Politics of Islamic Law in the Early New Order Era (1984 to 1990)

Rusli Halil Nasution[1]

[1]Lecturer of STAI Tebingtinggi Deli
(email: ruslihalil3@gmail.com)

Abstract: *- To make it easier and more systematic to describe the development of Islamic law during the New Order era, the next During the New Order era, the horizontal Latin political tension, between santri and abangan, was fading, or if there was, the tension was below the surface and buried by various daily events, however, this did not mean that political tensions and Islamic struggles just stopped. but the most prominent struggle of this period was more open.*
The New Order era can be said to be the starting point for the development and more concrete recognition by the state of the existence and enforceability of Islamic law in Indonesia. During the New Order government, several laws and regulations were issued that directly related to the existence of Islamic law in Indonesia, such as Law Number 1 of 1974 concerning Marriage, Government Regulation Number 28 of 1977 concerning Waqf, Law Number 7 of 1989 on Judiciary Religion, and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Indonesia
Even though the position of Islamic law as one of the sources of national law was not very firm in the early days of the New Order, efforts to strengthen it still had to be done. This was shown by KH.M. Dahlan, a minister of religion among NU when he proposed a draft law on Muslim marriage with the support of Islamic factions in the DPR-GR. Despite this failure, this effort was continued by submitting a formal draft law governing judicial institutions in Indonesia in 1970. This effort bore fruit with the issuance of Law No. 14/1970, which recognized the Religious Courts as one of the judicial bodies under the Supreme Court. With this law, according to Hazairin, Islamic law has been applied directly as an independent law.

Introduction

The New Order era began with the issuance of the Eleven March order (Supersemar) in 1966, which became the basis for the transfer of power from the ruler of the Old Order government (Soekarno) to the ruler of the New Government (Suharto). Initially, the New Order government was expected to provide new hope for the dynamics of the development of Islamic law in Indonesia. This hope arose at least because of the considerable contribution made by Muslims in overthrowing the Old Order regime. But in reality, the desire and hope of Muslims to develop and transform the values of Islamic law into legislation products at this time experienced considerable obstacles, because they were contrary to the development strategy of the New Order government authorities. At this time the role of political parties was marginalized, including the taboo on issues related to ideology (other than Pancasila), especially religious ideologies.

Under Suharto, Indonesia was in an authoritarian and centralized militaristic leadership system. Commands such as the military he applies in all joints of government. So anyone who dares to oppose Suharto will be faced with armed soldiers. Those who are on the opposite side will be given the predicate of being anti-Pancasila, anti-development, disturbing national stability, extreme left, extreme left, PKI and so on. So in this paper I try to explain some of the topics discussed as follows.

1. The Fall of Soekarno with the Failure of the 1965 PKI Rebellion

When Untung announced throughout the country the morning of October 1, 1965 that the September 30th Movement had acted to protect President Sukarno from threats from the General Council. He also announced the formation of a 45-member Revolutionary Council to govern Indonesia, oddly enough Sukarno's name was not included among the leaders of the Revolutionary Council, nor did it indicate that the President supported his actions. However, a statement was issued in Sukarno's name At 13.30, October 1, 1965, presumably from the halim he was well congratulated, that the army leadership was in his hands, and that he appointed Major General Pronoto Reksosamudro to carry out day-to-day duties in the Army. . In a subsequent announcement on 3 October 1965, the President emphasized that he had gone to Halim and then to the Bogor palace of his own accord.

The failure of the G30S/PKI rebellion and the fall of Soekarno's power marked the rise of a new era which its supporters called the New Order. His birth was marked by the granting of a Mandate known as the March 11, 1966 order or Supersemar by Soekarno to Suharto to overcome the situation caused by the emergence of the communist rebellion. Suharto with ABRI and the help of Muslims managed to control the situation.

As for the failure factor in the implementation of the G30 S/PKI Coup in the early hours of October 1, 1965, the failure stems from the leadership of the PKI's Top Leader, DN Aidit. He was judged to have made the wrong decision regarding the implementation of the Coup. Be the Question. Why the coup by Lieutenant Colonel Untung. One of the leaders of the coup. Through the broadcast of RRI October 1, 1965 in the morning and afternoon. The announcement contains, among other things, First. Accusing the general council of holding a power exhibition on ABRI Day, October 5, 1965, it was followed by the takeover of power from Bung Karno. Second, regarding the formation of the Indonesian Revolutionary Council and declaring the dismissal of the Dwikora cabinet and a statement that all state power fell into the hands of the National Revulusi Council. The third is an announcement about promotion and demotion. It stated that the highest rank within ABRI was abbreviated as Lieutenant Colonel, then for NCO and enlisted the rank was increased to one higher level.

The PKI only announced these three things, these three announcements were not useful for maintaining the momentum of the PKI movement. With the pretext of saving Bung Karno from the danger of a general council coup and raising the ranks of non-commissioned officers and enlisted men, it appeared that Untung Wanted to gain broad support from the public and the lower ranks of ABRI. The Second Announcement felt very odd. If the problem is only to save Bung Karno from the danger of a coup from the General Council, why did the PKI movement end up being the director of the Cabinet of Dwikora and declaring that all the power of the State fall into the hands of the Indonesian Revolutionary Council? This is irrefutable evidence that the PKI coup called G30S/PKI was not just a matter of the General Council. So that it becomes a problem for the Daat only. It is clear that the implementation of the PKI Coup is only to take over legitimate power to replace the Pancasila ideology with Communist ideology.

2. Muslim Response to Suharto's Leadership

At the beginning of Suharto's leadership, a new spirit emerged, a kind of romanticism for the revival of the Islamic political movement. The old desire to establish a state based on Islam has failed, a new spirit has emerged to fight for it again. This desire was born because the Muslim community felt that both in the formation of the state and in the struggle for the birth of the New Order, they had a big role. To realize this political desire, political opinion generally wants the rehabilitation of political parties that had been implemented during the Old Order era. The desire of Muslims to rehabilitate Islamic political parties began to appear. For example, during the thanksgiving ceremony for the release of Masjumi leaders from prison. 1967 Moh.

