

THE IMPLEMENTATION OF ISLAMIC LAW AT THE EARLY SPREAD OF ISLAM IN INDONESIAN ARCHIPELAGO

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ABSTRACT

The study on the graduality principle (tadarruj) of Islamic law in the context of Islamic law legislation in Indonesia has broad issues. The process of Islamization in the archipelago has been taking place gradually, since the advent of Islam in the 7th century AD or the first century of the emergence of Islam in Arab. The legislation efforts of Islamic law in the context of the legal system of a country always raises two sides, they are universal and the particular. Universality and particularity of the Islamic law are motivated by two dimensions, the dimensions of divinity (ilāhiyyah) and the human dimension (insāniyyah). This paper is a qualitative research that focuses on discussing regarding the implementation of Islamic law at the early spread of Islam in the Indonesian archipelago, with the historically normative approach. The conclusion is the graduality principle has been applied in the legislative process in the Islamic law in Indonesia, but it has no formal legal basis in the form of laws regulating the formation of a national law, although it has been implemented in the legislation process of Islamic law.

Keywords: Islamic law; Graduality; legislation; Indonesian Archipelago

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INTRODUCTION

The study of Islamic law legislation in the context of the legal system of a country always raises two faces of Islamic law which are universal and particular (Abdurrahman, 2007). Islamic law has a universal face that has meaning as Islamic law derived from the Qur'an and the Hadith of the Prophet PBUH. As a provision derived from the Qur'an and the Hadith, Islamic law is beyond the limits of space and time. It shows the same face in different parts of the world. On the other hand, the particularity of Islamic law will appear when reviewing the various aspects and characteristics, especially in any Muslim country, for example, the application of Islamic law in Indonesia which has a specific system, substance, and format.

The universality and particularity of Islamic law are motivated by two dimensions, ie the dimensions of divinity (*ilāhiyyah*) and the human dimension (*insāniyyah*). The dimension of divinity is a picture that Islamic law is the direct provision of Allah SWT, so the sacred and purity are maintained. *Ilāhiyyah* dimensions of Islamic law is not limited by geographical, historical, sociological, and political boundaries.

On the other hand, the human dimension is the description that details (*furū'iyah*) of Islamic law is the result of Muslims efforts to understand the Islamic values through a deep understanding of the aspects of language and law enforcement objectives (*maqāṣid al-syarī'ah*) (Juhaya, Smith, 2010). The dimensions of *insāniyyah* of Islamic law according to *ijtihād* of the religious leaders who try to interpret and implement the vision of Islamic law in the context of the different lives of Muslims and constantly developing. Therefore, the human interest side, Islamic law as a product of *ijtihād* of the religious leaders is allowed to be studied more actual, revised and refined.

The dimensions *ilāhiyyah* and *insāniyyah* of Islamic law are inseparable from the history of Islam in Indonesian legal legislation. As a law derived from revelation, Islamic law has been practiced by Muslims in Indonesia since centuries. Muslims have a duty to do Shari'a as a form of faith and devotion to Allah SWT. However, as a formal law, Islamic law cannot be separated from the developments as a result of social and political change occurred in Indonesia. The fact describes that the legislation of a legal norm in a country will be affected by the impact of the various interests from many parties and socio-cultural issues, thus, the Islamic law legislation becomes the interesting and complex discussion.

The urgency of legislation Islamic law in Indonesia can be reinforced by three considerations. First, Muslims in Indonesia are not only as the majority population in Indonesia but also in the world. Therefore, the application of Islamic law in Indonesia is not only to reward this majority population but can be a barometer for the enforcement of Islamic law in other Muslim countries as well. Second, the five principles as the state principle of Indonesia provides an open space towards the implementation of Islamic law to its adherents. Third, one of the national development programs is directed to the development agenda of national law. The agenda has a great

opportunity for the absorption of the Islamic law norms, including the attempt to transform the norms of Islamic law into the product of state legislation, because the national legal legislation is derived from Western legal norms, customary law, and Islamic law. The dimensions of divinity (*ilāhiyyah*) and the human dimension (*insāniyyah*) of Islamic law is appropriate to the development agenda of national law (Supriyadi, 2010)

The complexity of the implementation of Islamic law in Indonesia is caused by several factors: First, the imposition of Islamic law legally-formal such as legislation cannot be separated from the state authority. The constitution of the Republic of Indonesia firmly stated that Indonesia is not an Islamic state, but still gives the right to Muslims to practice their faith. Thus, the application of Islamic law legally-formal in Indonesia requires not only legal awareness among the Muslims but also requires a foundation and legally-formal arguments in the modern state. Second, Islamic law has been implemented by Muslims since centuries but has not reached the level of a comprehensive form according to the Qur'an and Hadith. This indicates that the process of Islamization has not been completely done and still needs a lot of improvement. Third, the flexibility of Islamic law makes it able to adapt to the times, however, the Islamic law code has not been developed optimally by Muslims in Indonesia (Rahman, 2007).

