



The Transformation of Islamic Law through the Compilation of Islamic Law: Between Codification and Social Dynamics

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ABSTRACT

This article examines the transformation of Islamic law in Indonesia through the Compilation of Islamic Law (KHI) as an effort to codify Islamic family law that applies in the religious justice environment. The KHI, since its ratification in 1991, has become a normative reference in the settlement of family matters, such as marriage, inheritance, and guardianship. However, dynamic social, cultural, and legal developments in Indonesia's Muslim society encourage the need to re-read the applicability and relevance of KHI. This study uses a juridical-normative and sociological approach to examine the tension between the spirit of standardization and the need for legal flexibility in responding to social dynamics, especially related to contemporary issues such as gender equality and children's rights. The results of the study show that KHI not only functions as a legal-formal instrument, but also as a medium for transforming Islamic legal values so that they are contextual and applicable in the framework of the modern legal state. Therefore, it is important to revise and update the KHI in a participatory and inclusive manner to answer the challenges of family law in the ever-changing social era.

INTRODUCTION

The Compilation of Islamic Law (KHI) is an important milestone in the history of law in Indonesia, marking the country's first attempt at codification of Islamic law (Barkah, 2022). Its presence aims not only to create uniformity of verdicts in the religious judicial environment and as a guideline for judges, but also to integrate the relevance of Islamic law in the national legal system (Hariati, 2024). This research explores the role of KHI as an instrument of Islamic law transformation, especially in examining the tension between the spirit of positive legal codification and the social dynamics of the plural and ever-growing Indonesian Muslim community (Amirullah & Muhibuddin, 2020). With a normative-sociological approach, this study will analyze legal documents, court decisions, and social practice phenomena to understand the adaptation of Islamic legal values to the local socio-cultural context, as well as identify the challenges that arise due to the rigidity of KHI articles in responding to dynamic social changes, including issues of gender equality and children's rights (Iskandar, 2023). This normative-sociological approach allows for a holistic analysis, combining legal norms with social realities, as discussed in a recent study on the development of Islamic law in Indonesia.

Codification is the systematic process of collecting and compiling legal rules into an integrated and systematic legal book (Dwiyanti et al., 2024). Its main goal is to create certainty, uniformity, and ease in the discovery and application of the law. The history of codification has existed since ancient times, evolving along with society's need for a more organized legal arrangement (Ardani & Suhadi, 2024). In the context of Islamic law, codification efforts have been known since the time of *tabiin*, where the legal rules originating from the Prophet Muhammad (PBUH), the companions, and the *mujtahid* began to be collected and developed (Al Faruq et al., 2024). This history shows the evolution from oral tradition to written form, which is relevant to the development of modern legal theory based on *fiqh* (Herlina, 2024).

In the modern legal state, codification aims to ensure legal certainty, prevent disparities in law enforcement, and facilitate public access to the law (Adhari et al., 2023). Codification provides a clear legal framework, which allows individuals and institutions to understand their rights and obligations (Suwasta & Juhana, 2024). This process is also the foundation for the development of an effective and accountable justice system (Yulianto, 2022). In the Indonesian context, this goal supports the integration of Islamic law into the national legal system, as analyzed in a study on the transformation of family law (Miftahuddin & Nafi'ah, 2024).

From the perspective of Islamic law, codification can be seen as an effort to systematize sharia teachings so that they can be applied in a more structured way in people's lives (Siroj et al., 2023). Although Islamic sharia encompasses spiritual beliefs and political ideologies, when sharia is defined as law, there is a separation of legal disciplines from their spiritual aspects. In contrast to the Western understanding of law that separates private and public law, Islamic law does not explicitly distinguish between them. The attempt at codification in Islam aims to develop modern legal theories that adhere to the basic conceptions of the

Qur'an and the Sunnah (Zulliandi, 2024). This approach emphasizes the adaptation of sharia to contemporary contexts, including the social dynamics of Indonesian Muslims.

Based on this background, this article aims to analyze the Compilation of Islamic Law as an instrument of Islamic law transformation in Indonesia by highlighting the tension between the spirit of positive legal codification and the social dynamics of Muslim society. This article also seeks to identify opportunities for KHI reform to remain relevant, responsive, and equitable in the context of the modern state of law, without neglecting the basic principles of sharia and sharia maqashid.

