



## Political Conflict between Islamic Law and National Law in Indonesia

Rizal Al Hamid<sup>1\*</sup>, Mohamad Sobrun Jamil<sup>2</sup>, Rodhotun Nimah<sup>3</sup>, Mahrus Alwi Hasan Siregar<sup>4</sup>, Supriyadi<sup>5</sup>

<sup>1</sup> Universitas Islam Negeri Sunan Kalijaga, Yogyakarta, Indonesia

<sup>2</sup> Karabük University, Karabük, Turkey


<sup>3</sup> Universitas Boyolali, Boyolali, Indonesia

<sup>4</sup> Universitas Islam Negeri Sunan Kalijaga, Yogyakarta, Indonesia

<sup>5</sup> Çanakkale Onsekiz Mart University, Çanakkale, Turkey

(\*) Corresponding Author

Article Info:	Abstract
<b>Keywords:</b> Civil law; Islamic law; National law; Political law; State law.	This study aims explicitly to critically, deeply, and integratively explore the dynamics of political conflicts between Islamic law and national law in Indonesia, at the levels of discourse, legislative practice, and social implications in society. This study utilises a qualitative approach with structured and critical library research methods, relying on tracing, examining, and analysing various authoritative sources. The results confirm that the political conflict between Islamic law and national law in Indonesia has become a sharp mirror for the nation's journey in shaping a just, equal, and dignified life together amid diversity. The recurring tension between the demands for the formalisation of Islamic law by conservative Islamic groups and the state's efforts to maintain the supremacy of pluralistic and constitutional national law has given rise to a legal system fraught with compromise, inconsistency, and even injustice for vulnerable and minority groups. In the tug-of-war of interests, the law often becomes a tool for legitimising identity and power rather than an instrument of substantive justice and human rights protection. This situation demands the courage of the state and all elements of society to break free from the trap of pragmatic compromises and narrow identity politics, and to boldly push for legal reforms oriented towards universal justice.
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 Author correspondence email: [rizal.alhamid@uin-suka.ac.id](mailto:rizal.alhamid@uin-suka.ac.id)  
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## Introduction

The Tensions between Islamic law and national law intensified when the state began to develop modern legal instruments to address the needs of governance, the economy, and society. National law originated from the Dutch colonial civil law tradition and tends to be rational, secular, and positivistic. In contrast, Islamic law carries transcendent authority regulating both ritual aspects of worship and *muamalah*—from family law, inheritance, banking, and criminal justice. For Islamic groups, the existence of Islamic law within the national legal system is a fundamental right of the Muslim majority, even considered an integral part of the nation's identity. For nationalist and religious minority groups, the supremacy of national law and the neutrality of the state are essential prerequisites for achieving an inclusive national identity and the protection of the fundamental rights of all citizens.

In legislative practice, conflicts between Islamic law and national law are most evident in the drafting and revising of various laws that intersect with public morality, family law,<sup>1</sup> Islamic economics, and the governance of religious life. The enactment of the 1974 Marriage Law, the 1991 Compilation of Islamic Law, and the Sharia Banking and Zakat Laws marked efforts to 'Islamise' part of the national legal space while maintaining the supremacy of the constitution and the Pancasila state structure. However, every recognition of Islamic law within the national system has been accompanied by awkward compromises: Islamic law is recognised, but within certain limits monitored by the state; religious courts are granted authority, but not over criminal or broader public matters; fatwas or religious regulations are given space, but must still be subordinate to the constitution and laws. The tension between formal recognition and substantive restrictions continuously creates a legal grey area, where certainty and justice are often sacrificed for fragile harmony.

At the level of judicial practice, the problem of the relationship between Islamic law and national law has become increasingly apparent and complex. As state institutions based on Islamic law, religious courts operate alongside district courts and administrative courts that use national law. In cases involving marriage, inheritance, zakat,<sup>2</sup> and Islamic economics, religious court judges face a dilemma: on the one hand, they are 'state judges' who are obliged to enforce national law; on the other hand, they are also 'religious judges' who are expected to adhere to the principles and spirit of Sharia. It is not uncommon for religious court rulings to become a venue for awkward compromises or even clashes of interpretation between fiqh interpretations and national legal provisions.

The conflict between Islamic law and national law in Indonesia is not merely a clash between two legal systems, but also a struggle over narratives regarding national identity, visions for the future, and power distribution. Islamic law offers a more moral vision of society, rooted in transcendent values, and is perceived as closer to social justice from the majority's perspective. With all its mechanisms, national law offers constitutional protection, legal certainty, and a broader space for diversity and minority rights. The tension between the two is often expressed through 'returning to the roots' versus 'moving forward with the times,' or 'religious sovereignty' versus 'the supremacy of the rule of law.'

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<sup>1</sup> Arif Sugitanata, "Product Renewal in the Field of Family Law in Indonesia," *Law and Justice* 6, no. 1 (2021): 62–79, <https://doi.org/10.23917/laj.v6i1.10699>.

