

STATE HEGEMONY AND THE PRODUCTION OF LEGAL CONSENSUS: THE MAKING OF INDONESIA'S COMPILATION OF ISLAMIC LAW

Ahmad Faisal, Rita Defriza, Khairul Bahri Nasution, and
Kusor

Sekolah Tinggi Agama Islam Negeri Mandailing Natal, Mandailing
Natal, Indonesia

Corresponding author: Ahmad Faisal, email: ahmadfaisal@stain-madina.ac.id

Article history: Received: June 03, 2026 | Revised: September 30, 2026 | Available
online: October 03, 2026

How to cite this article: Faisal, Ahmad, Rita Defriza, Khairul Bahri Nasution, and
Kusor. "State Hegemony and the Production of Legal Consensus: The Making of
Indonesia's Compilation of Islamic Law." *Islamica: Jurnal Studi Keislaman* 21, no. 1
(2026): 58-84. DOI: [10.15642/islamica.2026.21.1.58-84](https://doi.org/10.15642/islamica.2026.21.1.58-84)

Abstract: This article analyzes how state hegemony operated in the unification of Islamic law in Indonesia through the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*). Using legal-historical research with a legal-political approach, it reads the legal instruments of the KHI together with the documents and published accounts of the compilation project (1985-1991) through Antonio Gramsci's theory of hegemony. The findings show that the KHI was not merely an administrative response to the absence of uniform substantive law in the Religious Courts. It was a hegemonic project in which the New Order state organized the production of religious consent, through the four-track compilation project, the 1988 national workshop of ulema, and the mediation of jurist-bureaucrats such as Busthanul Arifin, so that state-selected *fiqh* opinions came to be accepted as Indonesian Islamic law. This consent was negotiated and uneven rather than total, as the debates over inheritance and the persistence of unregistered marriages show. The article contributes the concept of "frozen hegemony" to explain how the consensus of 1985-1991 was fixed in a text of ambiguous legal status that remains insulated from both judicial *ijtihad* and parliamentary contestation.

Keywords: State Hegemony; Unification; Compilation of Islamic Law; Legal Policy; Frozen Hegemony.

Copyright: © 2026. The Author(s).

Islamica: Jurnal Studi Keislaman is licensed
under a Creative Commons Attribution- NonCommercial 4.0 International License

Introduction

The history of the development of Islamic civil law in Indonesia reflects the struggle for identity between religious law, customary law, and national law. After independence, legal dualism created legal uncertainty for Muslims, who were often caught between local traditions and religious doctrine. The culmination of these unification efforts manifested in the creation of the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) through Presidential Instruction No. 1 of 1991 on the Dissemination of the Compilation of Islamic Law. Epistemologically, the KHI represents an effort to codify Islamic law and provide a more uniform substantive reference for the Religious Courts, while simultaneously ending the disparity in judicial rulings that previously relied on a wide variety of classical Islamic texts.¹

However, the creation of the KHI cannot be separated from the political design of the New Order, which sought to accommodate Muslims within the framework of national stability. During that period, the relationship between the government and Muslims shifted from an antagonistic to an accommodative pattern.² This middle ground strategy was adopted to minimize political resistance while ensuring that the applicable Islamic law did not conflict with the state's development vision. This underscores that the KHI is a product of the dominant political configuration aimed at creating legal uniformity (unification) under executive authority.³

The incisive analysis of state hegemony in the KHI is particularly relevant today due to the tension between the static text of the KHI and dynamic social realities. The state-sponsored codification of Islamic law may narrow the scope within which judicial *ijtihad* is exercised in the Religious Courts. Islamic law, which is traditionally flexible through the avenue of *ijtihad*, tends to become rigid when compiled into formal legislation. This hegemony is clearly evident in the reconceptualization of legal concepts such as

¹ Fina Wildaniyah and Ahmad Muktafi, "Kebutuhan akan adanya Kompilasi Hukum Islam bagi Peradilan Agama sudah lama," *Jurnal Kajian Hukum Keluarga Islam* 7, no. 2 (2025): 49-58.

² Mochammad Muslim, "Pengaruh Konfigurasi Politik Hukum Orde Baru Terhadap Kompilasi Hukum Islam (KHI) di Indonesia," *al-Daulah* 4, no. April (2014).