Hatta together with several exponents of HMI and PII intend to establish the Indonesian Islamic Democracy party. At the beginning of the New Order several Muhammadiyah figures intended to reactivate the Indonesian Islamic party.

The desire to rehabilitate an Islamic political party and the establishment of a new Islamic party did not materialize. Only Masyumi whose name was changed to Parmusi (Indonesian Muslim Party) was passed for the services of H. Djarnawi Hadikusumo and Lukman Harun. Despite the desire to rehabilitate Islamic political parties until 1971, several Islamic leaders were still trying to make Islam the basis of the state. One way to do this is to place the "Jakarta Charter" as a source of law that animates the 1945 Constitution. The new hope for Muslims to strengthen the existence of Islamic law in the legal system in Indonesia at the beginning of the New Order was also accompanied by new disappointment because after the New Order government consolidated its power, they immediately exercised tighter control over the political power of Islam, especially the radical groups who were feared that they could compete with the government's power. They simplify existing political parties. The result of this simplification is that the participants in the 1971 general election consisted of 10 political parties. Observing the government's attitude like that, Islamic leaders are aware that the struggle to enforce Islamic law through political channels is not always successful, and carries a high risk. Because of this, Islamic leaders began to change direction, the struggle which was originally to create an Islamic state turned into a struggle to create an Islamic society. The struggle to realize Islamic law in Indonesia turned into a cultural struggle from below, namely by trying hard to carry out the practical application of Islamic law while still based on the "Jakarta Charter". President Sukarno dated July 5, 1959, regarding the return to the 1945 Constitution. In the preamble it was emphasized that the "Jakarta Charter" animates the 1945 Constitution and is an integral part of the Constitution. On this basis, in Indonesia, it has been justified to form legislation in the field of Islamic law which applies specifically to Muslims.

Muslims during the New Order era were in a defensive position. This happened, due to government policy measures which were deemed by the Islamic group to be inappropriate for Islamic political interests, when Muslims felt they had a large enough share or share in the success of the transfer of power.

3. Suharto's Response to Political Islam

The long journey of Indonesian history has had its ups and downs. Since independence until the fall of Soekarno and continued by Suharto, the Indonesian people have not felt the pleasures of independence. It may be true what the saying of power tends to corrupt, and absolute power, absolute corruption as well. The two figures initially received extraordinary popular support, but it turned out that they had abused this power for their personal and cronies' interests, thus only making the nation miserable. History is a very valuable source of lessons, so we need to explore further the long journey of the New Order, played by the cold-blooded dictator (Soeharto) in his efforts to silence his political opponents, especially Muslims who are considered the main threat to the continuity of his power, which is usually he called it an extreme right threat. As the supreme commander of ABRI, he used his power as a tool to suppress the political rights of Muslims through several stages. The initial ten stages (1966--1976) as a conditioning stage, according to Din Syamsuddin, "It can be noted that the response of Muslims to political changes during the first ten years of the new order (1966--1976) which in relation to the depoliticization agenda of Islam can be seen as a conditioning the relationship between Islam and the Pancasila state and politics. "The second stage, between 1976-1986, was a trial period. The regime tested the depoliticization of Islam formally by enacting a law requiring all political parties and private organizations to include Pancasila as a principle, which in fact evoked a response from Muslims. The revival of Islam at times depended on observation. However, what

is clear in Indonesia has taken place in the 80s, in cities, especially big cities on the island of Java, the evidence for the rise of Islam cannot be denied. Let's take a closer look at Suharto's actions during these two periods, while the figure of Suharto since 1951 Suharto has shown a strong attitude towards all parties who fight for an Islamic ideology. So, when it was suspected that TNI 426 in Central Java had adopted an Islamic ideology because they were ex-Hezbollah and Sabilillah troops, he crushed them completely. Suharto's rise to power as president of the Republic of Indonesia was through a bloodless coup. Sukarno was overthrown by ABRI and the force of 66 because they were considered to have abused power as a dictator. To gain sympathy in the early stages, once in power, Suharto released a number of former Masjumi figures, such as Muhammad Natsir, Kasman Singodirejo, Prawoto Mangkusaswito, and Hamka who were detained by Soekarno. considered to have deviated from Pancasila and the 1945 Constitution. The cruelty of the military leadership led by Suharto towards political Islam can be seen from two dimensions: political and religious. From a political point of view, ABRI still holds a grudge against Masyumi because this party was allowed to return to its role in the national political arena, thus becoming a serious threat to the power of the New Order and the military. Religious bias was clearly seen in the December 21 statement which was the result of the decision of the ABRI regional military command meeting chaired by General Panggabean. But, unfortunately Dr. Masyur did not mention the contents of the document. However, David Jenkins noted Suharto's statement which read, "Our common every is Islam." In fact, Hartono Ahmad Jaiz stated, "The impact on Islamic politics during the New Order period that remained until the Reformation Order had exceeded the level set by the colonial architect, namely Snock. If Snock was only worried about Islamic politics, in fact the New Order had also cut down sharia norms. Hijab is prohibited in schools and offices.There are several stages:

First Stage 1966—1976

At the MPRS session, between 1966-1967, Muslims filed a demand that a Muslim president and a state based on Islam reappear and it is certain that this was ultimately rejected. Seeing the political behavior of the New Order that was not right, finally Islamic leaders used da'wah as a means of struggle by raising the slogan "Religious scholars and scholar scholars". M. Natsir on May 9, 1967 founded the Indonesian Islamic Da'wah Council (DDII). On 15 February 1968 President Soeharto announced that no former Masjumi would be allowed to lead and take part in the Indonesian Muslim Party (Parmusi). And, the 1968 general election was postponed until 1971 due to several factors: The government's efforts to obtain guarantees so that basic state issues were not changed and did not become party programs and did not appear in campaigns.

