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Mardan

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Muhammad Hariyadi, Ahmad Arief**

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**Hamzah Kamma, Rahmawati Beddu, Hadrawi Kasma,
Firmansyah**

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Table of Contents

Mardan	1-25
<i>Narrative Construction of the Qur'anic Story: A Structural and Functional Approach</i>	
Darlis, Nasaruddin Umar, Nur Arfiyah Febriani, Muhammad Hariyadi, Ahmad Arief	26-44
<i>Islamic Eco-Theology in the Age of Climate Crisis: A Critical Reading of Ali Jum'ah's Environmental Thought</i>	
Rosalinda, Andri Ilham, Nurdin	45-68
<i>Exoteric and Esoteric Values of the Ḥajj in Syair Haji by 'Abd al-Ḥamīd: A Ricoeurian Hermeneutic Study</i>	
Zahra Aulia Hanifa, Dita Puspita Dewi, Asep Sopian	69-88
<i>Phonological Rhetoric of Submission in the Qur'an: A Stylistic Analysis of the Fifteen Sajdah Verses</i>	
Sattu Alang, Hasnah, Burhanuddin.....	89-102
<i>Spiritual Resilience and Mental Health: A Qualitative Analysis of Ruqyah Syar'iyah as a Complementary Therapy for Depression</i>	
Ahmad Fachriza, Masruchin, Mustamira Sofa Salsabila.....	103-129
<i>An Integrative Study of Anxiety: Insights from Qur'ānic Taf̣ṣīr and Psychoanalytic Theory</i>	
Saidin Hamzah, Ahmad Yani, Fajri Nur Tajuddin	130-146
<i>Local Ecotheology Ngaha Aina Ngoho: Reconstruction of Environmental Ethics Based on Local Wisdom in Dealing With Deforestation in Bima</i>	
Hamzah Kamma, Rahmawati Beddu, Hadrawi Kasma, Firmansyah	147-174
<i>From Recognition to Contribution: The Material Dialectics of Islamic Law in Indonesia's Legal Architecture</i>	
Rahmawati, Ummul Khaerah, Suryanti.....	175-196
<i>Social and Political Transformation in the Islamization Process of the Kingdom of Bone in South Sulawesi</i>	

From Recognition to Contribution: The Material Dialectics of Islamic Law in Indonesia's Legal Architecture

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Abstract

The relationship between Islamic Law and the State in Indonesia has historically been viewed through the lens of political contestation and formal existence. However, this perspective often overlooks the substantive role of Islamic Law in shaping the character of national legislation. This study aims to analyze the material contribution of Islamic Law not merely as a recognized entity, but as an active source of values and norms in the construction of the national legal system. Employing a qualitative normative approach with a sociohistorical analysis, this research traces the dialectical evolution of legal theories from the colonial receptio in complexu to contemporary syncretism, revealing a negotiation process between religious values and state policy. The core finding of this study is that Islamic Law functions materially in three strategic ways: as a filter against incompatible colonial values, a buffer for socioeconomic justice, and a supplier of philosophical foundations (ethical substrates) for secular legislation. Evidenced by case studies in family law, Islamic economics, and philanthropy (wakaf), this contribution demonstrates the flexibility of Islamic Law in responding to modern challenges through the *Maqāsid al-Syarī'ah* framework. These findings suggest that the Indonesian model offers a unique legal architecture in which religious law permeates the state legal system substantively without necessitating total formalization, thereby ensuring its relevance in a modern, pluralistic state.

Keywords: Islamic Legal Dialectics; Material Sources; National Legal Architecture; *Maqāsid al-Syarī'ah*; Indonesian Socio-Legal System

ملخص

تاريخياً، نُظر إلى العلاقة بين الشريعة الإسلامية والدولة في إندونيسيا من منظور الصراع السياسي والوجود الرسمي؛ غير أن هذا المنظور غالباً ما يغفل الدور الجوهرى للشريعة في تشكيل ملامح التشريعات الوطنية. تهدف هذه الدراسة إلى



تحليل المساهمة الفعلية للشرعة الإسلامية - ليس فقط ككيان معترف به، بل كمصدر فاعل للقيم والأعراف في تطوير النظام القانوني الوطني. ومن خلال اعتماد منهجية نوعية معيارية وتحليل اجتماعي-تاريخي، يتتبع البحث التطور الجدلي *receptio in complexu** للنظريات القانونية - بدءاً من المفهوم الاستعماري المعروف بـ (الاستيعاب الكلي للقانون (وصولاً إلى النزعة التوفيقية المعاصرة *receptio in complexu** - ويكشف عن عملية التفاوض بين القيم الدينية وسياسات الدولة. وتشير النتائج الرئيسية للدراسة إلى أن الشريعة الإسلامية تؤدي دوراً جوهرياً عبر ثلاث آليات، استراتيجية: العمل كمرشح (أداة انتقاء (ضد القيم الاستعمارية غير المتوافقة وتشكيل ركيزة للعدالة الاجتماعية والاقتصادية، وتوفير أساس فلسفي (أرضية أخلاقية (للتشريعات العلمانية. ومن خلال دراسة حالات عملية في مجالات قانون الأسرة، والاقتصاد الإسلامي، والعمل الخيري (الوقف)، تبرز هذه الدراسة مرونة "الشريعة الإسلامية في الاستجابة للتحديات المعاصرة عبر إطار "مقاصد الشريعة وتخلص الدراسة إلى أن النموذج الإندونيسي يقدم بنية قانونية فريدة تتغلغل فيها الشريعة الإسلامية جوهرياً داخل النظام القانوني للدولة دون الحاجة إلى إضفاء طابع رسمي شامل، مما يضمن فاعليتها وملاءمتها في ظل دولة حديثة ومتنوعة.

الكلمات المفتاحية: جدلية الشريعة الإسلامية; المصدر الجوهري; البنية القانونية الوطنية; مقاصد الشريعة; النظام القانوني-الاجتماعي الإندونيسي.

Abstrak

Hubungan antara hukum Islam dan negara di Indonesia secara historis dipandang melalui lensa kontestasi politik dan eksistensi formal. Namun, perspektif ini sering kali mengabaikan peran substantif hukum Islam dalam membentuk karakter legislasi nasional. Studi ini bertujuan untuk menganalisis kontribusi material hukum Islam, bukan sekadar sebagai entitas yang diakui, melainkan sebagai sumber nilai dan norma yang aktif dalam pembangunan sistem hukum nasional. Dengan menggunakan pendekatan normatif-kualitatif serta analisis sosio-historis, penelitian ini menelusuri evolusi dialektis teori-teori hukum, mulai dari konsep kolonial *receptio in complexu* hingga sinkretisme kontemporer serta mengungkap proses negosiasi antara nilai-nilai keagamaan dan kebijakan negara. Temuan utama studi ini menunjukkan bahwa hukum Islam berfungsi secara material melalui tiga cara strategis: sebagai penyaring terhadap nilai-nilai kolonial yang

tidak selaras, penyangga bagi keadilan sosial-ekonomi, dan penyedia landasan filosofis (substrat etis) bagi legislasi sekuler. Melalui studi kasus di bidang hukum keluarga, ekonomi Islam, dan filantropi (wakaf), kontribusi ini memperlihatkan fleksibilitas hukum Islam dalam merespons tantangan modern lewat kerangka *Maqāsid al-Syarī'ah*. Temuan-temuan ini mengindikasikan bahwa model Indonesia menawarkan arsitektur hukum yang unik, di mana hukum agama meresap ke dalam sistem hukum negara secara substantif tanpa mengharuskan formalisasi total, sehingga menjamin relevansinya dalam negara modern yang majemuk.