<sup>2</sup> Mu'adil Faizin et al., "Development of Zakat Distribution in the Disturbance Era," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 10, no. 2 (2024): 186–97, <https://doi.org/10.29300/mzn.v10i2.2997>; Akmal Bashori, Arif Sugitanata, and Suud Sarim Karimullah, "Dekonstruksi Pemaknaan Mualaf Sebagai Penerima Zakat Di Indonesia," *DIKTUM: Jurnal Syariah Dan Hukum* 22, no. 1 (2024): 11–23, <https://doi.org/10.35905/diktum.v22i1.5027>.

Ironically, amid the rhetoric of Pancasila harmony and the spirit of Bhinneka Tunggal Ika, the Indonesian state has not yet been able to entirely redefine the relationship between Islamic law and national law within a fair, consistent, and progressive framework. The compromises made—whether through legislation, symbolic politics, or elite consensus—often result in ambiguous laws, grey areas, or internal contradictions undermining legal certainty and justice. The existence of two legal systems that coexist but frequently clash creates challenges in policy implementation, law enforcement, and the protection of citizens' rights, especially vulnerable groups such as women, children, and religious minorities. In the social sphere, this dualism reinforces segregation, prolongs identity conflicts, and increases the potential for the politicisation of religion in every contest for power.<sup>3</sup>

Several recent studies have examined the complexity of political conflicts between Islamic law and national law in Indonesia from legal, political, and sociological perspectives. Some previous studies have highlighted how the construction of national law since the reform era has often presented paradoxes when faced with aspirations for the formalisation of sharia. These studies show that although national law tends to be secular, political pressure based on religious identity can lead to inconsistent legislative compromises.<sup>4</sup> Other findings reveal a tug-of-war between the strengthening of national law and the wave of Islamisation of public law through increased advocacy by Islamist groups post-reform.<sup>5</sup> From all these literature reviews, it can be concluded that the political conflict between Islam and national law is not a static, two-sided issue, but rather an arena of contestation between actors, ideologies, and interests constantly in flux. The resulting changes are more often compromises and symbolic adaptations rather than paradigmatic transformations that truly reflect substantive justice or the protection of constitutional rights of citizens, especially vulnerable groups.

This study aims explicitly to critically, deeply, and integratively trace the dynamics of the political conflict between Islamic law and national law in Indonesia, both at the discourse level, legislative practice, and its social implications. Its primary objective is to identify and analyse the forms of conflict, negotiation, and compromise between the two legal systems and map the political, social, and legal impacts of the conflict management models implemented by the state. The essence of this study is to provide theoretical and practical contributions to formulating a national legal political model that is fair, inclusive, and responsive to changes in the times.

## Methods

This study utilises a qualitative approach with a structured and critical library research method, based on tracing, reviewing, and analysing various authoritative

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<sup>3</sup> Suud Sarim Karimullah, "Religion and State in the Islamic Political Paradigm in Indonesia Perspective of Prof. Kamsi," *Analisis: Jurnal Studi Keislaman* 22, no. 1 (2022): 53–74, <https://doi.org/https://doi.org/10.24042/ajsk.v22i1.12648>.

<sup>4</sup> Muhammad Ananta Firdaus and Nuril Khasyi'in, "Legislative Conflicts on Religious Regulations: A Case Study in the Province of South Kalimantan, Indonesia," *Pakistan Journal of Criminology* 16, no. 431 (2024), <https://doi.org/10.62271/pjc.16.4.417.434>; Tim Lindsey and Helen Pausacker, "Introduction: Religion, Law and Intolerance in Indonesia," in *Religion, Law and Intolerance in Indonesia* (Routledge, 2016), 1–15; Adam Fenton, "Faith, Intolerance, Violence and Bigotry: Legal and Constitutional Issues of Freedom of Religion in Indonesia," *Journal of Indonesian Islam* 10, no. 2 (2016): 181–212, <https://doi.org/10.15642/JIIS.2016.10.2.181-212>.

<sup>5</sup> Alexander R Arifianto, "Rising Islamism and the Struggle for Islamic Authority in Post-Reformasi Indonesia," *TRaNS: Trans-Regional and-National Studies of Southeast Asia* 8, no. 1 (2020): 37–50, <https://doi.org/10.1017/trn.2019.10>; Kiki Mikail et al., "Dynamics of Civil Islam in Identity Politics of Indonesia and Malaysia," *Religious: Jurnal Studi Agama-Agama Dan Lintas Budaya* 7, no. 2 (2023): 189–98, <https://doi.org/10.15575/rjsalb.v7i2.27677>; Zuly Qodir and Robert W Hefner, "Minority, Cultural Citizenship, and Indonesian Islam: Challenges in a Pluralistic Society," *Indonesian Journal of Islam and Muslim Societies* 14, no. 2 (2024): 409–39, <https://doi.org/10.18326/ijims.v14i2.409-439>.

document sources. The primary data examined include national laws, Compilation of Islamic Law, religious regulations, legislative reports, fatwas and decisions of religious organisations, Constitutional Court rulings, recent research reports, scientific publications and media reports that shape public opinion. The analysis process is conducted thematically, starting from identifying conflict patterns, negotiations, to compromises between Islamic law and national law, including social, political, and economic factors that drive or hinder legal change. Data validity is ensured through source triangulation and cross-document comparison, so the results are descriptive, reflective, and relevant to describe Indonesia's legal politics' dynamics comprehensively.