The government's efforts to strike a balance between DPR members from outside Java and Java. The government's efforts to appoint 100 people from the 460 DPR by the government and 307 MPR members from 920 members, including 100 people representing functional groups: soldiers, politicians, intellectuals.

Ahead of the 1971 general election, the government's support for winning Golkar in the general election was very clear. Effective and strategic preparation resulted in Golkar - at that time still called Sekber Golkar - far outperforming other parties. Golkar won 62.80% of the votes, NU got 18,418.67% of the votes (this is more than the 1955 election results which were only 18.4%). However, Parmusi, who is often referred to as Masyumi's successor, only received 5.36% of the votes (in fact, in the 1955 election Masyumi received 20.9% of the votes). Two other small Islamic parties (PSSI and Perti) also lost support, as they only received 2.9% and 1.39% of the votes in the 1955 elections, and received 2.39% and 1.70% of the votes in the 1971 elections.

In January 1973 the New Order government restructured the party system. Except for Golkar, the government put pressure on the nine existing political parties. In this political plot, four Islamic parties were merged into one, namely the United Development Party (PPP). The

other five, consisting of nationalists and Christian parties, were merged into one party, namely the Indonesian Democratic Party (PDI). This artificial fusion immediately gave birth to internal conflicts, especially within the PPP, which ultimately affected its political appearance in the following periods.

Second Stage (1976--1986)

The political agenda of the New Order regime included the depoliticization of Islam. This project is based on the assumption that a politically strong Islam will be an obstacle to modernization. There are some within the government elite who are disillusioned with the quality and abilities of traditional Islamic leaders. Despite a certain Islamic phobia among most members of the ruling group, which coincidentally consists of secular intellectuals (military elite, socialists, and Christians), such a view contains its own political logic, namely that by depoliticizing Islam, they will maintain power and protect their interests.

By considering these assumptions, one can see certain political dimensions of the modernization or development ideology carried out by the regime. The application of this ideology is a strategic decision that has at least two political implications.

First, the New Order regime will have a strong ideological basis that touches the basic needs of the people, so that the people will provide support and participation in politics and become a symbol of political legitimacy.

Second, political support and popular participation will in turn maintain the continuity of the development process and the regime's power. The dynamic interaction between political participation and political institutionalization is then expected to occur through political engineering, including the depoliticization of Islam that can be implemented.

After the New Order government succeeded in forcing Islamic parties to fuse into PPP, it can be seen from the documents that the parties are still fighting for the interests of Muslims with the image of the Kaaba. In 1977 the government, through the Minister of Home Affairs Amir Mahmud and the Secretary General of the Ministry of Religion, Bahrun Rangkuti, strongly objected to the use of the Kaaba image in the 1977 elections. The emergence of PPP as an Islamic party was considered by the government as a threat. The PPP is accused of receiving aid from Libya and of being linked to the jihadist command. Finally, the issue of SARA was created by creating the Tanjung Priok tragedy on September 12, 1984. In its climax, the New Order regime in 1985 imposed Pancasila as the sole principle for all political parties and mass organizations. This is a bad tree called the New Order with its ABRI dual function concept.

4. Islamic Political Struggle in upholding Islamic law in the Early New Order Period

During the New Order era, the horizontal Latin political tension, between santri and abangan, was fading, or if there was, the tension was below the surface and buried by various daily events, however, this did not mean that political tensions and Islamic struggles just stopped. but the most prominent struggle of this period was more open.

The New Order era can be said to be the starting point for the development and more concrete recognition by the state of the existence and enforceability of Islamic law in Indonesia. During the New Order government, several laws and regulations were issued that directly related to the existence of Islamic law in Indonesia, such as Law Number 1 of 1974 concerning Marriage, Government Regulation Number 28 of 1977 concerning Waqf, Law Number 7 of 1989 on Judiciary Religion, and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Indonesia

To make it easier and more systematic to describe the development of Islamic law during the New Order era, the next description will refer to the sequence of laws and regulations directly related to Islamic law, from the beginning of the New Order until the end of the New Order government power in Indonesia. The systematization of the description associated with the

birth of this statutory regulation is carried out with the consideration that the history of legal development must indeed be described systematically from one period to the next, so that it is clearly reflected in the dynamics of the development of Islamic law from time to time in a certain period.

Even though the position of Islamic law as one of the sources of national law was not very firm in the early days of the New Order, efforts to strengthen it still had to be done. This was shown by KH.M. Dahlan, a minister of religion among NU when he proposed a draft law on Muslim marriage with the support of Islamic factions in the DPR-GR. Despite this failure, this effort was continued by submitting a formal draft law governing judicial institutions in Indonesia in 1970. This effort bore fruit with the issuance of Law No. 14/1970, which recognized the Religious Courts as one of the judicial bodies under the Supreme Court. With this law, according to Hazairin, Islamic law has been applied directly as an independent law.

For this reason, the systematic discussion of this paper is in accordance with the sequence of the birth of laws and regulations, which are in direct contact with the implementation of Islamic law in Indonesia, which can be detailed as follows:

a. The Birth of Law Number 1 of 1974 concerning Marriage;
b. The period of issuance of Government Regulation no. 48 of 1977 concerning Waqf
c. The Birth of Law No. 7 of 1989 concerning Religious Courts;
d. The Birth of Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Indonesia;
e. The Birth of Law No. 7 of 1992 concerning Banking.