RESEARCH METHODS

This research is library research that is qualitative with the descriptive-analytic study, which explains, describes, or reveals the data that has relevance to the issues. It is discussed or analyzed by science and theories or researcher opinions and continued up to the conclusion. The descriptive analytical research in this study is intended to explain and describe the problems clearly.

FINDING AND DISCUSSION

GRADUALITY PRINCIPLE (TADARRUJ) OF ISLAMIC LAW IN THE CONTEXT OF ISLAMIC LAW LEGISLATION IN INDONESIA

The studies of the graduality principle (*tadarruj*) of Islamic law in the context of Islamic law legislation in Indonesia has broad issues. It can be described into some discussions below:

First, graduality is closely related to the history of the descent of Al Qur'an and Hadith (*nuzūl al-Qur'ān wawurūd al-Hadīṣ*) and the establishment of Shari'a (*tārīkh al-tasyrī'*). The graduality in the descent process of Al Qur'an is evidenced by the periodization of the descent of Al Qur'an (the period of Mecca and Medina) in approximately 22 years. It is also associated with the presence of *asbāb al-nuzūl* and *asbāb al-wurūd*.

Second, graduality in the development process by the religious leaders of Islamic law (after the expiration of prophethood) which formulates of Islamic jurisprudence until the emergence of Madhhab (schools of fiqh). This process occurred since the 2nd century until the 4th century. The latest

development of Islamic law is a legislative process of Islamic law into the legislative system of the modern state which was from the 19th century until this 21st century.

Third, in the context of a modern country like Indonesia, graduality establishment and implementation of Islamic law cannot be separated from the process of the establishment of the Republic of Indonesia and the basic formulation of the constitution of the country (the five principles). The willingness of the leaders of Muslims to accept the 1945 constitution and the five principles as the state constitution, is closely associated with the philosophical and sociological considerations, which are part of the graduality principles (*tadarruj*) in the application of Islamic law.

Fourth, Islamic law graduality has the friction of interest in the national legal system. The role and position of graduality principles of Islamic law in the context of the structure, culture and national legal substance implicated in obscurity position of Islamic law. On the other hand, Islamic law is an independent legal system that has principles, structure, and substances that are different from other legal systems. However, in Indonesian national law, Islamic law plays as a national legal subsystem because Indonesia is a country that is not based on the Islamic law system but the civil law system, as adopted by the Continental European countries.

Fifth, graduality (*tadarruj*) has associated with the validity of the theory of Islamic law in Indonesia (Juhaya, 2009), as follows:

Receptie in complex theory

This view is strengthened by Keyler Saloon (1823-1868), Willem Lodewijk Christian Van Den Berg (1845-1927), and Carel Frederik Winter (1799-1859), who asserted that the law follows the religious affiliation of a person, if the person is a Muslim then Islamic law which applies to him (Halim, 2005).

Receptie theory

The theory is pioneered by Christian Snouck Hurgronje (1875-1936). This Receptie theory suggests that it is actually prevailing in Indonesia is the customary law, Islamic law will have legal force when it has been accepted by customary law.

Receptie Exit theory

Receptie Exit theory is as a reaction to the *Receptie* theory pioneered by Snouck Hurgronje. The theory of *Receptie Exit* was first proposed by Hazarin in 1950 in Salatiga. In the conference at the Justice Department, he suggested an analysis and a view that Islamic law should be reinstated in Indonesia as *Receptie theory in complexu* theory.

***Receptie a Contrario* theory**

This theory was stated by Suyuti Thalib in his book "Theory of *Receptie a Contrario*" containing about relationships of customary law, Islamic and colonial law. In a view of *Contrario Receptie Theory*, Islamic law cannot be separated from Islam. Islamic law and Islam should always be in line because the law is a guidance and absolute for Muslims.