From a theoretical framework perspective, this study integrates Satjipto Rahardjo's political law theory, which views law as the result of social-political power negotiations, not a neutral entity; John Griffiths and Franz von Benda-Beckmann's theory of legal pluralism,<sup>6</sup> which highlights the simultaneous existence and interaction of state law and Islamic law within the framework of the modern nation-state; and Michel Foucault's theory of power relations, which views law and religion as discourses that mutually shape and constrain the practice of power. In addition, Berger and Luckmann's theory of social construction of law enriches the analysis by highlighting how national law and Islamic law are constructed, negotiated,<sup>7</sup> and implemented through social practices and public discourse. Integrating these theoretical frameworks enables a sharp and multidimensional mapping of conflicts. It opens up space for exploring transformative solutions based on substantive justice and respect for legal pluralism, which form the foundation of Indonesia as a multicultural democracy.

## Result and Discussion

### Ideological Dynamics and Conflict between Sharia Principles and Secularism in the National Legal System

The ideological conflict between sharia principles and secularism in Indonesia is a matter of doctrinal tension and a battle over identity, power distribution, and legal authority. Whenever an attempt at legislation or policy is considered too secular or too religious, resistance almost always arises from those who feel that their interests or identity are threatened. The legitimacy of law in society also becomes problematic; on the one hand, national law that is too 'far' from religious values is seen as lacking moral and social authority, making it vulnerable to rejection, disregard, or even resistance through social disobedience. On the other hand, the formal implementation of sharia without national consensus often causes unrest, legal uncertainty, and even horizontal social conflicts, especially in areas with high religious and cultural diversity.<sup>8</sup>

The dynamics of the contest between sharia and secularism are most clearly seen in several important pieces of legislation, such as the Marriage Law, the Compilation of Islamic Law, the Anti-Pornography Bill, and religiously inspired regional regulations. Every discussion of rules or policies related to public morality, family, and even the Islamic economy always sparks intense debates between Sharia supporters and pluralist-secular groups. Sharia supporters generally argue that the state must align national laws with the values of the majority religion to uphold public morality and

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<sup>6</sup> Franz von Benda-Beckmann, "Who's Afraid of Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (2002): 37–82, <https://doi.org/10.1080/07329113.2002.10756563>.

<sup>7</sup> Peter Berger and Thomas Luckmann, "The Social Construction of Reality," in *Social Theory Re-Wired* (Routledge, 2016), 110–22, <https://doi.org/10.4324/9781315775357>.

<sup>8</sup> Putra Halomoan Hsb, Fatahuddin Aziz Siregar, and Suud Sarim Karimullah, "Inheritance in the Mandailing Community: Value Changes from a Legal Culture Perspective," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (2025): 83–108, <https://doi.org/10.19109/nurani.v25i1.24870>.

national identity. On the other hand, pluralist and secular groups emphasise the importance of maintaining national laws that are neutral, guarantee the protection of minority rights, and avoid legal exclusivism that could undermine the principles of nationality and unity.<sup>9</sup> This conflict is not only taking place in parliament or academic circles, but also in the daily practices of bureaucracy and law enforcement.

One clear example is the fragmentation of the judicial system: religious courts administer Islamic family law for Muslims,<sup>10</sup> while district courts and general courts handle cases for non-Muslims or cases outside the realm of family affairs. Substantive differences in the law in cases of divorce, inheritance, child custody, and Islamic banking reveal the existence of legal dualism or even pluralism that is often not harmonious. As a result, citizens with dual identities (e.g., mixed marriages, converts, or religious minorities in sharia regions) usually become victims of confusion, uncertainty, and even systemic discrimination.

In the context of post-reform regional autonomy, the contestation between Sharia principles and secularism has entered a new phase through the proliferation of religious-based local regulations (perda). In various regions, Sharia-based local regulations are claimed to be the answer to the moral needs of local communities, as well as a tool for political legitimisation by local elites. This phenomenon demonstrates how sharia is a source of morality and political and economic capital in local power struggles.<sup>11</sup> However, many sharia-based local regulations have sparked national and international controversy due to their potential to discriminate against women, religious minorities, and other vulnerable groups. This trend indicates that implementing sharia principles in law often aligns with identity politics and religious populism, rather than being a pure effort to enhance public morality.<sup>12</sup>

This ideological conflict's impact is felt at the normative or legislative level and on the legitimacy and effectiveness of the law itself in society. The legitimacy of national law is often tested when people feel that state regulations contradict their religious beliefs. Obedience to state law becomes selective – accepted when it aligns with spiritual values, and resisted or avoided if considered contradictory. Practices such as unregistered marriages, polygamy without permission, and informal sharia economic management indicate a wide 'grey area' between national legal norms and compliance with sharia. On the other hand, states that give too much space to the formal application of sharia without strong checks and balances risk weakening the position of national law as a national umbrella.<sup>13</sup> Conflicts of interest, fragmentation of authority, and even overlapping jurisdictions often render the law ineffective, discriminatory, or easily exploited by specific political forces.