The Birth of Law Number 1 of 1974 concerning Marriage

At the beginning of the New Order government until 1973, as previously explained, it did not provide much hope for the development and transformation of Islamic legal values into products of national legislation. This was quite disappointing for the Muslims who had joined together with the New Order rulers to overthrow the power of the Old Order government. In 1973

to be precise, on August 16, 1973, the New Order government submitted a Draft Law (hereinafter abbreviated as RUU) on Marriage to the House of Representatives (DPR) to be passed into law. However, a month before the submission of the bill to the DPR, there was a strong reaction from the Muslim community, especially from traditional clerics and modernist clerics in almost all regions in Indonesia. Because the proposed Marriage Bill is very much against the principles of Islamic marriage law, there is even a stronger reaction from some Muslims by saying that the Marriage Bill will convert Indonesia to Christianity.3 According to Kamal Hasan, there are at least 11 articles that are considered contrary to Islamic teachings in the Marriage Bill that will be submitted to the DPR, namely Article 2 paragraph (1), Article 3 paragraph (2), Article 7 paragraph (1), Article 8 letter (c), Article 10 paragraph (2), Article 11 paragraph (2), Article 12, Article 13 paragraphs (1) and (2), Article 37, Article 46 letters (c) and (d), and Article 62 paragraphs (2) and (9).4 In addition Even in the legislature, the bill received no less fierce opposition. The United Development Party (FPPP) faction, which is considered to be the representative of Muslims in parliament, is the faction that most strongly opposes the Marriage Bill, because it is considered to be very contrary to Islamic jurisprudence. At that time, FPPP tried its very best so that the Marriage Law that would be passed later did not conflict with Islamic law. Through lobbying between Islamic leaders and the FPPP and the government, the proposed bill was finally accepted by Muslims by eliminating articles that contradicted Islamic teachings. In fact, for the smooth discussion of the bill in the DPR, an agreement was made between the PPP faction and the ABRI faction which contained:

a. Islamic religious law in marriage will not be reduced or changed.

b. As a consequence of point 1, the implementation tools will not be reduced or changed, stressed Law no. 22 of 1946 and Law no. 14 of 1970 guaranteed continuity
c. Things that are against the religion of Islam and cannot be adapted to Islam
d. this law, was removed (dropped).
e. Article 2 paragraph (1) of this draft law is approved to be formulated as follows:
   1) Paragraph (1): Marriage is legal if it is carried out according to the law of each religion and belief;
   2) Paragraph (2): Every marriage must be recorded according to the prevailing laws and regulations.

5. Regarding divorce and polygamy, provisions are needed to prevent arbitrariness

The efforts of all components of the Muslim community at that time succeeded in changing the Marriage Bill which was previously very contrary to Islamic teachings, causing objections and rejections from Muslims to be abolished, then successfully changed by marking the inclusion and accommodation of the values of Islamic marriage teachings in the Bill. The articles that were later crossed out were Article 11 regarding the parental system and inter-religious marriage, Article 13 concerning Engagement, Article 14 concerning Procedures for Marriage Lawsuits, and Article 62 concerning Adoption of Children. December 22, 1973 through factions in the DPR, the Marriage Bill was approved for ratification. Furthermore, on January 2, 1974, the Marriage Bill was passed into Law no. 1 of 1974 concerning Marriage which subsequently became effective as of October 1, 1975. With the enactment of Law no. 1 of 1974 concerning Marriage, it can be said that since then

The development of Islamic law in Indonesia, especially in the field of material law, has manifested itself in real terms. The birth of the Marriage Law is a new phase of recognition of the existence of Islamic law in the legal system in Indonesia, because at this time it can be called the taqnin phase (promulgation phase) the provisions of Islamic teachings regarding marriage which were previously only studied and spread in books. fiqh, then successfully transformed into legislation that is legal and applies positively, although there are modifications here and there.

The Birth of Government Regulation No. 28 of 1977 concerning Waqf

The development of Islamic law in Indonesia during the New Order era occurred after more than three years of Law no. 1 of 1974 was born, precisely on May 17, 1977 the government again issued Government Regulation No. 28 of 1977 concerning Waqf. This legal regulation on waqf was born because there was no comprehensive legal provision regarding the management of waqf assets in Indonesia in the previous period. The existing waqf legal regulations as stated in the bijblad Number 6196 of 1905, and the bijblad of 1931 Number 12573, as well as the bijblad of 1935 Number 13480, are considered insufficient to ensure the continuity and legal certainty of waqf assets. Prior to the issuance of Government Regulation no. 28 of 1977, problems regarding waqf assets in the community often occur, due to the irregular and orderly management of waqf assets, so that complete data on waqf land cannot be said to be non-existent.

Problems that often arise in the field of waqf property such as disputes over waqf land, waqf land whose status is unclear, many waqf objects whose condition is unknown, misuse of waqf assets, and so on. This condition arose because the previous waqf legal regulations did not require waqf assets to be registered and the waqf certificate made at the authorized agency. The issuance of Government Regulation No. 28 of 1977 concerning the Waqf of Owned Land, became a new chapter in the development of Islamic law in Indonesia, especially in the management of waqf assets. Government Regulation Number 28 of 1977 made the management of waqf assets in Indonesia more orderly and orderly than the previous period, because the

Government Regulation on waqf contained the substance and technical aspects of waqf that must be carried out by government agencies and the public.