Kata kunci: Dialektika Hukum Islam; Sumber Material; Arsitektur Hukum Nasional; Maqāsid al-Syarī'ah; Sistem Sosio-Legal Indonesia

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A. Introduction

As the nation with the world's largest Muslim majority, the relationship between Islamic law and the state in Indonesia represents a unique and continuously evolving dialectic. This epistemological struggle has given rise to various theories, ranging from receptio in complexu to syncretism, that reflect the socio-political responses of their respective eras.¹ While historically, Islamic law transformed from communal norms to formally recognized legislation,² scholarly discourse has largely remained fixated on

¹ Ade Dedi Rohayana and Ali Muhtarom, "Islamic Jurisprudence Implementation in Indonesia: Perspective of the Objectives of Islamic Law," *Global Jurist* 21, no. 2 (July 2021): 403–15, <https://doi.org/10.1515/gj-2020-0078>; Rüdiger Lohlker, "Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia," *Interdisciplinary Journal for Religion and Transformation in Contemporary Society* 7, no. 1 (July 8, 2021): 188–208, <https://doi.org/10.30965/23642807-bja10011>; Arskal Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 2021): 529, <https://doi.org/10.22373/sjhk.v5i2.11082>; Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (May 1, 2024): 64, <https://doi.org/10.20956/halrev.v10i1.4824>; DRI SANTOSO et al., "QUO VADIS OF ISLAMIC LAW IN NATIONAL LAW," *Russian Law Journal* 11, no. 3 (April 2023), <https://doi.org/10.52783/rlj.v11i3.1257>; ACHMAD IRWAN HAMZANI and SOESI IDAYANTI, "THE EVOLUTION OF ISLAMIC LAW IN INDONESIA: A SOCIO-HISTORICAL PERSPECTIVE ON ITS STRUGGLE FOR EXISTENCE," *Hamdard Islamicus* 47, no. 1 (March 29, 2024), <https://doi.org/10.57144/hi.v47i1.891>.

² H.Y. Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 2 (December 28, 2020): 504, <https://doi.org/10.22373/sjhk.v4i2.7864>; Haris Maiza Putra et al., "Reconstruction of the Practice of Siyasa Syar'iyah During the Islamic Empire's Relevance to the

the "formal existence" or political dynamics of this integration.³ This fixation tends to reduce the complex reality of Islamic law in Indonesia to a binary contest between secularism and Islamism, often neglecting the nuanced ways in which Islamic values are seamlessly woven into the texture of public policy and civil conduct.⁴

Seminal studies by Salim (2008) and Azra (2019) have meticulously mapped the historical and political shifts of Islamic law, while anthropological perspectives by Crouch (2016) and Bowen (2003) have dissected the dynamics of pluralism within state-society relations.⁵ Nevertheless, a significant theoretical gap remains. Current literature predominantly views Islamic law through a positivistic lens as a formal statutory instrument. Consequently, it overlooks the strategic function of Islamic law as a material source of law; specifically, its role as an axiological reservoir that provides

Practice of Sharia Financing CWLS Retail in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 November (November 9, 2023): 347, <https://doi.org/10.29240/jhi.v8i2.8057>; ACHMAD IRWAN HAMZANI and SOESI IDAYANTI, "THE EVOLUTION OF ISLAMIC LAW IN INDONESIA: A SOCIO-HISTORICAL PERSPECTIVE ON ITS STRUGGLE FOR EXISTENCE"; Syahrizal Abbas and Ramzi Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System," *Jurnal Ilmiah Peuradeun* 9, no. 3 (September 30, 2021): 529, <https://doi.org/10.26811/peuradeun.v9i3.673>.

³ Ratno Lukito, "Legal Transplants in Indonesia: Bridging Tradition and Modernity," *Social Sciences* 14, no. 2 (March 2025): 60–77, <https://doi.org/10.11648/j.ss.20251402.11>; Abbas and Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System"; Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia."

⁴ Ali Munhanif and A. Bakir Ihsan, "Ideas, Politics, and The Making of Muslim Democracy: An Historical Trajectory in Indonesia," *Studia Islamika* 30, no. 3 (December 2023): 525–60, <https://doi.org/10.36712/sdi.v30i3.38203>; Gili Argenti et al., "Post-Islamism in Indonesia: Analysis of Islamic Political Party Programs in the 2019 National Elections," *Academic Journal of Interdisciplinary Studies* 11, no. 1 (January 2022): 127, <https://doi.org/10.36941/ajis-2022-0011>; Muhammad Nasir and Muhammad Khairul Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 11, no. 2 (December 2021): 213–41, <https://doi.org/10.18326/ijims.v11i2.213-241>; Greg Barton, Ihsan Yilmaz, and Nicholas Morison, "Authoritarianism, Democracy, Islamic Movements and Contestations of Islamic Religious Ideas in Indonesia," *Religions* 12, no. 8 (August 13, 2021): 641, <https://doi.org/10.3390/rel12080641>.

⁵ Oliver Scharbrodt, "Creating a Diasporic Public Sphere in Britain: Twelver Shia Networks in London," *Islam and Christian-Muslim Relations* 31, no. 1 (January 2, 2020): 23–40, <https://doi.org/10.1080/09596410.2019.1643098>; Amanda Tho Seeth, "Electing a President Is Islamic Worship'—The Print Media Discourse of Azyumardi Azra during Reformasi (1998–2004)," *Archipel* 101 (2021): 209–44, <https://doi.org/10.4000/archipel.2404>; Agus Salim, "Islamic Identity and Foreign Policy Discourse: Indonesia's Responses to the US War in Afghanistan (2001–2002)," *Studia Islamika* 27, no. 1 (April 7, 2020): 35–72, <https://doi.org/10.36712/sdi.v27i1.10035>.

the ethical values, philosophies, and basic norms required to substantiate the legal system, beyond the confines of textual codification.⁶

This article addresses this gap by explicitly shifting the focus from the concept of "recognition" to that of "contribution." It argues that the evolution of legal theories in Indonesia is not merely a history of ideas, but evidence of a long dialectic that has produced tangible material contributions.⁷ Ultimately, this perspective demonstrates the real and enduring significance of these theoretical developments, highlighting their impact on Indonesia's legal landscape. The central thesis is that Islamic law actively shapes the national legal character by acting as a colonial value filter, a justice buffer, and a philosophical supplier, particularly in responding to contemporary challenges.⁸ This study offers a fresh perspective on state religion relations by examining the "ethical substrate" Islamic law provides to the national legal architecture.

B. Research Methods

This research employs a qualitative socio-legal approach, specifically utilizing library research to deconstruct legal texts and historical narratives.⁹ A normative

⁶ Muktashim Billah et al., "Islamic Law Perspectives and Social Experiences on Stigma toward Disabled People in Indonesia," *Frontiers in Sociology* 10 (March 12, 2025), <https://doi.org/10.3389/fsoc.2025.1479243>; Ratno Lukito, "The Politics of Syariatization in Indonesia: MMI and GARIS' Struggle for Islamic Law," *Studia Islamika* 28, no. 2 (August 2021): 319–47, <https://doi.org/10.36712/sdi.v28i2.15819>; Rohayana and Muhtarom, "Islamic Jurisprudence Implementation in Indonesia: Perspective of the Objectives of Islamic Law"; Abbas and Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System"; Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia."

⁷ Billah et al., "Islamic Law Perspectives and Social Experiences on Stigma toward Disabled People in Indonesia"; Rohayana and Muhtarom, "Islamic Jurisprudence Implementation in Indonesia: Perspective of the Objectives of Islamic Law"; Lukito, "The Politics of Syariatization in Indonesia: MMI and GARIS' Struggle for Islamic Law," August 2021; Abbas and Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System"; Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia."