The tension between sharia and secularism in Indonesia also creates a paradox in the relationship between religion and the state. The state claims to be based on the

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<sup>9</sup> Suud Sarim Karimullah, "Pursuing Legal Harmony: Indonesianization of Islamic Law Concept and Its Impact on National Law," *Mazahib* 21, no. 2 (December 27, 2022): 213–44, <https://doi.org/10.21093/mj.v21i2.4800>.

<sup>10</sup> Arif Sugitanata and Suud Sarim Karimullah, "Implementasi Hukum Keluarga Islam Pada Undang-Undang Perkawinan Di Indonesia Mengenai Hak Memilih Pasangan Bagi Perempuan," *SETARA: Jurnal Studi Gender Dan Anak* 5, no. 01 (2023): 1–14, <https://doi.org/10.32332/jsga.v5i01.6536>.

<sup>11</sup> Arif Sugitanata, Suud Sarim Karimullah, and Rizal Al Hamid, "Hukum Positif Dan Hukum Islam: Analisis Tata Cara Menemukan Hukum Dalam Kacamata Hukum Positif Dan Hukum Islam," *JURISY: Jurnal Ilmiah Syariah* 3, no. 1 (2023): 1–22, <https://doi.org/10.37348/jurisy.v3i1.242>.

<sup>12</sup> Ahmad Jukari, Suud Sarim Karimullah, and Muhajir Muhajir, "Identity Politics in the Construction of Electoral Laws: A Qualitative Analysis," *Walisono Law Review (Walrev)* 5, no. 2 (2023): 139–54, <https://doi.org/10.21580/walrev.2023.5.2.14414>.

<sup>13</sup> Suud Sarim Karimullah and Arif Sugitanata, "Masnun Tahir's Nationalist Fiqh: The Integration of Islam and Nationalism in Addressing Social Challenges in Indonesia," *Addin* 18 (2025): 193–218, <https://doi.org/10.21043/addin.v18i2.20218>.

ideology of Pancasila, which recognises the One Supreme God, guarantees freedom of religion, and accommodates Islamic law within certain limits. However, at the same time, the state must comply with the constitution, international agreements, and universal human rights principles, which often conflict with aspirations for the formalisation of sharia. As a result, the state more often acts as a mediator or 'guardian of harmony' rather than taking a firm stance. Compromise, harmonisation, and symbolic consensus have become hallmarks of national legal policy. In practice, this strategy is quite effective in reducing open conflict. Still, on the other hand, it creates a grey area that weakens the reach of national law and increases the likelihood of injustice, social exclusion, and even radicalism.

This dynamic places the state in a vulnerable position: on the one hand, it acts as a 'guarantor of pluralism,' on the other hand, it opens up opportunities for the politicisation of religion and the instrumentalisation of sharia as a tool for political mobilisation. Political Islamist groups often use the discourse of sharia as an electoral commodity. In contrast, secular groups and religious minorities feel anxious, marginalised, and even threatened by the growing wave of religious legal formalisation. In such a situation, the law no longer functions as a tool for substantive justice but becomes a battleground for identity, power, and interest distribution prone to manipulation.<sup>14</sup> The state is trapped in a pragmatic compromise that prioritises short-term stability over progressive and equitable legal change. The dynamics of conflict between sharia principles and secularism also impact the development of religious discourse and diversity of interpretation within Indonesian Islam.

Progressive groups, women, and the younger generation have begun to demand a more inclusive interpretation of sharia responsive to human rights and contextualised contemporary developments. They reject the formalism and exclusivism of sharia, which they consider rigid, patriarchal, and discriminatory.<sup>15</sup> However, their voices are often marginalised by conservative religious authorities and large mass organisations with strong access to state resources and politics. Debates surrounding the reform of family law, women's rights,<sup>16</sup> child protection, and freedom of expression continue to test how flexible, adaptive, and humane Sharia principles can be translated into a pluralistic national legal system.

Beyond legislation and interpretation, these ideological conflicts also influence law implementation. Law enforcement officials, bureaucrats, and judges in courts are often faced with the dilemma of consistently enforcing national law or accommodating local religious and customary values. The practice of 'dual law' is common, where national and religious law coexist without precise coordination. Sometimes, officials opt for peaceful means, customary consultations, or religious-based resolutions to avoid social conflict, even though this perpetuates legal uncertainty and discrimination against vulnerable groups. The effectiveness of national law is also called into question when it loses its legitimacy and moral authority in the eyes of the public, who are more obedient to religious figures than state institutions.

The issue of legal legitimacy, divided between two ideological poles, has long-term implications for the administration of justice, democratic development, and the ideal of

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<sup>14</sup> Suyahman Suyahman, Suud Sarim Karimullah, and Muh Akbar Fhad Syahril, "Intersectionality in Social Justice: Unpacking the Complexity of Oppression," *Jambura Law Review* 7, no. 1 (2025): 275-308, <https://doi.org/10.33756/jlr.v7i1.27828>.

