part of a legal system that must maintain continuity between sharia principles and the dynamics of social life. The reconstruction of Islamic family law, for example, may be examined through the perspective of maqashid al-sharia, an approach that emphasizes the objectives and public benefits of law. This perspective helps explain that legal reform should not be assessed merely from changes in the form of rules, but should also consider the objectives of protecting the family, lineage, justice, and social benefit. Through this approach, the relationship between fiqh and positive law can be critically analyzed without reducing them to two systems that are necessarily opposed to one another. Therefore, historical study should be accompanied by analysis of the factors that drive change, the forms through which norms are institutionalized, and the challenges

that arise when Islamic family law is applied within the framework of a modern rule-of-law state (Aemanah & Nurkhasanah, 2023).

Based on the foregoing discussion, the study entitled "From Sharia to Codification: The Historical Development of Islamic Family Law in Indonesia" is important for explaining the historical process linking the application of sharia, the development of fiqh thought, interaction with customary law, the influence of colonialism, and the establishment of family law regulations within the national legal system. This study focuses on three main issues: how Islamic family law in Indonesia has developed over time, what factors have influenced its transformation, and how codification has shaped the position of Islamic family law within the national legal system. To address these issues, the study employs a literature review approach by examining scholarly journal articles, academic books, historical documents, and relevant laws and regulations. Through this approach, the study is expected to produce a historical and analytical synthesis of the transformation of Islamic family law and to provide a more comprehensive understanding of the relationship among sharia, fiqh, and positive law in Indonesia.

RESEARCH METHODE

This study employs a qualitative method in the form of library research and a literature review approach. This method was selected because the study focuses on tracing, examining, and analyzing written sources related to the historical development of Islamic family law in Indonesia (Darmawan, 2023). Through this method, the study seeks to understand changes in Islamic family law from the application of sharia norms in social life to the formulation of written regulations within the national legal system. Library research is considered relevant because the development of Islamic family law can be examined through books, scholarly articles, historical documents, and laws and regulations related to the research object.

The approaches used include a historical approach and a juridical-normative approach. The historical approach is used to describe the development of Islamic family law chronologically, beginning with the early spread of Islam in the Indonesian archipelago, continuing through the colonial period and the post-independence era, and extending to the period of family law reform in the modern era. Meanwhile, the juridical-normative approach is used to examine legal provisions regulating Muslim family life, including Law Number 1 of 1974 concerning Marriage and its amendments, as well as the Compilation of Islamic Law. Combining these two approaches enables the study to explain the background of legal change while also analyzing the position of the resulting legal instruments within the Indonesian legal system (Fajriani et al., 2023).

The research sources consist of primary legal materials and secondary literature. Primary legal materials include laws and regulations, presidential instructions, and legal documents relevant to the development of Islamic family law in Indonesia. Secondary literature includes scholarly journal articles, academic books, and previous research discussing the history of Islamic law, customary law, legal politics, religious courts, and the codification of family law. In selecting sources, the study considers their relevance to the research questions, the credibility of the publisher, the clarity of the authorship, and the compatibility of the content with the historical and juridical focus of the research. The use

of diverse types of literature is necessary so that the analysis is not based on a single perspective, but is capable of critically integrating findings from previous studies.

Data analysis was conducted descriptively and analytically by identifying, classifying, comparing, and synthesizing information obtained from written sources. The first stage involved identifying literature relevant to the research topic. The second stage consisted of classifying the sources according to historical periods, factors influencing legal development, and the forms of codification produced. The content of the literature was then analyzed to identify similarities, differences, continuities, and changes in the development of Islamic family law. Content analysis was used to understand the main ideas and arguments presented by authors and legal documents, while synthesis was conducted by connecting various findings in order to answer the research questions (Muin, 2022).

To maintain analytical consistency, each item of information used was examined in terms of its context, relevance, and consistency with other sources. The results of the analysis were then organized chronologically and thematically so that the transformation of Islamic family law from religious norms toward codification could be explained systematically. This study did not use interviews, questionnaires, or field observations because all analytical materials were derived from documents and written literature. Accordingly, the conclusions were produced through interpretation and literature synthesis rather than through the generalization of empirical data obtained from respondents or research sites.

2. RESULT AND ANALYSIS

Early Development of Islamic Family Law in the Indonesian Archipelago

The development of Islamic family law in Indonesia is a historical process associated with the spread of Islam, the development of fiqh thought, and the interaction between religious norms and social traditions. During the early spread of Islam, provisions concerning marriage, divorce, and inheritance developed through religious teaching, the role of ulama, and the practices of Muslim communities. This process took place gradually; therefore, the application of Islamic family law did not immediately take the form of uniform written regulations throughout the Indonesian archipelago.