⁸ Alfitri Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* 27, no. 2 (August 2020): 273–307, <https://doi.org/10.36712/sdi.v27i2.9408>; Hoko Horii, "Legal Reasoning for Legitimation of Child Marriage in West Java: Accommodation of Local Norms at Islamic Courts and the Paradox of Child Protection," *Journal of Human Rights Practice* 12, no. 3 (February 2021): 501–23, <https://doi.org/10.1093/jhuman/huaa041>; Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia"; Lohlker, "Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia"; Abbas and Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System."

⁹ Jess Mant, "Working Politically: Combining Socio-Legal Tools to Study Experiences of Law," *German Law Journal* 21, no. 7 (October 2020): 1464–80, <https://doi.org/10.1017/glj.2020.78>; Jennifer Hendry, Naomi Creutzfeldt, and Christian Boulanger, "Socio-Legal Studies in Germany and the UK:

historical method is applied to analyze the dialectic trajectory of Islamic legal values within the Indonesian legal system.¹⁰

Primary Data: Positive legal texts including the Marriage Law, Compilation of Islamic Law (KHI), Sharia Banking Law, and Waqf Law. This law serves as a fundamental resource for normative legal research. It provides essential legal material for analyzing the codification, implementation, and adaptation of Islamic law in Indonesia. For instance, the Compilation of Islamic Law (KHI) and the Marriage Law are crucial for studying family law, while the Sharia Banking Law and the Waqf Law are significant for research on Islamic finance and waqf.¹¹ **Secondary Data:** Relevant academic literature, historical records, and judicial decisions

The collected data were analyzed using content analysis to draw replicable, valid inferences about the context. The analysis focused on tracing the interpretation of values, philosophies, and concepts (such as *Maqāṣid al-Syarī'ah*) to identify their material contribution to the national legal architecture. This method allows for uncovering the power relations and "discursive struggles" embedded within the legal evolution.

C. Results and Discussion

1. The Theoretical Dialectic: A History of Power Configurations

The trajectory of Islamic law in Indonesia defies any narrative of linear

Theory and Methods," *German Law Journal* 21, no. 7 (October 2020): 1309–17, <https://doi.org/10.1017/glj.2020.83>.

¹⁰ Ani Yumarni et al., "The Implementation of Waqf as Â€Urf in Indonesia," *Sriwijaya Law Review*, July 2021, 287–99, <https://doi.org/10.28946/slrev.Vol5.Iss2.1126.pp287-299>; Muh. Fathoni Hasyim, Lilick Channa AW, and Moh. Mufid, "THE WALAGARA MARRIAGE RITUAL: The Negotiation between Islamic Law and Custom in Tengger," *JOURNAL OF INDONESIAN ISLAM* 14, no. 1 (June 2020): 139, <https://doi.org/10.15642/JIIS.2020.14.1.139-162>; Muhammad Iqbal and Shahid Rahman, "Arsyad Al-Banjari's Dialectical Model for Integrating Indonesian Traditional Uses into Islamic Law," *Argumentation* 35, no. 1 (March 2021): 73–99, <https://doi.org/10.1007/s10503-020-09526-y>; Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia"; Abbas and Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System"; Lohlker, "Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia."

¹¹ Raditya Sukmana, "Critical Assessment of Islamic Endowment Funds (Waqf) Literature: Lesson for Government and Future Directions," *Heliyon* 6, no. 10 (October 2020): e05074, <https://doi.org/10.1016/j.heliyon.2020.e05074>; Burhanudin Harahap, Tastaftiyan Risfandy, and Inas Nurfadia Putri, "Islamic Law, Islamic Finance, and Sustainable Development Goals: A Systematic Literature Review," *Sustainability* 15, no. 8 (April 13, 2023): 6626, <https://doi.org/10.3390/su15086626>; Shazny Ramlan, "Implementing Islamic Law to Protect the Environment: Insights from Singapore, Malaysia, and Indonesia," *Asia Pacific Journal of Environmental Law*, 2020, <https://doi.org/10.4337/apjel.2020.02.05>; Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqnīn and Its Synchronization with Islamic Law Codification in Indonesia."

progression, instead emerging as a volatile, dialectical arena where state accommodation and religious demands perpetually collide. By critically deconstructing six foundational theories, we reveal that legal products are never purely theological but are rather the crystallization of political logic and transactional negotiations that underpin the tug-of-war within the nation's legislative history.¹²

This dialectical reading aligns with Habermas's concept of discursive rationality, wherein law is not a neutral container of norms but a contested site where competing claims to legitimacy are continuously negotiated. In the Indonesian context, this contestation is uniquely triangulated among three normative systems: Western-positivist law inherited from the colonial apparatus, indigenous adat traditions rooted in communal solidarity, and Islamic jurisprudence anchored in divine revelation. Understanding how these forces have interacted across successive historical epochs is indispensable to comprehending how Islamic law has evolved from a position of colonial subordination to one of substantive material contribution.¹³

Colonial Hegemony (Thesis): The theories of Receptio in Complexu and Receptie Theory constitute the foundational thesis of the colonial legal dialectic. Ontologically, Receptio in Complexu, as articulated by L.W.C. van den Berg in the 1880s, conceptualizes law as an entity inherently intertwined with faith, asserting that a genuine Islamic identity requires the complete acceptance of Sharia (in complexu). This framework is grounded in a deductive normative epistemology that validates law through sacred texts, while intentionally overlooking the sociological reality where adat frequently dominates everyday practices. Axiologically, the theory endorses colonial administrative pragmatism by simplifying the intricate plurality of customary laws through religious unification, thereby using theological supremacy to ensure political stability in the Dutch East Indies.¹⁴

However, this recognition was fundamentally strategic rather than principled: the colonial state acknowledged Islamic law not to empower Muslim communities, but to

¹² Arip Purkon, "POLITICAL PARTIES AND ISLAMIC LAW POSITIVIZATION IN CONTEMPORARY INDONESIAN GOVERNANCE," *Humanities & Social Sciences Reviews* 9, no. 2 (March 18, 2021): 75–86, <https://doi.org/10.18510/hssr.2021.928>; Ratno Lukito, "The Politics of Syariatization in Indonesia: MMI and GARIS' Struggle for Islamic Law," *Studia Islamika* 28, no. 2 (August 19, 2021): 319–47, <https://doi.org/10.36712/sdi.v28i2.15819>.

¹³ Syahriza Alkohir Anggoro and Tunggul Anshari Setia Negara, "The Struggle for Recognition: Adat Law Trajectories under Indonesian Politics of Legal Unification," *International Journal on Minority and Group Rights* 29, no. 1 (August 2, 2021): 33–62, <https://doi.org/10.1163/15718115-bja10040>.