With the enactment of this new waqf regulation, all previous regulations governing waqf are declared no longer valid as long as they are in conflict with Government Regulation no. 28 of 1977. This government regulation has also placed legal provisions regarding waqf assets in Indonesia to be stronger than before. To implement Government Regulation no. 28 of 1977 the Minister of Religion of the Republic of Indonesia at that time issued a Minister of Religion Regulation. No. 1 of 1978 concerning the Perwaqaf of Owned Land, previously on November 26, 1977 the Minister of Home Affairs had also issued a Minister of Home Affairs Regulation. No. 6 of 1977 concerning the Land Registration System regarding the Waqf of Owned Land. For the smooth implementation of the task of registering waqf land throughout Indonesia, the Minister of Religion then issued Decree No. 73 of 1978 dated August 9, 1978 concerning the Delegation of Authority to Regional Offices of the Ministry of Religion throughout Indonesia, to appoint/dismiss every Head of the Sub-District Religious Affairs Office as the official making the waqf pledge deed. Previously on January 23, 1978, to facilitate and for the smooth implementation of Government Regulation No. 28 of 1977 the Minister of Home Affairs and the Minister of Religion of the Republic of Indonesia issued a joint instruction No. 1 of 1978 concerning the Implementation of Government Regulation no. 28 of 1977 concerning the Waqf of Owned Land. In the instruction, the Minister of Home Affairs and the Minister of Religion ordered the Governors of Regional Heads throughout Indonesia and the Heads of Regional Offices of the Ministry of Religion throughout Indonesia to:

a. Implement as well as possible the provisions of Government Regulation no. 28 of 1977 and Regulation of the Minister of Home Affairs No. 6 of 1977 concerning Land Registration regarding Perwakafan Owned Land and Minister of Religion Regulation No. 1 of 1978 concerning Implementing Regulations of Government Regulation no. 28 of 1977;
b. Ordering the agencies and their subordinate officials to obey and carry out this instruction and all implementing regulations stipulated by the Minister of Religion and the Minister of Home Affairs according to their respective fields;
c. Securing and registering the endowment of owned land that occurred before the enactment of Government Regulation no. 28 of 1977 without any fees except the cost of measurement and stamp duty;
d. Report on the implementation of this instruction to the Minister of Religion and the Minister of Home Affairs.

Although government regulations have been issued, along the way, it turns out that the existing waqf regulations have not been effective in controlling waqf in Indonesia. For this reason, on November 30, 1990, the Joint Instruction of the Minister of Religion and the Head of the National Land Agency No. 4 of 1990 and Number 24 of 1990 concerning Waqf Land Certificates. The issuance of Government Regulation No. 28 of 1977 has shown that the existence of Islamic law in Indonesia is becoming clearer and stronger in the legislation and national legal system, because this Government Regulation specifically regulates land waqf performed by Muslims, while for non-Islamic regulations this kind of regulation does not exist. there is. Government Regulation No. 28 of 1978 in subsequent periods accommodated in the Compilation of Indonesian Islamic Law and the last being Law Number 41 of 2004 concerning Waqf.

The Birth of Law No. 7 of 1989 concerning Religious Courts

The period before the birth of Law no. 7 of 1989 concerning the Religious Courts, was a slightly dark period for the development of Islamic law in Indonesia during the New Order era. At this time it can be said that there is no significant development of Islamic law, even the government at this time does not seem to have the political will to develop and issue legislation products that are in contact with religious law, especially Islam. Because in the period between the 1980s and the 1990s, the New Order authorities issued a policy regarding the application of the single principle of Pancasila for socio-political organizations (Orsopol), and subsequently for social organizations in Indonesia. Of course, the government's ideas and policies created a strong rejection attitude from Muslims, almost the same as the rejection of the Marriage Bill in 1973.

Political organizations and mass organizations based on Islam and individuals who were critical of the implementation the single principle of Pancasila, carried out the rejection together until it led to the outbreak of clashes between the community and the security forces (military) in Tanjung Priok, which sacrificed the lives of so many Muslims. Not only that, even Islamic mass organizations that did not accept and continued to reject the application of the single principle were then forcibly disbanded by the government at that time. Although the relationship between Muslims and the government at that time was quite difficult, a breakthrough in the development of Islamic law was carried out by the Ministry of Religion at that time, where the Minister of Religion Munawir Syazali submitted a Bill on Religious Courts to the DPR to be passed into law.

The pros and cons of the Religious Court Bill also occurred, but it did not last long and was not as busy as the Marriage Bill, because after it was passed into Law no. 7 of 1999 the pros and cons began to subside. This success, according to Munawir Syazali as quoted by Amiur Nuruddin in his book Islamic Civil Law in Indonesia, is a hundred year leap for the development of Islamic law in Indonesia in terms of legislation, while in terms of legal substance it gave birth to a hundred windu leap.11 The enactment of Law Number 7 1989 concerning the Religious Courts, has brought important changes to the development of Islamic law in Indonesia. Recognition of the existence of a religious judiciary that is on a par with other judicial bodies in Indonesia, in essence can be said to be a formal acknowledgment from the government of the existence and implementation of Islamic law. The Law on Religious Courts has brought about important and fundamental changes to the religious court environment, among these changes according to Daud Ali are the following:

a. The religious court has become an independent judiciary, its position is truly equal and on an equal footing with the general courts, military courts, and state administrative courts.
b. The name, composition and authority (power) as well as the procedural law are the same and uniform throughout Indonesia. The creation of the unification of the procedural law of the religious courts will facilitate the realization of order and legal certainty with the core of justice within the religious courts.
c. Protection for women has been increased by, among other things, giving equal rights to wives in defending their interests before the religious court.
d. To further strengthen efforts to explore various principles and rules of Islamic law, as one of the raw materials in the preparation and development of national law through jurisprudence.
e. The implementation of the provisions in the Act on the Basic Powers of the Judiciary of 1970.
f. The implementation of the development of national laws with an archipelagic perspective as well as the vision of Bhinneka Tunggal Ika in the form of the Law on Religious Courts.