The development of Islamic family law is also connected to changes in the legal culture of society over time. Mas'odi (2023) explains that the formation and reform of Islamic family law in Indonesia have been influenced by socio-cultural dynamics, developments in science and knowledge, and changes in Islamic legal thought. This demonstrates that the application of Islamic family law cannot be separated from the social context in which it operates. Religious norms provide the principal foundation, while fiqh thought and local customs also influence the form of its implementation.

In this context, a distinction should be made among sharia, fiqh, and positive law. Sharia constitutes the normative foundation derived from Islamic teachings, whereas fiqh is the product of the understanding and reasoning of religious scholars regarding sharia provisions. Positive law, meanwhile, consists of rules that are recognized within the state legal system. This distinction is important because the development of Islamic family law does not merely involve transferring religious provisions into written regulations; it also entails interpretation, the selection of norms, and adjustment to the legal needs of society.

The interaction between Islamic law and customary law has also shaped the character of family law in different regions. Siregar (2024) examines the development of Islamic law in Indonesia by highlighting the relationship among customary law, Islamic law, and positive law, including the process of legal unification through state policy. This perspective demonstrates that the development of Islamic family law must be analyzed by taking into account the diversity of legal traditions living within society. Thus, the early period of Islamic family law development provides an important foundation for understanding the formation of the national family law system in subsequent periods.

The Development of Islamic Family Law during the Colonial Period

During the colonial period, Islamic family law developed within a legal environment influenced by colonial government policies. The existence of Islamic law, customary law, and colonial regulations created a plural legal structure. These conditions affected the recognition of laws applicable to the population as well as the position of institutions handling family disputes. Therefore, the development of Islamic family law during this period concerned not only religious matters, but also political authority and legal regulation by those in power.

Siregar (2024) explains that the development of Islamic law in Indonesia is closely related to the relationship between customary law and positive law, as well as to policies of legal unification. This relationship illustrates that legal change does not occur separately from state power. The recognition and implementation of a norm may be influenced by government policies and the institutional structures prevailing during a particular period.

From the perspective of legal history, the colonial period can be understood as a period that shaped the context for the evolving relationship between religious law and state law. However, analysis of this period must distinguish legal practices living within society from rules formally recognized by the colonial government. This distinction helps explain how Islamic family law survived and developed while also facing changes in its scope of application as a result of legal-political policies.

This historical experience provided part of the background for efforts to establish a national legal system after independence. Indonesia faced the need to organize the diversity of previously developed rules, provide legal certainty, and establish more structured mechanisms for dispute resolution. This process subsequently became an important element in the development of Islamic family law toward the establishment of national regulations.

The Establishment of National Marriage Law after Independence

After Indonesia gained independence, the formation of family law became part of the effort to build a national legal system capable of providing legal certainty and protection for society. Prior to the enactment of Law Number 1 of 1974 concerning Marriage, marriage regulation was influenced by the diversity of laws applicable on the basis of population group, religion, and custom. This condition created a need for more structured marriage regulation. Nasrulloh (2023) explains that the enactment of the Marriage Law constituted an important milestone in family law reform because it established a national framework for the regulation of marriage.

Law Number 1 of 1974 concerning Marriage regulates various matters, including the basis of marriage, marriage requirements, the rights and obligations of spouses, and the dissolution of marriage. These provisions were subsequently supplemented by Government Regulation Number 9 of 1975 as its implementing regulation. The existence of these two regulations demonstrates the role of the state in establishing procedures and legal consequences of marriage in a more systematic manner. Nevertheless, marriage regulation continues to take into account the religious provisions observed by each couple.

This development demonstrates an important change in the position of Islamic family law. Religious norms remain a foundation of Muslim family life, while state regulations provide a formal legal framework for the implementation of marriage. Thus, the formation of national marriage law represents a process of legal institutionalization that connects religious principles with the needs of administration, legal certainty, and family protection in a modern state.

Codification of Islamic Family Law through the Compilation of Islamic Law

The Compilation of Islamic Law (KHI) represents one of the major milestones in the development of Islamic family law in Indonesia. Its formulation was motivated by the need for more systematic legal guidance in resolving cases within the religious courts. Through the compilation, various Islamic legal provisions were organized in a structured manner so that they could be used as references in handling family cases. Melinda and Nurrohman (2024) explain that the Compilation of Islamic Law plays an important role as guidance for judges in the religious courts when resolving cases concerning marriage, inheritance, and waqf.