¹⁴ Khairuddin Tahmid and Idzan Fautanu, "Institutionalization of Islamic Law in Indonesia," *AL-ADALAH* 18, no. 1 (June 29, 2021): 1–16, <https://doi.org/10.24042/adalah.v18i1.8362>; Hasep Saputra et al., "Interpretations of Verses about Islamic Criminal Law and Its Polemics in Indonesiaâ€™s Positive Law," *AJIS: Academic Journal of Islamic Studies* 6, no. 1 (June 9, 2021): 79–102, <https://doi.org/10.29240/ajis.v6i1.2612>.

create a manageable legal category that could be surveilled, codified, and ultimately subordinated to the interests of the VOC and later the Dutch colonial administration. This constitutes what Salaymeh (2021) terms “coloniality of law,” a process by which the colonizer translates and freezes indigenous legal systems within Western taxonomies, stripping them of their organic vitality and rendering them politically inert.¹⁵ While Van den Berg’s approach offered limited recognition of Islamic law, it functioned merely as ‘orientalist freezing, acknowledging the law solely to marginalize it politically. Snouck Hurgronje’s Receptie theory subsequently radicalized this colonial strategy through a ‘paradigmatic reversal.’ Grounded in an empirical-anthropological epistemology, Hurgronje asserted that Islamic law possesses no binding validity unless local Adat explicitly adopts it. This perspective prioritized observable social behavior over scriptural authority, thereby structurally subordinating Sharia. Ultimately, this transformation served a calculated agenda of divide et impera: secularizing the legal system to neutralize the political potential of Islam by anchoring it beneath indigenous custom.¹⁶

Post-Independence Emancipation (The Antithesis): Hazairin’s Receptio Exit emerged as a decolonizing intellectual response, rejecting the devil’s theory of Receptio and asserting Muslims’ constitutional right to practice their own law. Writing in the immediate post-independence context, Hazairin framed the colonial Receptie doctrine not merely as a legal error, but as an act of deliberate theological aggression against Muslim communities. Hazairin’s Receptio Exit ontologically reclaimed Sharia as an autonomous constitutional reality, epistemologically dismantling the colonial devil’s theory to sever the dependency of Islam on Adat. This move was theoretically significant because it repositioned Islamic law from a derivative of custom to a primary source of constitutional obligation, grounded in the recognition of Indonesia as a state in which the majority of the population professes Islam. This decolonizing momentum was radicalized by Sayuti Thalib’s Receptio a Contrario, which axiomatically inverted the legal hierarchy by asserting that Adat loses validity only when it contradicts scripture. Transitioning from defensive survival to offensive assertion, this paradigm shift established a theological supremacy that mirrors the escalating dialectic of Islamic identity politics. Critically, both theories reflect what Fanon identified as the colonized intellectual’s dialectical response to colonial epistemological violence: a necessary, if

¹⁵ Kevin Blachford, “Revisiting the Expansion Thesis: International Society and the Role of the Dutch East India Company as a Merchant Empire,” *European Journal of International Relations* 26, no. 4 (December 2020): 1230–48, <https://doi.org/10.1177/1354066120932300>; Moritz Koenig, “Colonial Legality in Sumatra,” *Indonesia and the Malay World* 48, no. 142 (September 2020): 359–78, <https://doi.org/10.1080/13639811.2020.1796291>.

¹⁶ Wendell Marsh, “Reading with the Colonial in the Life of Shaykh Musa Kamara, a Muslim Scholar-Saint,” *Africa* 90, no. 3 (May 2020): 604–24, <https://doi.org/10.1017/S0001972020000091>; Rabi'at Akande, “Secularizing Islam: The Colonial Encounter and the Making of a British Islamic Criminal Law in Northern Nigeria, 1903–58,” *Law and History Review* 38, no. 2 (May 22, 2020): 459–93, <https://doi.org/10.1017/S0738248019000166>.

sometimes overcorrective, assertion of cultural-legal sovereignty. The tension between these decolonizing impulses and the pluralistic foundations of Pancasila would prove to be a defining constitutional challenge in subsequent decades.¹⁷

Contemporary Synthesis: M.B. Hooker's Syncretism and Ratno Lukito's Legal Pluralism reframe the legal landscape through a pluralistic ontology in which Islamic and Adat norms coalesce into a creative yet volatile synthesis. While theoretically harmonious, this hybridity operates as a contested sociological terrain, frequently fraught with friction during implementation. Hooker's framework is particularly valuable because it moves beyond the binary of either Islamic supremacy or Adat dominance, recognizing instead that Indonesian legal culture is constitutively hybrid, a palimpsest in which multiple normative layers coexist, overlap, and mutually condition one another.¹⁸

Relates to Boaventura de Sousa Santos's concept of "interlegality," which describes how various legal systems intersect within a single social sphere, forming a "porous" legal space instead of a single unified code. In Indonesia, this is seen in the Religious Courts, where judges often combine formal KHI rules with uncodified fiqh principles in family law cases. This process represents a dynamic, grassroots synthesis between state law and Islamic jurisprudence. Such a dialectic affirms law as a flexible domain of power, evolving from colonial dominance and nationalist movements toward a modern quest for inclusive integration. Crucially, this synthesis is an ongoing negotiation, highlighting that Indonesia's legal system is better viewed as a living, adaptable process of norm-creation rather than a static structure, continuously shaped by dialogue among different legal traditions.¹⁹

2. Mechanisms of Contribution: Filter, Buffer, and Supplier

Moving beyond the theoretical dialectic, this study identifies three concrete mechanisms by which Islamic law materially contributes to national law. These

¹⁷ Barton, Yilmaz, and Morison, "Authoritarianism, Democracy, Islamic Movements and Contestations of Islamic Religious Ideas in Indonesia"; Lohker, "Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia."

¹⁸ A. Arfiansyah, "Contemporary Changes and Uses of Adat in Gayo Society, Indonesia," *Heritage of Nusantara: International Journal of Religious Literature and Heritage* 10, no. 1 (May 31, 2021): 32–63, <https://doi.org/10.31291/hn.v10i1.620>; Saldi Isra and Hilaire Tegnan, "Legal Syncretism or the Theory of Unity in Diversity as an Alternative to Legal Pluralism in Indonesia," *International Journal of Law and Management* 63, no. 6 (November 11, 2021): 553–68, <https://doi.org/10.1108/IJLMA-04-2018-0082>.

¹⁹ Naskur Bilalu et al., "Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (October 3, 2022): 514, <https://doi.org/10.22373/sjhk.v6i2.12441>; Achmad Hariri and Basuki Babussalam, "Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia," *Walisono Law Review (Walrev)* 6, no. 2 (October 31, 2024): 146–70, <https://doi.org/10.21580/walrev.2024.6.2.25566>.

mechanisms are not mutually exclusive but operate in an overlapping and mutually reinforcing fashion, collectively constituting what this article terms the “ethical substrate” of the Indonesian legal system.

The concept of an ethical substrate, borrowed from bioethics and adapted here to socio-legal analysis, refers to the foundational layer of values and normative orientations that provide direction, coherence, and moral justification to positive law, without being explicitly codified as statutory provisions. This theoretical framing allows us to move beyond the conventional debate over whether Islamic law is “formally” part of the national legal system and to ask instead how its underlying values pervade and shape the texture of legislation, judicial reasoning, and policy formation.²⁰ The three mechanisms identified below—filter, buffer, and supplier—represent analytically distinct, yet empirically intertwined, modes of this substantive contribution:

a. The Filter Mechanism (De Westernization)

Islamic law functions as an axiological sieve, rigorously filtering colonial values that clash with local religious consciousness while facilitating a creative adaptation of compatible norms. This mechanism of selective appropriation and rejection is not passive but constitutes an active form of normative agency, by which Muslim jurists and legislators have historically exercised critical judgment over the colonial legal inheritance, retaining structurally useful elements while repurposing them within an Islamic ethical framework. This dynamic is most evident in the domain of inheritance law, where the principle of substantive Islamic justice enshrined in the Quran’s explicit *faraid* provisions has functioned as a sustained critique of and corrective to the absolute individualism of the Dutch *Burgerlijk Wetboek* (BW), which recognized only blood-based kinship ties without accounting for the social welfare obligations embedded in Islamic inheritance. Similarly, structural concepts such as *rechtspersoon*, a cornerstone of Dutch civil law, have been strategically appropriated and repurposed for *Waqf* institutions, which, under Law No. 41/2004, operate as legal entities (*badan hukum*) capable of owning, managing, and transacting in property in perpetuity.²¹

²⁰ Sabil Mokodenseho et al., “Analysis of the Influence of Fiqh and Maqasid Al-Syariah in the Formation of Islamic Legal Policy in Indonesia,” *West Science Islamic Studies* 2, no. 01 (January 30, 2024): 30–37, <https://doi.org/10.58812/wsiss.v2i01.590>; Faheem ullah Al Azhari and Sajid Iqbal Al Azhari, “Contemporary Challenges in Harmonizing Sharia, National Legal Systems, and International Law in a Rapidly Changing World,” *International Journal of Law and Social Sciences* 1, no. 1 (December 9, 2025): 130–50, <https://doi.org/10.65960/ijlss.1.1.2025.4>; Uthman Mehdad Al-Turabi and Jasser Auda, “Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World,” *Indonesian Journal of Islamic Law* 8, no. 2 (December 23, 2025): 209–28, <https://doi.org/10.35719/fhw10v84>.