From the substance of its content and material, the Law on Religious Courts No. 7 of 1989 has brought concrete changes which can be detailed as follows:

a. Changes in the Legal Basis for the Implementation of Religious Courts Since the birth of the Law on Religious Courts, all previous legal regulations governing religious courts were declared no longer valid, resulting in uniformity in the legal basis of religious courts throughout Indonesia. This uniformity is also intended to realize a simple, fast and low cost judicial administration, in accordance with the provisions as regulated in Law no. 14 of 1970.
b. Changes in the Position of Religious Courts in the National Judicial System Prior to the enactment of the Law on Religious Courts, there were misalignments between courts within the religious courts and other courts, in particular with courts within the general courts. This is reflected in the existence of an institution confirming every decision of the Religious Courts by the District Court, as regulated in Article 63 paragraph (2) of Law no. 1 of 1974. With the enactment of the Law on Religious Courts, the provisions regarding the confirmation of the decisions of the religious courts were declared revoked, so that the religious courts had the independence to carry out their own decisions which were carried out by the bailiffs of the religious courts, which were new institutions within the religious courts since then.
c. Changes in the Position of Religious Court Judges

2. According to the provisions of Article 15 paragraph (1) of the Law on Religious Courts, “judges are appointed and dismissed by the President as Head of State at the suggestion of the Minister of Religion based on the approval of the Supreme Court. The same also applies to judges in other judicial circles, thus the position of judges in religious courts is equal to judges in other courts, so that their rights and obligations are the same and equal, including the issue of salary.
    a. Changes in the Powers of Courts within the Religious Courts Prior to the issuance of the Law on Religious Courts in 1989, the absolute authority of religious courts was still very limited, and only within a certain scope. It was only then that the authority was later expanded to the same as the authority of the religious court before 1937. The expanded authority is enshrined in Article 49 paragraph (1) of Law no. 7 of 1989 which reads: "The Religious Courts have the duty and authority to examine, decide, and resolve cases at the first level between people who are Muslims in the fields of: a. Marriage, b. Inheritance, wills, and grants, which are made based on Islamic law; c. Waqf and Sadaqah".
    b. Amendments to the Procedural Law of the Religious Courts The procedural law used by the religious judiciary before the enactment of Law no. 7 of 1989 is the Code of Civil Procedure Code inherited from the Netherlands which is also used by the general judiciary. In addition, unwritten Islamic civil procedural laws are also used, namely procedural provisions for certain cases contained in fiqh books and other unwritten sources of law.
3. With the birth of Law no. 7 of 1989 the procedural law used by religious courts other than the Civil Code, is a separate procedural law which has been directly included in Law no. 7 of 1989. The inclusion of unwritten procedural law previously used by the judiciary in Law no. 7 of 1989, was a very significant change for the course of Islamic law in Indonesia, especially regarding procedural law. Because then the unwritten procedural law that existed before then becomes law. in writing, so that it is stronger and guarantees order and certainty in the field of procedural law.

a. Changes in the Administration of Religious Courts As it is known that the administration of the judiciary is divided into two types. First, the administration of justice which is concerned with the administration of cases and the administration of justice. Second, general administration with regard to personnel administration, financial administration, and general administration. In general, the two types of administration are managed by the clerk who doubles as the court secretary. Before the birth of Law no. 7 of 1989, the management system for the two types of administration is single in nature and is managed by all of the Registrars of the Head. However, with the birth of Law no. 7 of 1989, the management of the two types of administration was then divided into two rooms, in terms of its management, namely for judicial administration technically managed by the deputy clerk, while general administration was managed by the deputy secretary.
b. Changes in the Protection of Women

4. According to Article 20 paragraph (1) Government Regulation no. 9 of 1975 stated that "A lawsuit for divorce is filed by a husband or wife or by their proxies to a court whose jurisdiction covers the residence of the defendant". This provision is considered unfair and very burdensome for parties, especially women, if they want to file for divorce from their husbands because the defendant's residence may be very far and difficult to reach.

Therefore, Law no. 7 of 1989 made changes in this matter, namely that divorce cases are not filed in a religious court whose jurisdiction includes the residence of the defendant, but is submitted to a religious court whose jurisdiction includes the place of residence of the plaintiff. Government Regulation No. 9 of 1975 still applies to divorces carried out by those who are not Muslim, where the divorce suit is filed in a general court

The Birth of the Islamic Law Compilation

The description in the previous sub-heading regarding the enactment of the Law on Religious Courts has provided a cursory description of a more concrete recognition of the legal system and legislation, on the applicability of Islamic law in Indonesia. However, as previously mentioned, although religious courts are uniform throughout Indonesia, there are still differences between religious courts in terms of the material law. So that many cases are in fact the same, but when decided differ between one religious court and another religious court.

This condition occurs because the material law used in religious courts is still in the form of unwritten law which is spread in various fiqh books. So that religious court judges who decide on concrete cases submitted to them cannot refer to the same material law, as a result there is a difference of opinion between judges of one religious court and another religious court in the same case, because each of them is in deciding the case. refers to a different unwritten material law (book of fiqh).

This situation is certainly not good to continue to be maintained, because in addition to causing continuous disagreements, it also makes legal certainty in this country, especially in the field of Islamic law, not guaranteed. For this reason, it is necessary to immediately issue a material law that can be used as the sole reference by all judges in the religious courts in Indonesia in deciding every case that is brought to them.

When examined further, the need for a uniform material law to be a reference in religious courts has long been coveted. As evidence is the issuance of the Circular Letter of the Head of the Religious Courts Bureau Number B/1/737 dated 18

February 1958 concerning the Implementation of Government Regulation Number 45 of 1957 concerning the Establishment of Religious Courts/Syar'iyah Courts outside Java and Madura.

In letter B of the Circular it is explained that in order to obtain legal unity in examining and deciding cases, the judges of the Religious Courts/Syar'iyah Courts are recommended to use as a guide the books: 1). Al-Bâjûr; 2). Fath al-Mu'în; 3). Syarqawî al-Tahrîr; 4). Qalyubî/Mahallî; 5). Fath al Wahhab with his syarah; 6). Tuhfah; 7). Targhîb al-Musytâq; 8). Qawânîn Syar'iyyah li al-Sayyid bin Yahya; 9). Qawânn Syar'iyah li al- Sayyid Sadaqah Dahlan; 10). Syamsuri fi al-Faraidh; 11). Bughyah al-Mustarsyidn; 12). Al-Fiqh 'Alî Madzîhib al Arba'ah; and, 13). Mughnî al-Muhtaj.