The Compilation of Islamic Law was disseminated through Presidential Instruction Number 1 of 1991. According to this document, the compilation covers three principal fields: marriage law, inheritance law, and waqf law (Republic of Indonesia, 1991). The formulation of the Compilation of Islamic Law demonstrates an effort to consolidate various fiqh references into a more systematic formulation suited to the needs of Indonesian society. Gunawan (2024) explains that the process of establishing the Compilation of Islamic Law involved the selection of fiqh opinions, reinterpretation, and contextualization in accordance with societal needs.

Nevertheless, the legal status of the Compilation of Islamic Law must be distinguished from that of statutes enacted through a formal legislative process. The Compilation of Islamic Law was disseminated through a presidential instruction and functions as legal guidance within the religious courts. Therefore, codification in this context is more appropriately understood as the process of systematically arranging legal norms rather than replacing all sources of Islamic law with a single statute.

Reform of Islamic Family Law in the Reform Era

The development of Islamic family law did not cease after the establishment of the Compilation of Islamic Law. Social change and increasing attention to the protection of family members' rights encouraged reforms to a number of legal provisions. One example is Law Number 16 of 2019, which amended the provision concerning the minimum age of marriage in Law Number 1 of 1974. This amendment demonstrates that family law

regulation may be adjusted through legislative mechanisms in order to respond to the need for legal protection.

Gunawan (2024) explains that family law reform through the Compilation of Islamic Law must continue to be examined so that it remains relevant to societal developments. Such reform may be directed toward strengthening legal certainty, protecting the rights of husbands and wives, protecting children, and resolving family disputes fairly. In its development, judicial institutions also play a role in interpreting legal provisions in accordance with the applicable regulatory framework.

Thus, the reform of Islamic family law takes place through the interaction of regulatory change, legal interpretation, and the development of judicial practice. This process demonstrates that codification is not the final stage, but rather part of an ongoing development of law that continues to adapt to societal needs.

Synthesis of the Transformation from Sharia to Codification

Based on the preceding discussion, the development of Islamic family law in Indonesia can be understood as a process of transformation involving changes in reference sources, institutions, and forms of legal regulation. This process can be summarized in the following table.

Period	Characteristics of development	Form of change
Early Islamic period in the Indonesian archipelago	Religious norms developed through ulama, fiqh, and social practices.	Acceptance and adaptation of Islamic norms to local traditions.
Colonial period	Islamic law interacted with customary law and colonial policies.	Changes in the scope of application and institutional regulation.
Post-independence period	The state established a national legal framework for marriage.	Strengthening legal certainty through Law Number 1 of 1974.
1991	The KHI was disseminated as legal guidance for the religious courts.	Systematic formulation of marriage, inheritance, and waqf norms.
Reform era	Regulations and legal practice developed in response to societal needs.	Legislative reform and legal interpretation.

Source: Compiled based on the synthesis of Nasrulloh (2023), Siregar (2024), Gunawan (2024), and Republic of Indonesia (1991).

The table demonstrates that the transformation of Islamic family law did not proceed linearly from sharia to state law, but rather through a process of interaction among religious norms, fiqh thought, social traditions, and national legal policy. Maghudi et al. (2024) emphasize the importance of understanding the relationship among sharia, fiqh, religious courts, and codification in explaining the development of Islamic law in Indonesia.

Thus, the codification of Islamic family law may be viewed as an effort to provide a more systematic legal framework without eliminating the religious character that constitutes its foundation. The existence of national regulations and the Compilation of Islamic Law strengthens guidance for the resolution of legal cases, while social developments and the need for legal protection continue to encourage reform. The relationship between the continuity of sharia principles and legal adjustment to the Indonesian context constitutes an important characteristic in the historical development of Islamic family law.

CONCLUSION

The development of Islamic family law in Indonesia constitutes a long historical process influenced by the interaction of sharia principles, fiqh thought, customary law, colonial policies, and the formation of the national legal system. During the early spread of Islam, family law developed through religious practices, the role of ulama, and local community traditions. Its development subsequently changed in line with the dynamics of legal politics during the colonial period and efforts to establish a national legal order after independence. The enactment of Law Number 1 of 1974 concerning Marriage became an important milestone in establishing the framework of national marriage law, while the dissemination of the Compilation of Islamic Law through Presidential Instruction Number 1 of 1991 represented a significant step in systematically organizing Islamic legal guidance for the religious courts. This process shows that codification does not merely transform religious norms into written rules, but also involves interpretation, adjustment, and legal institutionalization in accordance with the needs of Indonesian society. Furthermore, the development of Islamic family law continues through legislative reform and legal interpretation by judicial institutions in response to contemporary issues, including the protection of the rights of women and children and the strengthening of legal certainty. Based on the literature review, it can be concluded that the transformation from sharia to codification is a dynamic process that reflects the relationship between the continuity of religious principles and the needs of the national legal system. Therefore, understanding the historical development of Islamic family law is important for assessing the relevance of existing regulations while also encouraging legal reform that is just, contextual, responsive to societal developments, and consistent with the fundamental values of Islamic sharia.