<sup>15</sup> Zumiyati Sanu Ibrahim et al., "Islamic Law and Human Rights: Convergence or Conflict?," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024): 431-48, <https://doi.org/10.19109/nurani.v24i2.19595>.

<sup>16</sup> Arif Sugitanata et al., "Violation of Women's Rights: The Kawin Magrib Tradition of the Sasak Muslim Community in Lombok, Indonesia," *J. Islamic L.* 4 (2023): 197, <https://doi.org/10.24260/jil.v4i2.1772>.

national unity. A state that fails to manage the conflict between sharia and secularism will be trapped in a cycle of ambiguous compromises, patchwork politics, and legal fragmentation that weakens the protection of its citizens. In the long term, this fragmentation creates legal uncertainty and increases the risk of exclusion, radicalism, and declining public trust in the national legal system. Although the harmonisation efforts have successfully suppressed open conflict, they have not produced a genuinely inclusive, fair, and progressive legal integration model. The state must still find a new formula to build a healthy synthesis between sharia and secularism without sacrificing substantive justice and the fundamental rights of citizens.<sup>17</sup>

The solution to these ideological dynamics and conflicts does not lie in choosing one extreme pole over the other, but rather through developing critical dialogue spaces, progressive legal education, and strengthening the state's capacity to protect human rights and recognise the plurality of values. Renewing the interpretation of sharia, strengthening civil society movements, and desacralising the law from short-term political interests are key prerequisites for creating a healthy national legal system.<sup>18</sup> The state needs to affirm the supremacy of national law as a standard umbrella, while still opening space for innovation and adaptation of religious values that are substantive, humanistic, and in line with the ideals of social justice.

In the context of globalisation and contemporary challenges, only by managing the dynamics of conflict wisely can the state turn the diversity of legal systems into a source of strength, rather than a source of division or injustice. Thus, the ideological dynamics and conflicts between the principles of sharia and secularism in Indonesia's legal system reflect the nation's long journey in negotiating identity, building justice, and maintaining unity amid diversity. The struggle between these two pillars will continue if the state has not found a substantive, fair, and responsive formula for integration. Only through intellectual courage, political commitment, and democratic maturity can Indonesia break free from the cycle of ambiguous compromises and move toward a national legal system that upholds justice, humanity, and an inclusive national identity. This challenge is an opportunity for the nation to prove that ideological differences are not a reason for division but the foundation for the growth of a dynamic, progressive, dignified legal civilisation on the world stage.

### **The Influence of Islamic Groups and the State on the Formation of Legislation**

The struggle between conservative Islamic groups and the state is particularly evident in issues of sharia criminal law and the regulation of religious freedom. In several regions, the push for the implementation of qanun or sharia-based local regulations is driven not only by local political elites seeking legitimacy, but also by Islamic groups demanding the legalisation of Sharia as a collective moral identity.<sup>19</sup> In order to maintain political stability and avoid accusations of anti-Islamic sentiment, the national government tends to grant limited tolerance for such regulations, provided they do not explicitly contradict the constitution, to maintain political stability and avoid accusations of anti-Islamic sentiment. However, this tolerance often leads to inconsistencies in implementation, where the state appears to be practising a double

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<sup>17</sup> Husnul Fatarib et al., "Sultan's Law and Islamic Sharia in The Ottoman Empire Court: An Analysis of The Existence of Secular Law," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (2023): 117-34, <https://doi.org/10.29240/jhi.v8i1.4908>.

<sup>18</sup> Suud Sarim Karimullah, "The Role of Law Enforcement Officials: The Dilemma Between Professionalism and Political Interests," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 365-92, <https://doi.org/10.25216/jhp.13.2.2024.365-392>.

<sup>19</sup> Suud Sarim Karimullah, Moh Bahrudin, and Istadi Istadi, "The Influence of Identity Politics in Contemporary Islam," *Analisis: Jurnal Studi Keislaman* 23, no. 2 (2023): 161-86.

standard: on the one hand, it affirms the principle of a pluralistic state based on the rule of law, while on the other hand, it allows the exclusivity of religious-based law to develop in certain regions.

This dynamic becomes even more complex when the state has to respond to global pressure on issues of human rights, freedom of religion and the protection of minority groups. The national government's efforts to meet international standards are often met with resistance from Islamic groups who accuse the human rights agenda of being 'Westernisation' and a threat to national morality. In legal policy practice, the state often chooses an ambiguous strategy of 'normative harmonisation,' symbolically incorporating human rights principles on one hand, but leaving room for applying Sharia law or discriminatory rules on the other.

This strategy effectively reduces open conflict, but simultaneously increases the risk of legal fragmentation, violations of the rights of vulnerable groups, and a decline in the legitimacy of national law in the eyes of an increasingly critical and pluralistic society. One of the most obvious examples of the influence of conservative Islamic groups in the legislative process is the prolonged debate surrounding Islamic criminal law and the criminalisation of behaviour considered deviant from religious norms.<sup>20</sup>

In various revisions of the Criminal Code Bill, these groups have persistently fought for the inclusion of articles prohibiting adultery, cohabitation, blasphemy, and defamation of Islamic symbols, on the grounds of preserving public morality and the Islamic identity of the nation. The national government has often been under extraordinary political pressure, whether from mass demonstrations, MUI fatwas, or social media pressure, so the compromises reached are usually oriented towards short-term stability rather than a long-term vision of justice. Not infrequently, the results of legislation are ultimately open to multiple interpretations, opening up room for selective law enforcement and prolonging tensions between religious groups, minorities, and the state.