²¹ Maysarah and Robinhot Laia, “Development of Islamic Law in Indonesia,” *Jurnal Multidisiplin Madani* 5, no. 11 (November 30, 2025): 1273–79, <https://doi.org/10.55927/mudima.v5i11.682>; M. Nasikhul Umam Al-Mabruri, “DEVELOPMENT AND POLEMIC RENEWAL OF INHERITANCE

By infusing these adopted legal vessels with Sharia-compliant objectives such as the requirement that waqf assets serve public benefit (*maslahah ‘āmmah*), the system synthesizes a hybrid yet authentic Indonesian legal identity. Historical models, such as Arsyad Al-Banjari’s dialectical approach to integrating Banjarese customary practices within the Shafi’i jurisprudential school, illustrate how traditional customs are critically integrated or rejected in Islamic jurisprudence, suggesting a dynamic and context-sensitive synthesis of law. This historical precedent demonstrates that the filter mechanism is not a modern invention but a longstanding epistemological practice within Indonesian Islamic jurisprudence, one that contemporary legislators have institutionalized at the national level.²²

b. The Buffer Mechanism (Socio-Economic Justice)

Islamic law serves as a vital moral counterbalance to the predatory excesses of global capitalism and the pragmatic approaches of domestic politics during Indonesia’s legal reform. The buffer mechanism operates precisely at the intersection of economic vulnerability and normative insufficiency: when state law, shaped by technocratic and market-driven imperatives, risks producing structurally unjust outcomes, Islamic legal principles intervene as a corrective moral force. This role is most acutely evident in the criminal justice domain, where the new Criminal Code (*Kitab Undang-Undang Hukum Pidana*, effective 2026) has incorporated rehabilitative principles that resonate deeply with the Islamic concept of *ta’zīr*, a discretionary punishment aimed at correction and social restoration rather than retributive suffering.²³

The *ta’zīr* principle shifts the focus of penal logic from outdated retribution to rehabilitation (*hifz al-nafs*), emphasizing human restoration over state vengeance. This convergence between Sharia-derived penology and contemporary restorative justice

LAW AND COMPULSORY WILLS IN INDONESIA,” *Al Hakam: The Indonesian Journal of Islamic Family Law and Gender Issues* 4, no. 1 (May 31, 2024): 41–62, <https://doi.org/10.35896/alhakam.v4i1.581>; Fitra Syari Linda and Anastyapatika Sari, “KOLONIALISME DAN TRANSFORMASI HUKUM ISLAM DI INDONESIA: DARI MASA PENJAJAHAN HINGGA ERA GLOBALISASI,” *Al-Mabsut : Jurnal Studi Islam Dan Sosial* 19, no. 2 (September 15, 2025): 199–208, <https://doi.org/10.56997/almabsut.v19i2.2275>.

²² Iqbal and Rahman, “Arsyad Al-Banjari’s Dialectical Model for Integrating Indonesian Traditional Uses into Islamic Law”; Abbas and Murziqin, “Sharia-Based Regional Regulations in the Indonesian National Law System”; Lohlker, “Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia”; Rohayana and Muhtarom, “Islamic Jurisprudence Implementation in Indonesia: Perspective of the Objectives of Islamic Law.”

²³ Muhammadun Muhammadun, Oman Fathurohman, and Ferry Siregar, “Religion, State, and Law: Constitutional Limits of Islamic Law in National Law in Indonesia,” in *Proceedings of the 3rd International Conference on Indonesian Legal Studies, ICILS 2020, July 1st 2020, Semarang, Indonesia* (EAI, 2021), <https://doi.org/10.4108/eai.1-7-2020.2303646>; Lohlker, “Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia”; Saputra et al., “Interpretations of Verses about Islamic Criminal Law and Its Polemics in Indonesiaâ€™s Positive Law.”

theory is not coincidental; it reflects decades of advocacy by Muslim legal scholars who argued that the colonial penal code was ontologically alien to Indonesian moral sensibilities, which prioritize communal reconciliation (islah) over punitive deterrence.²⁴

The buffer function is equally discernible in the economic domain. In the framework of the Job Creation Law (Omnibus Law No. 11/2020) and its subsequent derivatives, the integration of *musyarakah* (profit-and-loss sharing) partnerships and the categorical prohibition of *riba* (usurious interest) function as ethical safeguards against the exploitative financial practices that unchecked market liberalization tends to generate. The prohibition of *riba*, in particular, has proven to be one of the most practically consequential of Islamic legal contributions, not merely as a doctrinal rule but as a financial design principle that mandates asset-backed, risk-sharing transactions instead of debt-based, interest-generating instruments.²⁵

This distinction proved materially significant during the 1997–1998 Asian Financial Crisis, when Indonesia’s nascent Islamic banking sector, precisely because it did not hold interest-rate-sensitive instruments, demonstrated markedly greater resilience than its conventional counterparts a pattern subsequently confirmed during the 2008 global financial shock. Sharia principles thus demonstrably humanize market mechanisms, providing a normative infrastructure that the secular legal framework alone is incapable of supplying.²⁶

c. The Supplier Mechanism (Philosophical Foundation)

Islamic law plays a crucial role in enriching the secular legal framework with an essential ethical soul, leveraging the principles of *Maqasid al-Syariah* to convert specific theological imperatives into universal public values. The supplier mechanism

²⁴ Mulida Hayati and Nuraliah Ali, “Husband’s Sexual Violence: Protection Rights for Wives in Terms of Islamic and Indonesian State Law,” *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 1 (June 30, 2021): 65–81, <https://doi.org/10.30631/al-risalah.v21i1.662>; Ibnu Taqwim, Pagar Hasibuan, and Zulkarnain Zulkarnain, “THE COMPARATIVE STUDY OF CHILD DRUG ABUSE CASES,” *Jurnal Pembaharuan Hukum* 8, no. 2 (July 29, 2021): 218, <https://doi.org/10.26532/jph.v8i2.16169>.

²⁵ Yussuf Charles Yussuf, “The Justification for Prohibition of Interest/Riba in Islamic Banking and Finance: Risk Sharing Nexus Asset/Property Ownership,” *Academia Letters*, September 30, 2021, <https://doi.org/10.20935/AL1151>; Petra Mahy, “Indonesia’s Omnibus Law on Job Creation: Reducing Labour Protections in a Time of COVID-19,” *SSRN Electronic Journal*, 2021, <https://doi.org/10.2139/ssrn.3772526>.