Theory of existence

This theory was proposed by H. Ichtianto SA. He argued that Islamic law actually exists in national law, although it is not mentioned that the rules are based on Islamic law (Ichtianto, 1990).

Theory of Renewal

This theory was pioneered by Bustanul Arifin Ismail Sunny and Tahir Azhari. They found that customary law actually does not exist, there is the only custom while the customary law that has been widely termed is an invention of the Dutch government (Mannan, 2003).

Sixth, graduality Islamic law is closely related to the development of law and the establishment of legislation, particularly in Act No. 10 of 2004 *jo* Act No. 12 of 2011 on the Establishment Regulation Legislation. Article 2 of the Law states: "Pancasila is the source of all sources of state law". Article 3 in paragraph (1) states: "Constitution of the Republic of Indonesia of 1945 is the basic law of the rules that include the principle of clarity, institutional, correspondence between the type and content, can be implemented, usability, and benefit, clarity of formulation, and openness ", all these things are the characters of Islamic law.

Seventh, the establishment of a law on the basis of an interest and urgent need for a legal arrangement with consideration and attention to the philosophical, juridical, sociological, and political foundation that have been arranged in the formation of the national legal system. As the principle of Islamic law establishment, *tadarruj* is strongly associated with philosophical, juridical, sociological, and political consideration in Indonesia as a legal state (Zaenuddin, 2015).

THE HISTORY OF ISLAMIC LAW IN INDONESIA

The kingdom of Islam

The process of Islamization in the Indonesian archipelago has been going on gradual. Islam came since the 7th century AD or the first century the emergence of Islam in Arab. Nevertheless, the process of Islamization massively when the growth of Islamic kingdoms in Sumatera island since the 13th century AD to 17th century AD. Islam has spread from Sumatera to almost all parts of the archipelago, such as Java, Sulawesi, Maluku, Kalimantan, and etc. The highlight of the development of Islam is marked by the establishment of Islamic kingdoms in the regions. Kingdom of Aceh

Darussalam and Samudera Pasai in Sumatera, the kingdom of Demak, Mataram Kingdom, the Kingdom of Banten, and the Sultanate of Cirebon on Java Island, Sultanate of Makassar in Sulawesi, which was a combination of the Sultanate of Gowa and Tallo, Banjar Kingdom in Borneo, Sultanate of Ternate and Tidore in the Maluku islands (Bachtiar, 2011).

The existence of Islamic political institutions has become a strong indication that Islamic law had been implemented in that period. Ibnu Khaldun stated that: لأن الناس على دين ملوكها و عواندها "for the people will follow their religion and customs of the kings" (Ibn Khaldun, n.d.), Referring to the statement of Ibn Khaldun, the establishment of Islamic political institutions by the king and the religious leaders will encourage people to follow the rules and conditions set out in the scope of the political institutions, it is the Islamic kingdoms. Thus, the existence of the Islamic kingdoms enacted the Islamic law as a positive law in the kingdom.

The implementation of Islamic law as a positive law in these kingdoms were part of the process of Islamization in Indonesia since several centuries earlier. This is evidenced by the findings of some of the religious leaders works in fiqh who lived in the 16th century and 17th AD (Hutabarat, 2005).

During the reign of Ali Mughayat Syahin the Kingdom of Aceh Darussalam (1511-1530), he set the rules, known as the "*Qanūm Syara*" of the Kingdom of Aceh". The Act contained election procedures and requirements to be met by someone who will be a royal official. The Act also confirmed that the kingdom of Aceh based on the "law", "*reusam*", "custom", and "*qanūn*" based upon the Islamic shari'a brought by Prophet Muhammad. Husain Djajadiningrat explained these four as follows: "the law" is the law of Islam, "custom" is matters related to the administration and tax arrangements, "*reusam*" is the prevailing custom, and "*qanūn*" is the law that governs (Charity & Panggabean, 2004).

A religious leader and also as Sufi of the archipelago, Nur al-Raniri, wrote a fiqh book titled *Ṣirāṭ al-Mustaqīm* in 1628 AD, the book was then distributed to several parts of the archipelago at that time. Shaykh al-Banjari Arsyad wrote the book titled *Sabīl al-Muhtadīn* as an extension of al-Raniri's book intended to become law in the Sultanate of Banjar, Kalimantan. The fiqh books of Shafi'i mazhab spread and used in the Islamic kingdoms in the 17th century AD. In Samudera Pasai, Islamic law had been implemented since the 14th century AD when led by a king who was also a Jurist named al-Maliku Zahir. Zahir al-Maliku's expertise was recognized by legal experts from the Malacca Sultanate that had come to consult a legal problem in the 15th century AD (Ali, 1993).