Competition and negotiations between conservative Islamic groups and the national government are never free from electoral calculations and political patronage. Many non-Islamic political parties are also forced to 'adjust' their agendas to align with Islamic narratives to maintain their electability in regions with a Muslim majority. State elites exploit concessions to religious groups as bargaining chips to secure their positions, avoid social polarisation, or contain open radicalism. In such processes, the quality of legislation is often sacrificed for pragmatic interests, disregarding the principles of the modern rule of law that guarantee substantive justice and protection for all citizens, regardless of their religious identity and social group.

On the issue of religious freedom, negotiations between conservative Islamic groups and the national government often result in a politics of 'tolerance' towards discrimination against minority groups. Cases of bans on the establishment of places of worship, the dissolution of minority religious activities, and the criminalisation of non-mainstream teachings reflect the state's half-heartedness in upholding the constitution and protecting fundamental rights. While conservative Islamic groups continue to push for restrictions in the name of 'preserving faith and social order,' the state chooses the path of compromise, mediation, or even non-intervention, under the pretext of maintaining social harmony and avoiding horizontal conflicts.<sup>21</sup> The long-term

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<sup>20</sup> Zumiyati Sanu Ibrahim et al., "Integration of Maqāṣid Al-Sharī'ah in the Criminal Law Reform to Achieve Justice and Human Dignity," *Jurnal Hukum Islam* 23, no. 1 (2025): 105-44.

<sup>21</sup> Sumiyati Beddu et al., "From Doctrine to Action: Islamic Law's Journey towards Social Change," *Jurnal Wawasan Yuridika* 8, no. 1 (2024): 1-24, <https://doi.org/10.25072/jwy.v8i1.4177>.



implications of such legal policies are the normalisation of discrimination, the weakening of national integration, and a decline in public trust in legal and state institutions.

Not only at the national level, but also at the regional level, legal politics has become increasingly prone to compromise and co-optation. Post-reform regional autonomy has provided ample space for local elites, supported by religious groups, to push for Sharia-based regional regulations, ban religious activities of minority groups, and even impose moral surveillance on citizens based on Islamic values. The central government often only acts as a supervisor of 'administrative formalism,' without the courage or capacity to intervene in discriminatory practices in the regions, as long as they do not escalate into national conflicts. This pattern makes Indonesia's legal system increasingly fragmented and weakens the effectiveness and legitimacy of the supremacy of national law.

The tug-of-war between conservative Islamic groups and the state over legal policy has had long-term impacts on the character of the legal system, the quality of democracy, and substantive justice in Indonesia. Law has become a political instrument easily manipulated by elites and interest groups, losing its progressive character as a tool for social transformation and tending to function only to control and legitimise the status quo.<sup>22</sup> The quality of legislation has declined, with many legal products being open to multiple interpretations, inconsistent, and contradictory. The legislative process has become increasingly closed to meaningful public participation, held hostage by lobbying, mass pressure, and non-transparent political negotiations. In such a situation, the state is prone to a trap of unprincipled compromise, where national law becomes a mirror of elite bargaining rather than a reflection of justice and the aspirations of a diverse population.

From a social perspective, the normalisation of compromise between conservative Islamic groups and the state risks perpetuating a culture of intolerance, religious exclusivism, and the exclusion of vulnerable groups from the public sphere. Every concession on an exclusive Islamic legal agenda tends to be followed by new demands, creating an endless cycle of ideological competition, narrowing the space for moderation, and eroding the foundations of pluralism, one of the main pillars of the Indonesian nation-state.<sup>23</sup> When national law fails to serve as an umbrella of justice and collective protection, the potential for social division, radicalism, and identity fragmentation becomes a real threat that the state must be vigilant about. However, legal politics in the legislative process in Indonesia is not entirely deterministic or fatalistic. In various crucial moments, progressive actors in parliament, the bureaucracy, civil society, and religious organisations still dare to push for inclusive, pluralistic interpretations that favour substantive justice.

The strength of civil society advocating for the rights of minorities, women, and vulnerable groups remains a balancing force in the legislative process, despite the path's often arduous and pressured nature.<sup>24</sup> Independent media, advocacy networks, critical academics, and interfaith movements have repeatedly demonstrated their capacity to disrupt narrow political-legal hegemony, open space for rational debate, and educate

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<sup>22</sup> Arina Rohmatul Hidayah et al., "Shifting from Religious Populism to Authoritarian Populism: Two Decades of Identity Politics Dynamics in Indonesia," *Social Sciences* 14, no. 1 (2025): 45, <https://doi.org/10.3390/socsci14010045>.