THEORETICAL REVIEW

History of the Birth of KHI in Indonesia

The Compilation of Islamic Law (KHI) was born in Indonesia in response to the need for uniform Islamic legal guidelines in the religious justice environment (Marni et al., 2023). The establishment of KHI was a follow-up to the joint decision of the Chief Justice of the Supreme Court and the Minister of Religion on March 21, 1985 (Tahmid & Fautanu, 2021). KHI is compiled through an in-depth study of fiqh books from various sects, and the views of scholars on fiqh are consolidated in the form of books compiled in the language of legislation (Khanif, 2020). This process resulted in Presidential Instruction No. 1 of 1991 which officially enacted KHI as the first codification of Islamic law in Indonesia (Sugianto et al., 2020). This history reflects the transformation of Islamic law from the colonial era to post-independence, with a focus on national integration (Siburian, 2024).

Structure and Main Content of KHI

The KHI is divided into three main books that govern various aspects of Muslim life in Indonesia: Book I: Marriage, covering provisions on engagement, marriage, divorce (talaq), referral, and the rights and obligations of husband and wife (Ardani & Suhadi, 2024). Book II: Inheritance, regulates the heirs, parts of the inheritance, and other provisions related to inheritance (H. Hamzah, 2020). Book III: Waqf, discusses waqf procedures, types of waqf, and management of waqf assets (Hidayat et al., 2023). This structure is designed to cover family law issues that are often faced in religious courts. The structure supports uniformity of decisions, as explored in the analysis of the national legal system (Imanuddin, 2020).

Normative and Legal Foundations of KHI

The normative foundation of KHI is the teachings of Islam that are sourced from the Qur'an and Sunnah, which are then interpreted through various fiqh books. Legally positive, KHI has a foundation through Presidential Instruction Number 1 of 1991, which provides legal force for KHI to be used as a guideline for judges in religious courts in resolving disputes (Ajidin, 2022). This confirms KHI's position as a positive law that applies in Indonesia, even though it is in the form of a presidential instruction, not a law (Riadi, 2021). This foundation bridges

sharia with state law, as discussed in the study of the existence of KHI (Muin & Umam, 2016).

KHI and the Social Dynamics of Muslim Communities

Community Response to KHI

The presence of the Compilation of Islamic Law (KHI) in Indonesia has triggered various responses from the Muslim community. On the one hand, KHI is seen as a positive effort to provide legal certainty and uniformity in the application of Islamic law, especially in the religious justice environment (Hamzah et al., 2021). There are clear guidelines to help the community in resolving disputes over marriage, inheritance, and waqf. However, on the other hand, the KHI also faced criticism and resistance, especially related to its inability to fully accommodate the social dynamics and development of thought in a pluralistic Muslim society (Fitri & Sh, 2020). This response reflects the tension between formal norms and social practices, as analyzed in the study of the dynamics of social change.

Talak (divorce)

Although KHI regulates talaq procedures, the practice on the ground sometimes reflects difficulties in achieving justice for women, especially regarding post-divorce rights (Farid et al., 2023). People who still hold fast to traditions or have a different understanding of talaq can face challenges in aligning with the formal provisions of KHI (Harmanto, 2021).

Polygamy

The KHI restricts the practice of polygamy with strict conditions, such as the consent of the first wife and the husband's ability to act fairly (Fadila et al., 2024). However, in social reality, polygamy often persists without meeting all the requirements of the KHI, creating legal and social problems, especially for the second wife or children of polygamous marriages (Fathurrahman et al., 2024). Case studies related to the Supreme Court's ruling on inheritance distribution in polygamy show the complexity of this issue, where socio-economic dynamics affect compliance (Dozan, 2020). In addition, the perspective of the second wife highlights the social and economic implications in Pekanbaru, where polygamy is often practiced in secret. (Akbar, 2019).

Heirs

KHI adheres to the faraid inheritance system with several local adaptations. However, in society, it is often found that the practice of distributing inheritance by family or deliberation is not fully in accordance with the provisions of the KHI, especially to avoid conflicts or due to customary considerations (Soleman et al., 2022). This shows that there is a tension between positive law and social practice that is still ongoing, with ongoing pros and cons (Tarmizi, 2024).

The tension between the KHI legal text and social realities arises due to several fundamental factors. As a codification product, KHI has a relatively rigid normative character so that it is less responsive to dynamic social changes,

including the strengthening of demands for gender equality and the protection of children's rights. In addition, the Indonesian Muslim community has a diverse understanding of Islamic law, which is not always in line with the interpretation adopted in the KHI. This difference of understanding often triggers non-compliance with formal provisions or encourages the search for alternatives outside the official legal mechanism. Another factor that has strengthened these tensions is the influence of local customs and culture which is still very strong in various regions. In practice, customary values often interact, even clash, with the provisions of the KHI, especially in the field of marriage and inheritance. This condition shows that the application of codified Islamic law cannot be separated from the social and cultural context of the society that surrounds it

The dynamics of social change and problems that continue to develop demand legal certainty, so KHI must be able to accommodate new issues that arise due to the development of the times. These tensions often involve the issue of polygamy and inheritance which are influenced by economic-social factors (La Harisi & Abdullah, 2024).