This situation can be noted as a shift towards legal unity in the form of written law, from several parts of Islamic law which are the authority of the Religious Courts. By pointing to these thirteen books, the step towards legal certainty becomes more real and is no longer an embryo, because it has led to concrete steps. The idea to immediately expedite the birth of a material law for the religious courts emerged after several years that the religious courts were under the guidance of the Supreme Court in terms of their judicial technical implementation. During the guidance by the Supreme Court, it was felt that there were several weaknesses, such as Islamic law applied in religious courts which tended to be confusing, due to differences of opinion among scholars on almost every issue. To overcome this, it is necessary to have a legal book that compiles all applicable laws that apply within the religious courts, which can be used as guidelines by judges in carrying out their duties, to ensure legal unity and certainty.

Law No. 7 of 1989 concerning the Religious Courts has mandated in Article 49 paragraph (1) that: "The Religious Courts have the duty and authority to examine, decide, and settle cases at the first level between people who are Muslims in the fields of a). Marriage; b). Inheritance, wills, and grants, which are carried out under Islamic law; c). Waqf and alms". Thus, the material law that must be immediately formed by the government, of course, the material law required by the religious court is in accordance with the scope of authority that has been given by law to this institution. Following up on the mandate of the law and the urgent needs of

It was in February 1998 that after going through a fairly long journey, the three books from the Compilation of Islamic Law (hereinafter abbreviated as KHI), which had been made by a special team formed for the implementation of the Compilation of Islamic Law in Indonesia project, were held in a workshop. In this workshop the Draft Compilation of Islamic Law received wide support from scholars throughout Indonesia, although there are still debates of opinion among them on several matters. Finally, on June 10, 1991, President Soeharto signed the Presidential Instruction No. 1 of 1991. Presidential Instruction No. 1 of 1991 explicitly states in its dictum that, the Compilation of Islamic Law was born to be used by government agencies and the community as well as possible and with full responsibility. The mention of "used by government agencies" certainly means that KHI, must be used as a reference by every government agency, especially by judges of religious courts in deciding the law. According to Abdurrahaman the word "used" in the Presidential Instruction means "guided", therefore, the notion as a guideline must be understood as a demand or instruction that must be used, both by the Religious Courts and members of the community in resolving their disputes in the fields of marriage, inheritance and waqf law. .17 Abdurrahman also considers that KHI has "equality" with other laws governing marriage, inheritance and endowments that apply in Indonesia. Because when associated with Law no. 1 of 1974 and Government Regulation No. 28 of 1978 which only regulates procedural administrative matters, the KHI is a special provision that functions more as a substantial legal provision. Furthermore, Abdurrahman concluded that the functions of the Compilation of Islamic Law in Indonesia are:

1. As a first step or intermediate goal to realize the codification and unification of national laws that apply to citizens, especially those who are Muslim. The legal provisions that have been formulated in the KHI, are likely to be adopted as material for national law in the future.
2. As a guide for religious court judges in examining and adjudicating cases under their authority
3. As a guide for members of the community regarding Islamic law that applies to them, which is already the result of formulations taken from various Arabic fiqh books, all of which they cannot read directly.

Thus, it can be concluded that, the compilation of Islamic law as a product of the thoughts of the scholars and Muslims in Indonesia which they have agreed upon (ijma'), and has also been legally issued by government. According to Ahmad Rafiq, the judges and the parties to the litigation are bound and obliged to obey and comply with all the provisions in it.
completely.

The Birth of Law No. 7 of 1992 concerning Banking

The pilot for the establishment of Islamic banking in Indonesia actually started in the early 1980s, through discussions on the theme of Islamic banking as a pillar of Islamic economy. The figures involved in the study included Karnaen A. Perwataatmadja, M. Dawam Rahardjo, AM. Saefuddin, and M. Amien Azis. As a pilot, the idea of Islamic banking was then put into practice on a relatively limited scale, including in Bandung (Bait At-Tamwil Salman ITB), and in Jakarta (Koperasi Ridho Gusti).

M. Dawam Rahardjo in his writings once proposed a recommendation that the banking system that uses the principles of Islamic Shari'ah (Islamic Bank), which is based in practice on the concepts of mudarabah, musyarakah, and murābahah, should be tried as an alternative concept to face the prohibition of the practice of usury. The concept and practice of banking with Islamic principles is also expected to meet the financing needs for business development and the community's economy.

A more serious effort regarding the establishment of an Islamic Bank in Indonesia was only made on 18 to 20 August 1990, where the Indonesian Ulema Council (MUI) on that date held a bank and banking interest workshop in Cisarua, Bogor, West Java. The results of the workshop were then discussed in greater depth at the IV MUI National Deliberation in Jakarta 22 to 25 August 1990, which resulted in the mandate for the formation of a working group for the establishment of an Islamic bank in Indonesia. The working group is called the MUI Banking Team and is assigned the task of approaching and consulting with all relevant parties. The result of the work of the MUI Banking Team was the establishment of PT. Bank Muamalat Indonesia (BMI), in accordance with the deed of establishment issued on November 1, 1991. Since May 1, 1992, BMI has officially operated with an initial capital of Rp. 106,126,382,000, - sourced from various parties, including the community and the West Java Regional Government.

The existence and legality of Islamic banks formally in Indonesia during the New Order era can be studied from the sound of Article 6 letter m of Law no. 7 of 1992 concerning Banking which states: "providing financing for customers based on the principle of profit sharing in accordance with the provisions stipulated in Government Regulations".