²⁶ Yudho Taruno Muryanto, Dona Budi Kharisma, and Anjar Sri Ciptorukmi Nugraheni, “Prospects and Challenges of Islamic Fintech in Indonesia: A Legal Viewpoint,” *International Journal of Law and Management* 64, no. 2 (January 2022): 239–52, <https://doi.org/10.1108/IJLMA-07-2021-0162>; Lukito, “The Politics of Syariatization in Indonesia: MMI and GARIS’ Struggle for Islamic Law,” August 2021; Rohayana and Muhtarom, “Islamic Jurisprudence Implementation in Indonesia: Perspective of the Objectives of Islamic Law.”

is perhaps the most philosophically sophisticated of the three, because it operates not through explicit citation of religious texts but through the quiet translation of Islamic moral imperatives into the neutral language of constitutional rights, public health, and human dignity.²⁷

This process aligns with Rawlsian political philosophy's concept of "public reason," yet departs from it critically: where Rawls demands that citizens bracket their comprehensive doctrines when engaging in democratic deliberation, the Indonesian legal system demonstrates that comprehensive doctrines, particularly Islamic ones, need not be hidden but can be transparently translated into universally accessible normative claims without compromising the secular character of state law.²⁸

The Maqasid al-Syariah framework, with its five essential objectives of protecting religion (hifz al-din), life (hifz al-nafs), intellect (hifz al-aql), lineage (hifz al-nasl), and property (hifz al-mal), provides an unusually fertile conceptual infrastructure for exactly this kind of translation. This is reflected in a wide spectrum of legislation. The Child Protection Law (Law No. 35/2014) articulates the concept of hifz al-nasl (protection of progeny) in a secular context by establishing comprehensive rights for children against exploitation, neglect, and violence obligations that Islamic fiqh has historically associated with the duty of guardianship (wilāyah) and the protection of future generations.

The Health Law (Law No. 36/2009, revised by Law No. 17/2023) enshrines hifz al-nafs (protection of life) through its universal health coverage provisions, reflecting the Islamic principle that the preservation of human life is a collective (fard kifayah) obligation of the community. The Education Law similarly resonates with hifz al-aql (protection of intellect) in mandating twelve years of compulsory education as a state responsibility. By translating these religious obligations into the neutral language of public reason, this framework ensures that Islamic ethics significantly inform national policy without relying solely on religious terminology, effectively bridging the divide

²⁷ Asep Saepudin Jahar, Amany B. Lubis, and Muhamad Fahri, "The Use of Maqasid Al-Sharia in Maritime and National Resilience Context," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 1 (June 30, 2021): 97–110, <https://doi.org/10.30631/al-risalah.v21i1.657>; Usman Safiyau Duguri et al., "The Application of Maqasid Al-Shari'ah in the Foreign Policy of Islamic States," *International Journal of Academic Research in Business and Social Sciences* 11, no. 3 (March 10, 2021), <https://doi.org/10.6007/IJARBS/v11-i3/8559>; Nasir Muhammad Abdulhameed, "Ethical Dimension of Maqasid Al-Shari'ah and Its Implication to Human Capital Development," *IJISH (International Journal of Islamic Studies and Humanities)* 4, no. 1 (April 1, 2021): 20, <https://doi.org/10.26555/ijish.v4i1.2621>.

²⁸ Dian Agung Wicaksono, "Penormaan Hukum Islam Dalam Sistem Hukum Indonesia Ditinjau Dari Ajaran Teologi Hukum Thomas Aquinas," *Jurnal Filsafat* 31, no. 1 (April 24, 2021): 49, <https://doi.org/10.22146/jf.51754>; Martitah Martitah, Slamet Sumarto, and Arif Hidayat, "The Existence of Customary Law and Islamic Law in the Optics of the Indonesian Legal System," in *Proceedings of the 3rd International Conference on Indonesian Legal Studies, ICILS 2020, July 1st 2020, Semarang, Indonesia* (EAI, 2021), <https://doi.org/10.4108/eai.1-7-2020.2303643>.

between sacred duty and civic responsibility. The result is a form of “embedded religiosity,” wherein the ethical priorities of Islamic law become constitutive of the state’s moral vision without requiring formal acknowledgment of their religious origins.²⁹

3. Empirical Implementation in National Sectors

The material contribution is observable across three key legal domains. The following analysis moves beyond descriptive mapping to offer an interpretive assessment of how each legal product embodies one or more of the three mechanisms identified above, and what this implies for broader debates on law and religion in pluralistic states. Table 1 provides a structured synthesis, followed by detailed analytical commentary on each domain:

Domain	Legal Product	Material Contribution	Impact
Family Law	Compilation of Islamic Law (KHI)	Supplier: Transforms <i>fiqh</i> into positive law; acts as <i>living law</i> in courts.	Modernized gender justice (e.g., minimum marriage age) is grounded in religious legitimacy.
Economic Law	Sharia Banking Law (No. 21/2008)	Filter & Buffer: Filters <i>riba</i> ; buffers against financial instability through asset-based financing.	Created a resilient dual banking system; Islamic banks showed better resilience (NPF <3%) during crises.
Social Law	Waqf Law (No. 41/2004)	Supplier: Shifts paradigm from charity to productive	Institutionalized philanthropy; productive waqf

²⁹ Lena Salaymeh (لينا سلايمه), “Decolonial Translation: Destabilizing Coloniality in Secular Translations of Islamic Law,” *Journal of Islamic Ethics* 5, no. 1–2 (March 5, 2021): 250–77, <https://doi.org/10.1163/24685542-12340054>; Khamami Zada and M. Nurul Irfan, “Negotiating Sharia in Secular State: A Case Study in French and Germany,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 47, <https://doi.org/10.22373/sjkh.v5i1.9753>; T. Jeremy Gunn, “Do Human Rights Have a Secular, Individualistic & Anti-Islamic Bias?,” *Daedalus* 149, no. 3 (July 2020): 148–69, https://doi.org/10.1162/daed_a_01809.

empowerment (*hifz al-māl*).

assets (e.g., UII Hospital) supporting social welfare.

A more granular examination of each domain illuminates the depth and complexity of Islamic law's material contribution. In the domain of family law, the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), enacted by Presidential Instruction No. 1/1991, represents the most extensive and methodologically sophisticated effort to codify Islamic fiqh within the Indonesian legal framework. Rather than simply reproducing classical Shafi'i jurisprudence, the KHI's drafters, working under the leadership of Munawir Sjadzali and drawing on a nationwide survey of Religious Court (Pengadilan Agama) decisions, undertook a systematic process of *ijtihad jama'i* (collective independent legal reasoning) to produce provisions responsive to Indonesian social conditions.³⁰

The result is a document that self-consciously operates at the intersection of Sharia and state law: it employs the formal grammar of positive law (articles, chapters, definitions) while drawing its substantive norms from a synthesis of classical fiqh, Indonesian adat, and contemporary human rights standards. Critically, the KHI's provisions on minimum marriage age (subsequently amended by Law No. 16/2019 to 19 years for both parties) exemplify the supplier mechanism at work: the legislative reform was explicitly grounded in both the child-protection imperative of *hifz al-nasl* and the constitutional right to education, demonstrating how *Maqasid* reasoning provides Islamic legitimacy for progressive legal reform rather than resistance to it. This challenges the widely held assumption prevalent in both secular and conservative Islamic scholarship that Sharia is inherently incompatible with gender-progressive legislation.³¹

In the economic law domain, the Sharia Banking Law (Law No. 21/2008) and the subsequent Sharia Economic Court Law represent a regulatory architecture that is genuinely dual in character, neither a simple Islamic overlay on a conventional banking system nor an autonomous parallel economy, but a juridically integrated framework in

³⁰ Ajis Supangat, "Kedudukan Hukum Islam Dalam Penanganan Perkara Waris Di Indonesia," *Jurnal Riset Rumpun Agama Dan Filsafat* 3, no. 2 (October 31, 2024): 167–80, <https://doi.org/10.55606/jurrafi.v3i2.7316>; Sulastrri Caniago et al., "Dynamizing Contemporary Ijtihad: Inclusivity and the Positivization of Islamic Law in Indonesia's National Legal System," *As-Siyasi: Journal of Constitutional Law* 5, no. 1 (June 15, 2025): 121–29, <https://doi.org/10.24042/6rvr2d48>.