<sup>23</sup> Rizal Al Hamid, Arif Sugitanata, and Suud Sarim Karimullah, "Sinkronisasi Pendekatan Sosiologis Dengan Penemuan Hukum Islam Sui Generis Kum Empiris," *Bertuah Jurnal Syariah Dan Ekonomi Islam* 4, no. 1 (2023): 48-60, <https://doi.org/https://doi.org/10.56633/jsie.v4i1.553>.

<sup>24</sup> Ramadan Ilazi, Bekim Çollaku, and Fisnik Rexhepi, "Civil Society and Media," in *Negotiating Peace in Kosovo: Local Perspective on European Union Mediation Efforts* (Springer, 2025), 123-52, [https://doi.org/10.1007/978-3-031-95389-7\\_5](https://doi.org/10.1007/978-3-031-95389-7_5).

the public about the importance of a just rule of law. At this juncture, the challenge ahead is building a political-legal system that is more transparent, accountable, and open to inclusive public participation.

The state must not continue to be trapped in ambiguity and false compromises. Still, it must firmly assert the supremacy of the constitution, respect for human rights, and the principle of substantive justice in every legislative process. Institutional reform, strengthening legislative oversight mechanisms, and empowering civil society must be priorities for improving the quality of national legal politics. Only then can legislation become a unifying tool, a protector of rights, and a mirror of social justice for all citizens, rather than merely the result of elite negotiations or the representation of majority groups.

Legal politics in the legislative process—particularly regarding the influence of conservative Islamic groups and the state—ultimately reflects Indonesia's long journey in formulating a national legal identity that is fair, inclusive, and resilient to identity polarisation. This struggle and negotiation will continue if the state has not found a final formula to unite universal legal principles with the richness of religious and cultural traditions.<sup>25</sup> The legislative process will always be a contestation ground laden with ideological content, where political power dynamics largely determine the quality of law, the moral courage of the state elite, and the critical participation of society in safeguarding the direction and substance of national legal products.<sup>26</sup> Significant legislative moments in the future must be utilised to strengthen the supremacy of inclusive law, rather than deepening the chasm of segregation and discriminatory compromises that would weaken the foundations of Indonesia's rule of law amid the challenges of globalisation and the diversity of the modern era.

### **Implications of the Conflict between Islamic Law and National Law on Human Rights and Pluralism in Indonesia**

The most serious implications of the conflict between Islamic law and national law on human rights and pluralism lie in the erosion of guarantees of justice and legal protection for minority and vulnerable groups.<sup>27</sup> Discrimination legitimised by law or justified by specific religious interpretations creates legal uncertainty, a loss of security, and collective trauma among victims. For women, for example, Sharia-based local regulations often reinforce subordinate positions, normalise gender-based violence, restrict access to education, employment, and public spaces, and narrow the scope of life choices free from male control. For LGBT groups, religious minorities, and indigenous communities, the right to live safely, free from persecution, and to obtain justice within the legal system often remains mere rhetoric without realisation.<sup>28</sup> This uncertainty and inequality of access to legal protection are slowly eroding public trust in the state and its legal system. It opens space for radicalism, vigilantism, and the growth of exclusive communities that distance themselves from mainstream national life.

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<sup>25</sup> Nur Insani et al., "Islamic Law and Local Wisdom: Exploring Legal Scientific Potential in Integrating Local Cultural Values," *Kanun Jurnal Ilmu Hukum* 26, no. 1 (2024): 101–24, <https://doi.org/10.24815/kanun.v26i1.32930>.

<sup>26</sup> Fathul Ghaffari et al., "The Relationship Between Religion and Politics of Muhammad Iqbal: A Philosophical and Its Relevance," *Suhuf: International Journal of Islamic Studies* 37, no. 1 (2025), <https://doi.org/10.23917/suhuf.v37i1.10286>.

<sup>27</sup> Suud Sarim Karimullah, Sulastris Sulastris, and Kamsi Kamsi, "Islamic Law and the Regulation of Human Rights Issues in Separatist Conflicts," *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 10, no. 2 (2024): 373–94, <https://doi.org/10.24952/fitrah.v10i2.12260>.

<sup>28</sup> Andi Luhur Prianto et al., "Hijacking of State Power on Religious Freedom by Community Organizations in Indonesia," *Jurnal Ilmiah Islam Futura* 24, no. 2 (2024): 348–67, <https://doi.org/10.22373/jiif.v24i2.17916>.

In the social dimension, the impact of these legal conflicts is evident in the decline in social tolerance and harmony among religious communities. Data from national tolerance index surveys over the past decade show a decrease in the trust and sense of security of minority groups, an increase in the number of cases of persecution based on belief, and a narrowing of public space for interfaith dialogue and pluralistic cultural expression.<sup>29</sup> Horizontal conflicts that originate from differing interpretations of religion, issues surrounding the establishment of places of worship, or the practice of religious rituals reflect the fragility of the foundations of national pluralism, which was built from the outset on the commitment to 'Bhinneka Tunggal Ika' (unity in diversity). In many regions, minority groups are forced to 'make peace' with structural discrimination and take the path of silent adaptation to avoid open conflict, which carries greater risks.