METHODOLOGY

This study uses a qualitative approach with normative-sociological methods. The normative approach is used to examine the Compilation of Islamic Law as a positive legal product, focusing on the structure of norms, legal principles, and the philosophical foundations behind it. The normative analysis was carried out through a study of Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law, related laws and regulations, and relevant religious court decisions (Ma'mun, 2019; Rahardjo, 2006).

Meanwhile, a sociological approach is used to understand how KHI norms are implemented and responded to in the social practices of the Indonesian Muslim community. This approach places law as a social phenomenon that does not stand alone, but rather interacts with cultural values, customs, social structures, and the development of religious thought.

The source of research data consists of primary and secondary legal materials. Primary legal materials include the official text of the KHI and religious court decisions related to marriage, polygamy, talaq, and inheritance cases. Secondary legal materials include scientific literature in the form of books, journal articles, results of previous research, as well as academic views on the codification of Islamic law and the transformation of family law in Indonesia.

Data analysis techniques are carried out descriptively-analytically and interpretively. Normative data are analyzed to identify the codifying character of KHI, while sociological data are used to read the gap between legal norms and social practices. This approach allows the author to gain a comprehensive understanding of the role of KHI as an instrument of Islamic law transformation as well as its limitations in responding to evolving social dynamics.

RESULTS AND DISCUSSION

KHI as a Product of Codification of Islamic Law in the National Legal System

The Compilation of Islamic Law (KHI) was born in response to the need

for uniform and definitive Islamic law guidelines in the religious justice environment. Prior to the enactment of the KHI, religious judges referred to various jurisprudence books with diverse school backgrounds, thus opening up space for differences in interpretation and disparity in decisions. This condition not only creates legal uncertainty, but also has the potential to weaken public trust in religious justice institutions.

Through KHI, the state seeks to simplify and unify references to Islamic law into one written document that is systematic, structured, and easily accessible. The preparation process is carried out by studying various classical fiqh books and the views of scholars from various schools, which are then formulated in positive legal language to be in harmony with the national legal system. Thus, the KHI serves not only as a technical guideline for judges, but also as an instrument of integration of Islamic law into the framework of the modern state of law.

The structure of the KHI, which covers the areas of marriage, inheritance, and waqf, shows its main focus on Islamic family law, which is the legal realm closest to the daily life of the Muslim community. This choice reflects the awareness that family law is the most real meeting point between religious norms, state interests, and social dynamics of society.

Dynamics of KHI Implementation in Social Practice

Although KHI is designed to create legal certainty and uniformity, its implementation in social practice does not always run linearly with written norms. In the aspect of talaq, for example, KHI has emphasized that divorce can only be carried out through religious courts with certain procedures. However, in practice, divorces are still found that are carried out informally or practices that do not provide optimal protection for women's post-divorce rights, such as iddah maintenance, mut'ah, and childcare rights. This shows the gap between the normative goals of KHI and the social realities influenced by patriarchal culture and diverse religious understandings.

In the context of polygamy, KHI sets strict requirements, such as the consent of the first wife and the husband's ability to act fairly, as a form of protection for justice and family welfare. However, social reality shows that the practice of polygamy is often carried out without fulfilling all of these provisions, either through serial marriage or manipulation of administrative procedures. This condition raises complex legal and social problems, especially for women and children, while also showing the limitations of the reach of positive laws when dealing with entrenched social practices.

Meanwhile, in the field of inheritance, even though KHI adheres to the faraid system, the practice of distributing inheritance through deliberation is still widely carried out by the community. This practice is generally chosen to maintain family harmony and avoid conflict, although it is not entirely in accordance with the normative provisions of the KHI. This phenomenon shows that Islamic law that lives in society is not always identical to Islamic law codified by the state.

The Role of KHI in Shaping Community Legal Awareness and Literacy

Despite these implementation challenges, KHI has played an important role in shaping the legal awareness of the Muslim community in Indonesia. As a codification, KHI has simplified and synthesized the provisions of Islamic family law that were previously spread in various jurisprudence, so that it is easier to understand by the general public. The clarity of norms in KHI helps people recognize their rights and obligations in the context of marriage, inheritance, and waqf.

The existence of KHI as an official guideline for religious courts also indirectly educates the public about the applicable legal procedures and encourages dispute resolution through formal legal channels. This contributes to increasing legal literacy and strengthening the legal culture among Muslim communities. Thus, KHI not only functions as a normative instrument, but also as a means of social transformation that supports the development of national law.