³¹ Fitra Mulyawan, Kiki Yulinda, and Dora Tiara, "POLITIK HUKUM DALAM BIDANG HUKUM KELUARGA ISLAM DI INDONESIA," *Ensiklopedia Sosial Review* 3, no. 2 (June 13, 2021): 111–22, <https://doi.org/10.33559/esr.v3i2.764>; Asman Asman and Tamrin Muchsin, "Maqasid Al-Shari'ah in Islamic Law Renewal: The Impact of New Normal Rules on Islamic Law Practices during the Covid-19 Pandemic," *Mazahib*, July 12, 2021, 77–102, <https://doi.org/10.21093/mj.v20i1.2957>.

which Islamic financial principles are recognized as substantively distinct legal categories with their own enforcement mechanisms. The National Sharia Board (Dewan Syariah Nasional, DSN) of the Indonesian Ulama Council (MUI), which issues fatwas on financial products that subsequently acquire legal force through incorporation into Bank Indonesia and Financial Services Authority (OJK) regulations, exemplifies the institutionalization of the filter mechanism: it systematically screens financial innovations for compliance with Islamic principles, excluding those that involve gharar (excessive uncertainty), maysir (gambling), or riba, while approving structurally equivalent instruments that achieve the same economic functions through Sharia-compliant means.

The empirical evidence of this mechanism's effectiveness is significant: according to OJK data, Islamic banks in Indonesia maintained a Non-Performing Financing (NPF) ratio consistently below three percent during the COVID-19 economic shock of 2020–2021, compared to higher Non-Performing Loan (NPL) ratios in several segments of the conventional banking sector, suggesting that the asset-backed, risk-sharing character of Islamic finance confers genuine macro-prudential advantages. This finding is consistent with the broader international literature on Islamic finance resilience (Harahap, Risfandy, and Futri, 2023) and lends empirical credibility to the buffer mechanism's claims.³²

The social law domain, anchored by the Waqf Law (Law No. 41/2004) and its implementing regulations, offers perhaps the most striking illustration of the supplier mechanism's transformative potential. Classical waqf, as practiced in the Ottoman Empire and across the Malay-Indonesian world for centuries, was primarily a static instrument of religious endowment: property donated in perpetuity for mosque maintenance, cemetery upkeep, or madrasah support. The 2004 law effected a paradigmatic shift by institutionalizing productive waqf (waqf produktif), enabling waqf assets to be commercially developed through leasing, profit-sharing arrangements, or joint ventures, provided that the proceeds are channeled toward the designated beneficiaries. This innovation, rooted in the Maqasid principle of *hifz al-mal* (protection of property/wealth) reinterpreted as an obligation to maximize the productive utility of endowed assets for public benefit, has generated concrete developmental outcomes.³³

³² Indah Harum Rezeki, "Analisis Rasio Kinerja Keuangan Bank Muamalat Indonesia Pada Masa Pandemi Covid-19," *Islamic Economics Journal* 7, no. 1 (July 4, 2021): 64, <https://doi.org/10.21111/iej.v7i1.6498>; Renny Supriyatni and Nurjamil Nurjamil, "The Urgency of Handling Non-Performing Financing in Sharia Banks in the Development of Indonesian Sharia Economics," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 8, no. 1 (2021): 26–46, <https://doi.org/10.22304/pjih.v8n1.a2>.

³³ Islamiyati Islamiyati, "Juridical Analysis of Productive Land WAQF Assets Management Based on Empowerment Conservation of Environmental Functions," *IOP Conference Series: Earth and Environmental Science* 1270, no. 1 (December 1, 2023): 012029, <https://doi.org/10.1088/1755-1315/1270/1/012029>; Rimanto Rimanto, Sonny Zuhuda, and Agus Hermanto, "Repositioning the

The Waqf Board of Indonesia (Badan Wakaf Indonesia, BWI) reported that nationally registered waqf land exceeds 420,000 plots, covering approximately 57,000 hectares, with a theoretical productive potential estimated at hundreds of trillions of rupiah annually. Landmark productive waqf projects, such as the Universitas Islam Indonesia (UII) Hospital in Yogyakarta, a fully operational, nationally accredited medical facility funded entirely through waqf endowments, demonstrate that the supplier mechanism can generate not merely normative orientation but tangible social infrastructure. These cases collectively suggest that Islamic law's material contribution to the Indonesian legal system is not merely a discursive or symbolic phenomenon but one with measurable developmental and institutional dimensions.³⁴

4. Future Prospects: Responding to Global Challenges

The material sustainability of Islamic law within Indonesia's future legal framework depends on its capacity to navigate uncharted global landscapes, three of which merit particular analytical attention: the digital economy, the ecological crisis, and the challenge of democratic pluralism. These are not merely policy challenges but fundamental jurisprudential crises, in the sense that they expose the normative limits of existing legal frameworks, both secular and Islamic and demand creative doctrinal innovation if Islamic law is to maintain its relevance as a living material source of national law.³⁵

In the digital economy, evolving *ijtihad* must go beyond traditional reasoning (*qiyas*) to fill normative gaps in AI, crypto, DeFi, and gig work. Cryptocurrency highlights this challenge: classical Islamic law defines *mal* (property) as tangible, storable, useful, but Bitcoin and similar assets are intangible, volatile, and their utility is disputed. Classical *gharar* rules prohibit excessive uncertainty, yet algorithms and smart contracts introduce new uncertainties classical jurists didn't foresee. This calls for rethinking *mal* and *gharar* as functional principles adaptable to new economic realities, ensuring legal certainty amid volatility. Scholars such as Hassan, Karim, and Muneezac (2020), Kirchner (2020), Fidhayanti et al. (2024), and Muryanto et al. (2022) are exploring this, suggesting that a nuanced, function-based analysis that considers *maslahah* (public benefit) and *darar* (harm) is the way forward. The DSN-MUI has started this with rulings on electronic money and P2P lending, but comprehensive

Independence of the Indonesian Waqf Board in the Development of National Waqf," *Justicia Islamica* 18, no. 1 (February 9, 2021): 59–78, <https://doi.org/10.21154/justicia.v18i1.2303>.

³⁴ Ani Yumarni et al., "The Implementation of Waqf as *Â€Urf* in Indonesia," *Sriwijaya Law Review*, July 31, 2021, 287–99, <https://doi.org/10.28946/slrev.Vol5.Iss2.1126.pp287-299>.

³⁵ Nurrohman Syarif, "The Discourse and Practice of Islamic Family Law in Indonesia," *Psychology and Education Journal* 58, no. 1 (January 20, 2021): 5201–12, <https://doi.org/10.17762/pae.v58i1.1774>; Martitah, Sumarto, and Hidayat, "The Existence of Customary Law and Islamic Law in the Optics of the Indonesian Legal System."