People's acceptance for Islam as a religion will be followed by the acceptance of the Islamic law norms as the norms of public life. The theory of legal enforceability explained that the enactment of a legal norm determines the law enforcement agency itself, particularly judges and the judiciary. Therefore, it can be concluded that the enactment of Islamic law in

the Islamic kingdoms affects the presence of the judge (*qāḍī*) of judicial institutions in charge of deciding the law cases according to Islamic law.

The process of the judiciary formation in Muslim societies can occur in three ways: First, the granting authority (*tauliyyah*) of a king or a leader of a Muslim country to the judge to hold court for Muslims. It can also be done by non-Muslim rulers who ruled over the Muslim community. Second, granting authority from *Ahlu al-halluwa al-'aqdi* (community leaders and religious leaders) who discusses to define a person or some people to be judges who implement judicial functions of Islam for Muslim. It is done during the absence of political leaders of the people in the region. Third, a delegation of judges from the two parties in dispute. The two delegations meet to formulate the agreement. The power of judge as the holder of judicial power is based upon the two delegations ('Abdul 'Azīz al-Malibarī, t.th). Three models of the administration of justice are predicted to have been applied to the Muslims in the Islamic kingdom archipelago kingdom.

Colonial Period

The existence of Islamic law and judicial institutions started to fade from the Muslim community when the Dutch through *Vereenigde Oostindische Compagnie* (VOC) or the Dutch East India Company, began to control and to monopolize the trade. VOC arrived on the island of Java and conquered Jayakarta from the Islamic Kingdom of Banten. Jayakarta was become the city of defense and the center of VOC activities by substituting its name to Batavia in 1619 (Suryanegara, 2010).

A year later, the VOC issued regulations regarding the geographical boundaries of its control area and formed the judicial institution called *College van Schepenen*, the law cases, including criminal, civil society in the territory of Batavia was tried in the judicial institution. For the soldiers and employees of the Dutch descent, the certain judiciary was formed, named *Ordinaris Luyden van den gerechte in het Casteel*. The judiciary in 1626 was renamed the *Ordinary Raad van Justitie Bennen Het Casteel Batavia* (Tresna, 1978).

Daniel Lev said that since about 16th century, religious courts have existed in all districts in Central Java. The judiciary is headed by a prince. The trial conducted in the foyer of the mosque (*serambi masjid*) so that such litigation was named the Court foyer (*Pengadilan Serambi*). In the area of Aceh, Jambi, South Kalimantan, and North Kalimantan, the religious judge had engaged Islamic justice appointed by local political authorities. In North Sulawesi and some parts of North Sumatera such as Gayo, Alas, and Tapanuli, and South Sumatera, there were religious leaders who do the justice in society although there were no formal legal institutions (Lav, 1986).

The existence of judicial institutions have made the Dutch colonial order could not change the indigenous of Muslim community law, in particular, and interfere with the existence of the religious judiciary (Lav, 1986). At the end of the 19th century, both the lawyers and the Dutch colonial government believed that the laws applicable in the Indonesian society were

Islamic law. However, the Dutch government had always shown a condescending attitude, both on the existence of Islamic law and the judiciary and its employees. The hatred of the Dutch colonial government towards the Islamic law encouraged them to take side with customary law and customary law leaders. It was proved by the war of Pederi in West Sumatera in the 19th century (Lav, 1986).

In 1830, the Governor General of the Dutch East Indies issued a regulation which stipulated that "the religious court is under the supervision of the colonial court". Thus, the religious courts had no authority to order the execution of decision and to confiscate the goods and money (Lav, 1986). The Dutch colonial government began to intimidate the existence of Islamic law.

The colonial party issued a Royal Decree that stipulated in the *Staatsblad* 1882 Number 152 which contained the establishment of religious courts in Java and Madura. The decree stated that the religious court authorized to prosecute in the field of family law, inheritance, and endowments. The religious court's elements consisted of a presiding judge from the employee of indigenous court and three to eight-panel members appointed by the Governor General of the Dutch. The policy seemed deeply affected by the thought of Willem Lodewijk van den Berg who believed that the believer will implement the law based on their religion, however, the level of awareness and practice of the law (Sumardjan, 1991).