Adaptation of Sharia Maqashid Values in KHI

From the perspective of sharia maqashid, KHI contains the spirit of protection of the main goals of sharia, namely the protection of religion, soul, intellect, descendants, and property. In the context of marriage, the emphasis on marriage registration can be understood as an effort to protect offspring and property, as well as provide legal certainty for husbands, wives, and children. The strict requirements in polygamy also reflect efforts to maintain justice and family integrity.

In the field of inheritance, KHI seeks to provide certainty of rights to heritage property to prevent conflicts and injustice among heirs. The adaptation of these maqashid values shows that KHI does not solely adhere to the literal text of fiqh, but also seeks to translate the purpose of Islamic law into the Indonesian social context. However, the application of sharia maqashid in KHI still needs to be strengthened through a more contextual and inclusive interpretation in order to be able to respond to contemporary issues, especially those related to child protection and gender justice.

Criticisms and Opportunities for Future KHI Renewal

Although it has made significant contributions, KHI has not been separated from various criticisms. One of the main criticisms is the rigidity of a number of articles that are considered less flexible in responding to dynamic social changes. The issue of gender equality and children's rights is in the main spotlight, especially because some provisions are still seen as reproducing patriarchal power relations and limiting the space for substantive justice for women.

In addition, KHI tends to adopt certain interpretations of classical jurisprudence, thus underrepresenting the diversity of views in the Islamic legal tradition. Rapid social changes due to globalization, technological advances, and lifestyle changes have also given birth to new legal problems that have not been fully accommodated in KHI, such as the digitization of assets or increasingly

diverse family configurations.

Therefore, the opportunity for KHI revision in the future becomes very relevant and urgent. KHI reform needs to be carried out in a participatory manner by involving scholars, academics, legal practitioners, and civil society. The revision can be directed at the reinterpretation of critical articles with a more progressive and inclusive approach, harmonization with more up-to-date national laws and regulations, and strengthening the perspective of maqashid sharia. Through careful and responsive updates, KHI can continue to function as an instrument for the transformation of Islamic law that is relevant, fair, and in line with the dynamics of Indonesia's Muslim community.

CONCLUSION AND RECOMMENDATION

The Compilation of Islamic Law (KHI) in Indonesia has succeeded in filling the legal void and providing certainty and uniformity in the application of Islamic family law in the religious justice environment. As a codification product, KHI represents an important effort to integrate Islamic legal values into the national legal system, while also playing a role in shaping people's legal awareness. However, this study also highlights the tension between the KHI legal text, which tends to be rigid, and the social dynamics of the plural and ever-growing Muslim community. Case studies on the issues of talaq, polygamy, and inheritance show that social realities often run beyond the formal boundaries of KHI, posing challenges in responding to change, especially related to issues of gender equality and children's rights. Although KHI has tried to adapt the sharia maqashid, its rigidity is a point of criticism that requires attention. This conclusion is supported by an analysis of the latest Islamic legal transformation.

In order to maintain the relevance and fairness of Islamic law within the framework of the modern state of law, it is recommended that the reform of the KHI be inclusive and progressive. This reform must be carried out through a participatory process involving various elements of society, ranging from scholars, academics, legal practitioners, to civil society organizations. The focus of the reform should include the Reinterpretation of Critical Articles, the review and reinterpretation of articles that are considered rigid or unresponsive to contemporary issues, especially those related to the rights of women and children, taking into account a more inclusive perspective and gender justice, including the urgency of child protection in the sharia maqashid.

Align KHI with other relevant national positive legal developments, such as the Child Protection Act or the Domestic Violence Elimination Act. Accommodation of Social Dynamics, Seeking legal formulations that are more flexible and adaptive to social change, without ignoring the basic principles of sharia, in order to accommodate new legal problems that arise. Thus, KHI can continue to transform into a legal guideline that not only has formal certainty, but also substantive justice that is in line with the dynamics and benefits of Muslims in Indonesia. This recommendation is in line with criticism of the discourse on gender equality.

FURTHER STUDY

Future research is recommended to examine the practical implications of reforming the Compilation of Islamic Law (KHI) through empirical studies of judicial decisions, community practices, and legal awareness among Muslim families in Indonesia. Further studies could explore comparative perspectives by analyzing how other Muslim-majority countries reconcile codified Islamic family law with contemporary issues such as gender equality, child protection, and human rights. In addition, interdisciplinary research involving Islamic jurisprudence, sociology, and gender studies is needed to assess how progressive interpretations of *maqāṣid al-sharī'ah* can be systematically integrated into national legal reform. Such research would contribute to the development of a more adaptive, inclusive, and substantively just framework of Islamic family law that responds effectively to evolving social realities in Indonesia.

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