Islamic digital finance jurisprudence remains an urgent priority.³⁶

At the same time, the pressing ecological crisis necessitates expanding the Maqasid al-Syariah to encompass *hifz al-bi'ah* (protection of the environment) as a sixth essential objective, thereby establishing a doctrinal foundation for instruments of green jurisprudence. This proposed expansion, championed by contemporary scholars including Jasser Auda and Ramlan (2020), would provide Islamic legal grounding for a range of policy instruments: Green Sukuk (sovereign Islamic bonds whose proceeds are dedicated to environmental projects), environmental waqf (endowments for forest conservation or watershed protection), and the application of the *israf* (prohibition of waste) principle to industrial pollution regulation. Indonesia has already issued sovereign Green Sukuk since 2018, and while these instruments are not exclusively Islamic in their policy rationale, their structural embeddedness in Islamic finance creates a natural alignment between Islamic law and sustainable development objectives.³⁷

Connecting this to the Sustainable Development Goals framework, Harahap, Risfandy, and Futri (2023) have demonstrated systematic complementarities between Islamic finance principles and SDG targets, suggesting that the environmental expansion of the Maqasid is not only theologically defensible but also developmentally productive. This represents the filter mechanism operating prospectively: Islamic law anticipating and filtering out the ecological irrationality of unconstrained growth before it is fully encoded in national law, rather than merely correcting colonial inheritances retrospectively.³⁸

Finally, the challenge of democratic pluralism demands that Islamic law's material contribution be articulated in a manner that is persuasive not only to Muslim citizens but to the full spectrum of Indonesia's religiously and ethnically diverse society. This requires what Gunn (2020) terms a "de-Islamization of Islamic

³⁶ Mervan Selcuk and Suleyman Kaya, "A Critical Analysis of Cryptocurrencies from an Islamic Jurisprudence Perspective," *Turkish Journal of Islamic Economics* 8, no. 1 (February 15, 2021): 137–52, <https://doi.org/10.26414/A130>; Nasir Albalawee and Amjed S. Al Fahoum, "Islamic Legal Perspectives on Digital Currencies and How They Apply to Jordanian Legislation," *F1000Research* 12 (January 26, 2023): 97, <https://doi.org/10.12688/f1000research.128767.1>.

³⁷ Jahar, Lubis, and Fahri, "The Use of Maqasid Al-Sharia in Maritime and National Resilience Context"; Harahap, Risfandy, and Futri, "Islamic Law, Islamic Finance, and Sustainable Development Goals: A Systematic Literature Review."

³⁸ Slamet Firdaus, "AL-QUR'AN DAN PEMBANGUNAN LINGKUNGAN BERKELANJUTAN DI INDONESIA: ANALISIS MAQASHID SYARIAH UNTUK PENCAPAIAN SDGs," *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Syariah* 7, no. 2 (October 26, 2022): 120, <https://doi.org/10.24235/jm.v7i2.11594>; Khadar Ahmed Dirie, Md. Mahmudul Alam, and Selamah Maamor, "Islamic Social Finance for Achieving Sustainable Development Goals: A Systematic Literature Review and Future Research Agenda," *International Journal of Ethics and Systems* 40, no. 4 (December 2, 2024): 676–98, <https://doi.org/10.1108/IJOES-12-2022-0317>.

arguments”, not the suppression of Islamic reasoning, but its translation into constitutional and human-rights language capable of achieving what Rawlsian would recognize as “overlapping consensus.” The Indonesian Constitutional Court has, in several landmark decisions on child protection, poverty alleviation, and religious freedom, demonstrated that Islamic moral reasoning can be incorporated into constitutional interpretation through the medium of the state philosophy of Pancasila, whose first principle (Ketuhanan Yang Maha Esa, Belief in the One God) creates a normative space in which religiously grounded arguments are constitutionally legitimate without being constitutionally coercive.³⁹

Ultimately, to achieve valid enforceability in a pluralistic society, these religious imperatives must be integrated into universal ethical frameworks that prioritize constitutionalizing substance over mere symbolic formalism, thereby promoting inclusive social cohesion. The Indonesian model thus offers a compelling, if imperfect, demonstration that religious law can contribute materially to a pluralistic constitutional order without demanding the kind of formal legal supremacy that would alienate non-Muslim citizens or violate the secular character of the state.⁴⁰

D. Conclusion

The dialectic of Islamic law and the state in Indonesia have matured from a struggle for existence to a phase of substantive contribution. This study concludes that Islamic law serves as a vital material source functioning as a filter, buffer, and supplier that enriches the national legal architecture. This integration is not mechanical but organic, producing a unique legal synthesis that acts as a “buffer” for justice and a “supplier” of ethics. The novelty of this research lies in reframing the narrative from “formal recognition” to “material contribution,” highlighting how religious values

³⁹ David M. Bouchier, “Two Decades of Ideological Contestation in Indonesia: From Democratic Cosmopolitanism to Religious Nationalism,” *Journal of Contemporary Asia*, April 8, 2019, 1–21, <https://doi.org/10.1080/00472336.2019.1590620>; Zaka Firma Aditya, Abdul Basid Fuadi, and Rizkisyabana Yulistyaputri, “The Role of Islamic Law in Enriching the Decisions of the Indonesian Constitutional Court,” *Frontiers in Law* 2 (April 1, 2023): 24–29, <https://doi.org/10.6000/2817-2302.2023.02.04>.

⁴⁰ Ryan Calder, “Halalization: Religious Product Certification in Secular Markets,” *Sociological Theory* 38, no. 4 (December 2020): 334–61, <https://doi.org/10.1177/0735275120973248>; Dwi Fidayanti et al., “Exploring The Legal Landscape of Islamic Fintech in Indonesia: A Comprehensive Analysis of Policies and Regulations,” *F1000Research* 13 (June 2024): 21, <https://doi.org/10.12688/f1000research.143476.2>; M. Kabir Hassan, Mohammad Sydul Karim, and Aishath Munezacc, “A Conventional and Sharīʿah Analysis of Bitcoin,” *Arab Law Quarterly* 35, no. 1–2 (July 2020): 155–89, <https://doi.org/10.1163/15730255-BJA10033>; Irene K. F. Kirchner, “Are Cryptocurrencies Ḥalāl? On the Sharia-Compliance of Blockchain-Based Fintech,” *Islamic Law and Society* 28, no. 1–2 (August 2020): 76–112, <https://doi.org/10.1163/15685195-BJA10005>; Nasir Albalawee and Amjed Al Fahoum, “Islamic Legal Perspectives on Digital Currencies and How They Apply to Jordanian Legislation,” *F1000Research* 12 (2023), <https://doi.org/10.12688/f1000research.128767.2>.

permeate secular structures, creating a distinct Indonesian jurisprudence⁵⁵. Future resilience of this system requires "strategic navigation" by stakeholders to address technological and environmental disruptions through agile collective *ijtihad*. The Indonesian experience thus offers a compelling model for the Muslim world: a legal system in which religious law lives not just in statutes but in the ethical substance of the state's justice administration.

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Example in footnotes:

¹Mircea Eliade (ed.), *The Encyclopedia of Religion*, vol. 8 (New York: Simon and Schuster, 1995), h. 18.

²Norman Daniel, *Islam and the West* (Oxford: One World Publications, 1991), h. 190.

³Syeikh Ja’far Subhānī, *Mafāhim Al-Qur’ān* (Beirut: Mu’assasah Al-Tarīkh Al-’Arabī, 2010), Juz 5, h. 231.

⁴Syeikh Ja'far Subhānī, *Maḥālim Al-Qur'ān*, h. 8-9.

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1. Holy book

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2. Qur'anic translation

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¹Muḥammad 'Ajjaj al-Khaṭīb, *Uṣl al-Ḥadīth: 'Ulumuh wa Muṣṭalahuh* (Beirut: Dār al-Fikr, 1989), h. 57.

4. Translation Books

¹Toshihiko Izutsu, *Relasi Tuhan dan Manusia: Pendekatan Semantik terhadap al-Qur'an*, terj. Agus Fahri Husein dkk (Yogyakarta: Tiara Wacana, 2003), h. 14.

5. Voluminous book

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6. Article in book

¹Sahiron Syamsuddin, "Metode Intratekstualitas Muhammad Shahrur dalam Penafsiran al-Qur'an" dalam Abdul Mustaqim dan Sahiron Syamsuddin (eds.), *Studi al-Qur'an Kontemporer: Wacana Baru Berbagai Metodologi Tafsir* (Yogyakarta: Tiara Wacana, 2002), h. 139.

7. Article in encyclopaedia

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8. Article in journal

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9. Article in mass media

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