Regarding the *Staatsblad* 1882 Number 152 above, since 1882 the judicial institution of religion had become part of the state justice system legally, but the Dutch policy could be considered highly detrimental to the interests of the Dutch themselves. One of the figures who criticized the policy was Snouck Hurgronje. He criticized the views of Van den Berg that the laws applying in the indigenous communities are Islamic law. Hurgronje then filed a new view that the laws in indigenous communities are customary law, Islamic law enforceability can occur only if Islamic law has been accepted by customary law. However, if Islamic legal norms have been accepted by customary law, it is not considered as Islamic law but as customary law (Djalil, 2006),

The condition lasted until Japan took control of the Indonesian archipelago since March 8th, 1942. Japan still maintained the policies that had been previously applied by the Dutch, hence the conditions of Islamic law under Japanese colonial rule did not experience the fate improvement (Hutabarat, 2005). However, Japan was able to understand the frustration and anger among Muslims towards law politics of the Dutch government, so they were trying to attract the sympathy of the Muslims. Japan promised to the Muslims to advance Islam as the majority population religion of Java Island. The promise was evidenced by the establishment of the Office of Islamic Affairs (*Shumubu*) led by representatives of Muslims and the Muslim Consultative Council of Indonesia (*Masyumi*) in 1943 (Hutabarat, 2005).

Period of Independence

Japanese government policies that gave opportunities for indigenous Muslim to work in government agencies provided experience at the same time a new awareness for the Muslim leader at the time, it was extremely valuable to them when Indonesia became independent. However, at the end of their authority in Indonesia, the Japanese government preferred secular nationalist figures as leader of the new nation of Indonesia. Japanese alignment to the secular nationalist group that was evident in the composition of the Investigating Committee for Preparatory Work for Independence (BPUPKI), of 62 BPUPKI members, was only 11 people from the Islamic nationalist group. They are: Ki Bagus Hadikusumo, Abdul Kahar Muzakkir, H. Agus Salim, Abikusno Tjokrosujoso, and KH. Abdul Wahid Hasyim. This number according to the version of Muhammad Yamin (Yamin, 1959).

A compromise between the two sides in BPUPKI session represented a lack of awareness of both sides about the position and function of a constitution as the foundation for building a nation and the highest legal protection in a modern constitutional state. Therefore, in the philosophical aspects, the first principle of Pancasila "Belief in the One and Only God" make the religion (Islam) as the foundation of legislation law in Indonesia. However, deletion of the words "... the obligation to enforce Islamic Law for its adherents" is a form of failure of Muslims to make the norms of Islamic law as a basis of legislation law in Indonesia. The background of some elimination of these words is unclear until now.

The applicability of Islamic law in independence time can be seen in the following periodization:

First, The Old Order period (1945-1966). The development of Islamic law in this period is manifested in the Preamble of the 1945 Constitution and Article 29 paragraph (1) and (2) of the 1945 Constitution. The Presidential Decree on July 5th, 1959, reinforced the position of Islamic law in Indonesia. In this period, some Acts, the Government decision, government regulations, and the Decree of the Government relating to Islamic law were issued by the government.

Second, the New Order period (1966-1998). Muslims initially had high expectation to the New Order regime, but in its development, a New Order actually considered Islam as a threat to national political stability. It was characterized by a rejection of Masjumi rehabilitation (Suryanegara, 2010). During the 32 years of the New Order regime, the Islamic law had ups and downs, but the Muslim leaders managed to make the some Law Islamic legislation.

Third, The post-1998 period. The fall of the New Order regime, known as the Reform Order, was a new thing for the fate of Islamic law in Indonesia. It was signed by the People's Consultative Assembly Decree No. III/MPR/2000 on the Sources of Law and the sequence of Legislation, Article 2 (7) of the regulation confirms to accommodate the local laws based on the specific conditions of regions in Indonesia, and the rules can override the enactment of a regulation. This provision continues to open widely the opportunity legislation of Islamic law in Indonesia, particularly in the regions (Asshiddiqie, 2000).

Thus, in the post-reform period, the law of Islam has a great opportunity to enrich the tradition of law in Indonesia. Step-by-step creation

of a new legal reform even sourced and based on Islamic law can be made to formulate a positive legal norm, which applies within the framework of national law.