The long-term consequences of conflicts between Islamic and national law threaten national social stability. A state that fails to uphold the supremacy of national law in a fair, consistent, and inclusive manner risks losing its legitimacy in the eyes of its citizens, particularly among minorities, women, and the increasingly critical younger generation. Institutionalised injustice in legal products and their enforcement is a 'time bomb' that can explode into a crisis of trust, social disintegration, and even radicalisation when channels for expression and legal protection for marginalised groups are continuously restricted or ignored. In such uncertain times, the state tends to practise "firefighting" politics—addressing issues one by one on an ad hoc basis without daring to take transformative steps to build a strong system of human rights protection and pluralism. However, amid these challenges, there is always room for change and renewal.

Civil society pressure, interfaith activism, women's movements, and the power of young intellectuals have repeatedly demonstrated their capacity to fight for justice, disrupt discriminatory policies, and expand the space for critical dialogue at the national and local levels.<sup>30</sup> Regulatory reform, progressive judicial review, multicultural education, and strengthening social solidarity networks offer new hope for better human rights protection and pluralism. In this context, the state must dare to break free from the trap of false compromise, strengthen the supremacy of the constitution, and take a firm stance as the protector of the rights of all citizens, without exception.

From a broader perspective, the conflict between Islamic law and national law reflects Indonesia's struggle between ideologies, identities, and narratives of nationality.<sup>31</sup> Political discourse based on religious differences and moral interpretations is often used to obscure justice, equality, and humanity issues, which should be at the core of communal life. The challenge ahead is not to eliminate differences, but to build a fair synthesis between the richness of religious traditions and the principles of universal justice recognised by the modern world.

The state, civil society, and all components of the nation must dare to innovate institutionally, strengthen inclusive participation spaces, and build a legal system that is adaptive to the plurality of values, while remaining committed to non-derogable rights that guarantee justice for all. Therefore, if these legal conflicts are left unaddressed

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<sup>29</sup> Suud Sarim Karimullah, Mu'adil Faizin, and Aufa Islami, "Internalization of Islamic Moderation Values in Building a Civilization of Love and Tolerance," *Al-Insyiroh: Jurnal Studi Keislaman* 9, no. 1 (2023): 94–125, <https://doi.org/https://doi.org/10.35309/alinsyiroh.v9i1.6345>; Suud Sarim Karimullah and Arif Sugitanata, "The Government's Strategies for Promoting Religious Tolerance in a Multicultural Society," *Journal of Religious Policy* 2, no. 1 (2023): 75–102.

<sup>30</sup> Muhajir Muhajir et al., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 86–103, <https://doi.org/10.30984/jis.v21i1.2321>.

<sup>31</sup> Suud Sarim Karimullah, "Agus Moh. Najib's Project and Ushul Fiqh Redesign: Interlinking of Islamic Law and Legal Sciece," *Al-Mazaahib: Jurnal Perbandingan Hukum* 11, no. 2 (2023): 139–60, <https://doi.org/10.14421/al-mazaahib.v11i2.3151>.

without progressive intervention, Indonesia risks being trapped in a cycle of discrimination, polarisation, and social fragmentation that weakens the foundations of the nation-state. Protecting human rights and strengthening pluralism are not merely legal agendas but political and moral agendas that require the state's courage to correct, educate, and initiate fundamental change. National legal policy must reflect the ideals of justice and national unity, not merely an arena for elite compromise or legal validation of majority power. Only through bold steps, constitutional integrity, and consistent policy can Indonesia ensure that conflicts between Islamic law and national law become a stepping stone toward a more inclusive, just, and dignified nation within an increasingly plural global constellation.

## **Conclusion**

The Conclusion The political and legal conflict between Islam and national law in Indonesia reveals the dual nature of the nation's journey in formulating justice, nationality, and the protection of human rights. The struggle between the aspiration for the formalisation of Sharia law and the principles of pluralistic and secular national law has not only resulted in ambiguous legislative compromises, but has also bequeathed a fragmented, multi-interpretable, and often discriminatory legal system. Behind the narrative of harmony that is frequently touted, the reality of political law in Indonesia reveals how easily national law becomes an arena for contestation over identity and power, where the rights of vulnerable groups—women, religious minorities, and marginalised communities—are often sacrificed for political stability or the dominance of majority groups. As a result, the law loses its transformative character. It tends to function as a tool for legitimising the status quo, weakening efforts to build substantive justice and healthy social integration.

In such a situation, the state must realise that pragmatic compromises and concessions to pressure from interest groups will never be able to build a legal system that is fair and resilient in the face of contemporary challenges. Political courage and a transformative vision are needed to uphold constitutional supremacy, strengthen the protection of human rights, and open space for inclusive and contextual legal *ijtihad*. Healthy collaboration between the state, civil society, and religious authorities is key to formulating a new synthesis that can integrate universal values of justice and the richness of tradition without getting trapped in narrow identity politics. Only through such steps can conflicts between Islamic law and national law be transformed from a battleground into a space for renewal, building a progressive, responsive, and genuinely human-centred legal order that upholds national unity.

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