References

Aemanah, U., & Nurkhasanah, S. (2023). Rekonstruksi hukum keluarga Islam di Indonesia dalam perspektif maqashid syariah: Sebuah systematic literature review (2018 - 2023). Jurnal HKI : Hukum Keluarga Islam, 1(1).

Angkupi, P., Mahmudah, S., Firdawaty, L., & Taufiq, M. S. (2025). Direction of Islamic law compilation reform : Efforts to codify Indonesian Islamic family law. SMART : Journal of Sharia, Tradition, and Modernity, 5(1).

Darmawan, A. (2023). Reformasi hukum keluarga Islam di Indonesia. Sakena : Jurnal Hukum Keluarga, 8(1).

Darna, A. (2021). Perkembangan hukum Islam di Indonesia : Konsep fiqih sosial dan implementasinya dalam hukum keluarga. El - Usrah: Jurnal Hukum Keluarga, 4(1).

Fajriani, E., Fajra, N. F., & Fathurahman, H. (2023). Pelaksanaan legislasi hukum Islam bidang hukum keluarga di Indonesia. Constitutional Law Review, 2(1).

Gunawan, E. (2024). Pembaruan hukum Islam dalam Kompilasi Hukum Islam : Perspektif modernisasi hukum keluarga di Indonesia. Justicia Religia : Jurnal Hukum Islam, 2(2).

Maghudi, M. I., Gassing, Q., & Kurniati. (2024). Dinamika perkembangan hukum Islam di Indonesia : Menyoal kemandirian peradilan agama dan kodifikasi Kompilasi Hukum Islam. Al - Tafaqquh : Journal of Islamic Law, 5(2).

Mas'odi. (2023). Pembaruan hukum keluarga di Indonesia melalui Kompilasi Hukum Islam. Jurnal Kolaboratif Sains, 6(10), 1394 - 1401.

Melinda, & Nurrohman. (2024). Kedudukan Kompilasi Hukum Islam dalam politik hukum keluarga di Indonesia. El - Ahli : Jurnal Hukum Keluarga Islam, 5(1).

Miftahuddin, A. H., & Nafi'ah, S. (2024). Transformasi hukum keluarga Islam di Indonesia : Analisis kritis atas penerapan Kompilasi Hukum Islam (KHI) dalam konteks maqashid syariah. JAS MERAH : Jurnal Hukum dan Ahwal al - Syakhsiyyah, 4(1), 99 - 109.

Muin, F. (2022). Pembaruan hukum keluarga Islam di Indonesia dalam peningkatan status perempuan. Legal Studies Journal, 2(1).

Nasrulloh, A. M. (2023). Analisis perkembangan hukum keluarga Islam dalam peraturan perundang - undangan di Indonesia. Tahkim : Jurnal Peradaban dan Hukum Islam, 6(2).

Rambe, R. F. A., Bayu, S. I., & Sagala, S. (2023). Penerapan UU ITE (Informasi dan Transaksi Elektronik) dan UU Perlindungan Konsumen pada kasus jual beli jasa review palsu. *Journal on Education*, *6*(1), 10030-10040.

Rambe, R. F. A., Al Khoir, A., & Marpaung, H. S. (2024). Pidana mati dalam pandangan hak asasi manusia dan hukum pidana Indonesia. *Journal on Education*, *6*(2), 14013-14023.

Republik Indonesia. (1974). Undang - Undang Nomor 1 Tahun 1974 tentang Perkawinan.

Republik Indonesia. (1991). Instruksi Presiden Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam.

Republik Indonesia. (2019). Undang - Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang - Undang Nomor 1 Tahun 1974 tentang Perkawinan.

Riadi, H. (2021). Sistem hukum keluarga Islam di Indonesia. Minhaj: Jurnal Ilmu Syariah, 2(1), 77 - 90.

Siregar, E. S. R. (2024). The development of Islamic family law in Indonesia. El - Sirry : Jurnal Hukum Islam dan Sosial, 2(2).

Taufik, D. N., Khosiah, S., Wulandari, S. R., & Apriyanita, T. (2024). Perkembangan dan kontribusi fatwa dalam hukum keluarga Islam di Indonesia. As - Sakinah : Jurnal Hukum Keluarga Islam.

Wirastri, T. D., & van Huis, S. C. (2024). The state of Indonesia's marriage law : 50 years of statutory and judicial reforms. AHKAM : Jurnal Ilmu Syariah, 24(2).