Furthermore, Article 5 paragraph (3) of Government Regulation No. 70 of 1992 concerning Commercial Banks also states "Commercial Banks which operates based on profit sharing principle". Likewise in Article 6 paragraph (2) Government Regulation no. 71 of 1992 concerning Rural Banks (BPR) which states "Rural Banks that will conduct business activities based on the principle of profit sharing". The sentences contained in the legal regulations

regarding banking during the New Order era did not clearly mention the existence of Islamic banks in their articles. However, the mention of the phrase "bank based on profit-sharing principle" in some of these legal regulations, it becomes clearer to refer to Islamic banks, after seeing and understanding the explanation of Article 1 paragraph (1) Government Regulation no. 72 of 1992 concerning Banks Based on Profit Sharing Principles, because it is very clearly stated that what is meant by the profit-sharing principle is the principle of Muamalat based on sharia in conducting bank business activities. Looking at the provisions contained in Government Regulation no. 72 of 1992, the freedom to practice banking ideas based on Islamic Sharia is open as wide as possible, especially with regard to the types of transactions that can be carried out. Restrictions are only given in the case of:

1. Prohibition of conducting business activities that are not based on profit sharing principle (meaning business activities based on interest calculation) for Commercial Banks or Rural Banks whose business activities are solely based on the profit-sharing principle. Likewise, Commercial Banks or Rural Banks whose business activities are not based on the profit-sharing principle are prohibited from conducting business activities based on the profit-sharing principle.
2. The obligation to have a Sharia Supervisory Board in charge of supervising banking products, both funds and financing so that they run in accordance with sharia principles, where the formation is carried out by banks based on the results of consultation with the Indonesian Ulema Council (MUI).

In addition to the regulations mentioned above, regarding the types of activities, sharia financial products and services, Islamic banks are also required to follow all fatwas of the National Sharia Council (DSN), which is the only board that has the authority to issue fatwas on types of activities. , Islamic financial products and services, as well as supervising the implementation of the said fatwa by Islamic financial institutions in Indonesia. Another noteworthy development relates to Islamic banking at the time of the enactment of Law no. 7 of 1992 concerning Banking is the establishment of the Indonesian Muamalat Arbitration Board (BAMUI). BAMUI was officially established on October 21, 1993, initiated by the MUI, with the aim of resolving the possibility of muamalat disputes in trade, industry, finance, services and other relations among Muslims in Indonesia. BAMUI is in its next development after the New Order changed to BASYARNAS. Although at the time of enactment of Law no. 7 of 1992 the development of Islamic banking is still very limited, but this is a very important milestone in the life of Muslims and in general for the development of National Law. Mariam Darus Badrulzaman in his paper entitled "The Role of BAMUI in the Development of National Law" said as follows:

Banking Law No. 7 of 1992 brought a new era in the history of the development of economic law in Indonesia. The law introduces a “profit-sharing system” which is not recognized in the Law on Principal Banking No. 14 of 1967. With the profit-sharing system in place, banks can escape from businesses that use the "interest" system.... If so far the role of Islamic law in Indonesia has been limited to family law, but since 1992, the role of law has been Islam has entered the world of economic law (business).

Thus, it is clear that Islamic banking in Indonesia has begun to show its existence and legality since the New Order era. Although it has not yet received an adequate and firm place and portion in the banking law at that time, the embryo and recognition of the existence of Islamic banks in Indonesia has begun to appear. As evidence, Bank Mu'amalat Indonesia initiated by the MUI began to be legalized by the government with the issuance of the Bank Mu'amalat business license which was also issued by the Minister of Finance of the Republic of Indonesia with Decree No. 430/KMK.013/1992 dated April 24, 1992. Meanwhile, to legalize its

operations, a decree was issued. Minister of Finance of the Republic of Indonesia No. 1223/MK.013/1991 dated November 5, 1991. Armed with the legality granted by the government through the Minister of Finance, BMI officially began operating on May 1, 1992. From this description, it further emphasizes that Islamic law in Indonesia in the business sector, especially banking, has have a place in the Indonesian national legal order

Conclusion

The development of Islamic law in Indonesia during the New Order era, especially in producing laws and regulations directly related to Islamic law, cannot be said to be satisfactory. single principle in the life of the nation and state. In addition, the political will from the authorities to transform the values of Islamic law into the national legal system is still lacking. So that talks and discussions that lead to other ideologies or principles, especially those that intersect with religious values, for example are considered taboo and are minimized as much as possible. However, the New Order era can be said to be the first step in the revival of Islamic law in Indonesia, because at this time the values of Islamic law began to be transformed in certain fields, such as marriage, inheritance and waqf into positive laws and regulations, although not yet in accordance with the hope of Muslims at that time.

References

Alidar EMK. *Jurnal Hukum Pidana dan politik Mahasiswa Program Doktor USU Medan* Mdan USU Pers: 2011

Anshari Endang Saifuddin *Piagam Jakarta 22 Juni 1945* Bandung Salman ITB,1981

Hisyam Muhammad, *Krisis Masa kini dan Orde Baru* .Jakarta Obaor 2003

Iqbal Muhamma. *Pemikiran Politik Islam* Jakarta: Prenadamedia Grup 2015

Jaiz Hartono Ahmad, *Di Bawah Bayang-Bayang Soekarno-Soeharto.* Jakarta: Imam Tholkhah *Anatomi Konflik Politik di Indonesia* Jakarta Raja Grafindo Persada

Kahin Audrey, *Dari Pemberontakan ke Integrasi Sumatera Barat dan politik Indonesia 1926-1998* Jakarta Obor 2005

Muhammad Hari Zamharir *Agama dan Negara* Jakarta: Rajagrafindo Persada, 2004

Praja Juhaya S *Filsafat Hukum Islam*, Bandung PPm Unisba, 1995

Syamsuddin Maijen (Purn) *Mengapa G30S/PKI Gagal suatu analisis* Jakarta: Rajawali Pers 2000

Syamsuddin Din *Islam & Politik Era Orde Baru* Jakarta Gema insan Pers 1997