The Urgency of Islamic Law as National Law Subsystem

Islamic legal experts have grouped the legal system in the world in five legal systems, as follows: (1) *Common Law*, the legal system in the United Kingdom and the ex-colonial countries; (2) *Civil law*, the system is derived from Roman law and adopted by the Continental European countries and applied to the lands of their colonial countries; (3) *Socialist Law*, the legal system applied in the socialist and communist countries such as Russia and their satellite countries; (4) *Islamic Law*, the legal system imposed by Muslims, especially in Asia and Africa; (5) *Adat Law*, customary law system that is practiced in several countries in Asia and Africa (Ali, 2012).

National law is the law applying to a particular nation in a particular country. Indonesian national law is a law established and enforced by the Indonesian state for every citizen (Ali, 2012). To avoid a legal emptiness and state institutions as a result of the power transition after the proclamation of independence, all laws and state institutions that have existed during the reign of the Dutch and Japan remain applicable until new regulations replace established. It is stipulated in Article II of the Transitional Provisions of the 1945 Constitution before the amendment.

The provisions made the legal system in Indonesia was inseparable from the legacy of the Dutch colonial legal system. The Dutch colonial government seemed very systematically to apply the secular legal system in Indonesia. The efforts are made during the existence and influence of Islamic law and customary law in indigenous communities. It made the Civil Law system in Indonesia different with the civil legal system in Continental European countries. The implementation of the civil law system in Indonesia had been modified by the adoption and adaptation of the system of Islamic law and customary law. Accordingly, the national legal system is a compound system (Ali, 2012).

The determination of Pancasila as the state philosophy of Indonesia and the 1945 Constitution as the basis of the constitution, makes the whole development of the law should be based on Pancasila. Therefore, the national legal system can be recognized as the legal system of Pancasila. Referring to the first principle "*Belief in the One and Only God*", the law of religion (Islam) legally become an absolute element in the national legal system (Wulandari, 2009).

Ismail Saleh noticed that national law must protect the whole nation in all aspects of life to the development planning of national law must use the national concept supporting the life of the nation. The national perception is composed of three sides, such as the concept of nationalism, the archipelago concept, *Bhineka Tunggal Ika* concept (Ali, 2012). Thus, in the implementation of the concepts, various principles, and rules of Islamic law

and customary law becomes an integral part of the national legal system, both the written and unwritten law (Ali, 2012).

On the other hand, Abdul Ghani Abdullah pointed out that the implementation of Islamic law in Indonesia has three basic constitutional manners, First, philosophical basis. Islamic value is a way of life, ambition and moral foundation of Muslims in Indonesia so it has an important role to create the fundamental norms of national and state life. Second, socio-historical basis. The history of Muslims in Indonesia proves that the ideals of law and legal awareness based on the teachings of Islam have a sustainable level of actuality. Third, the legal basis. Article 24, 25 and 29, 1945 provide open space for the implementation of Islamic law legally-formal (Abdul Ghani Abdullah, t.th.).

As an authoritative source, Islamic law becomes sub-national legal system without requiring the acceptance of customary law, hence *receptie theory* by Snouck Hurgronje is no longer valid (Ismail, 1996). As a sub-national legal system, all components and systems in Islamic law are transformed into the national legal system. For example, the Islamic judicial system becomes part of the system of judicial power in Indonesia, so that its position in a hierarchy is under the guidance of the Supreme Court and the Judicial Commission. The element of Islamic law substance is integrated into national legal substance through legislation and legal culture of Islam Muslim's behavior representing the national legal culture. As a consequence of the sub-national legal systems, construction and development of Islamic law will affect and be affected by the construction and development of national laws.

CONCLUSION

The graduality principle (*tadarruj*) has been applied in the legislative process of Islamic law in Indonesia. However, the principle is not based on juridical-formal in the form of laws setting national law formation, although it has been implemented in the legislation process of Islamic law.

The history of Islamic law in Indonesia can be described in three periodizations, such as Islamic kingdom period, the Dutch colonial period, and period of Independence.

As an authoritative source, Islamic law becomes sub-national legal system without requiring the acceptance of customary law. As a sub-national legal system, all components and systems in Islamic law are transformed into the national legal system. As a consequence of the sub-national legal systems, construction and development of Islamic law will affect and be affected by the construction and development of national laws.

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