³ Wildaniyah and Muktafi, "Kebutuhan akan adanya Kompilasi."

substitute heirs (*plaatsvervulling*) and joint property (*gono-gini*). Regarding substitute heirs (*plaatsvervulling*), although this concept is rooted in the spirit of justice resolving inheritance issues and preventing disputes,⁴ its application remains under strict state administrative control. Furthermore, the regulation of joint property in the KHI, which recognizes joint ownership between husband and wife in the context of balancing rights and obligations and providing fair economic protection, remains constrained by formal state regulations.⁵

Existing scholarship on the KHI can be grouped into four lines of interpretation. The first treats it as a project of legal unification that responded to the plurality of *fiqh* references in the Religious Courts and explains it mainly in terms of legal certainty and the standardization of judicial decisions.⁶ The second reads it as political accommodation: the New Order's concession to Muslims after two decades of marginalization, part of what Bahtiar Effendy calls the state's legislative accommodation of Islam.⁷ The third understands it as the Indonesianization of Islamic law, a contextual *ijtihad* through which Indonesian ulema adapted *fiqh* to national conditions and laid the foundations of a national school of Islamic law.⁸ The fourth, more critical line sees it as a "state madhhab" (*fiqh madzhab negara*) through which the state imposed a single in-

⁴ Tauratiya and Ekaningsih Lailasari, "Plaatsvervulling dalam Hukum Waris Indonesia: Mengungkap Kedudukan Ahli Waris Pengganti," *Islamitsch Familierecht Journal* 5, no. 2 (2024): 105-26.

⁵ Muhammad Nurafni Junianto and Dwi Naili Hidayah, "Perbandingan Pengaturan Ahli Waris Pengganti dan Harta Gono Gini dalam Hukum Islam dan Perdata di Indonesia," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 1322-32.

⁶ Abdurrahman, *Kompilasi Hukum Islam di Indonesia* (Jakarta: Akademika Pressindo, 1992); Hikmatullah, "Selayang Pandang Sejarah Penyusunan Kompilasi Hukum Islam Di Indonesia," *Jurnal AJUDIKASI* 1, no. 2 (2017): 39-52.

⁷ Bahtiar Effendy, *Islam and The State In Indonesia* (Singapore: Institute of Southeast Asian Studies, 2003); Muslim, "Pengaruh Konfigurasi Politik Hukum"; Mark Cammack, "Islamic Law in Indonesia's New Order," *International and Comparative Law Quarterly* 38, no. 1 (1989): 53-73.

⁸ Mark Cammack, "Indonesia's 1989 Religious Judicature Act: Islamization of Indonesia or Indonesianization of Islam?," *Indonesia* 63 (1997): 143-68; M. B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: Institute of Southeast Asian Studies, 2008); Andi Herawati, "Kompilasi Hukum Islam (KHI) Sebagai Hasil Ijtihad Ulama Indonesia," *Hunafa: Jurnal Studia Islamika* 8, no. 2 (2011): 321-40.

terpretation on a plural tradition,⁹ while studies of judicial practice show how judges actually use, and sometimes bypass, its provisions.¹⁰

These studies explain either why the state wanted the KHI (legal certainty, political support) or what the Compilation did to *fiqh* (selection, adaptation, homogenization). What remains unresolved is how norms authored under state sponsorship acquired religious authority among ulema, judges, and Muslim communities, and why the settlement reached between 1985 and 1991 has proved so durable. The accommodation thesis assumes that the state gave and Muslims received; the Indonesianization thesis assumes that the ulema authored the text; and the state-madhab critique assumes that the state imposed it. None of them examines in detail the process through which consent was produced, negotiated, and then fixed.

This article addresses that problem by using Antonio Gramsci's theory of hegemony not as a label but as a tool for identifying mechanisms. From Gramsci's perspective, a ruling group maintains power by exercising moral and intellectual leadership that creates consent.¹¹ Applied to the KHI, this perspective yields two insights that earlier studies do not offer. Historically, it shows that the state's decisive contribution was not the selection of *fiqh* opinions as such but the design of the procedure through which religious legitimacy was produced—the Supreme Court-Ministry of Religious Affairs project, its four research tracks, and the 1988 national workshop of ulema—so that consent was built into the making of the text. Conceptually, it proposes the notion of “frozen hegemony” to explain why this consent, once achieved, was fixed in a text of ambiguous legal status that has since been shielded from both judicial *ijtihad* and legislative contestation. The KHI is thus read neither simply as a product of the ulema nor simply as an instrument of the executive, but as a strategy for the Indonesianization of Islamic law with its own political character, aimed at cre-

⁹ Marzuki Wahid and Rumadi, *Fiqh Madzhab Negara: Kritik atas Politik Hukum Islam di Indonesia* (Yogyakarta: LKiS, 2001).

¹⁰ Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam: Amsterdam University Press, 2010).

¹¹ Zezen Zaenudin Ali, “Pemikiran Hegemoni Antonio Gramsci (1891-1937) di Italia,” *YAQZHAN* 3, no. 2 (2017): 63-81.

ating a more accommodative relationship between the Muslim community and political power.¹²

This study is legal-historical research with a legal-political (*politik hukum*) approach. It is legal because its object is a body of legal norms—the KHI and the statutes surrounding it—and historical because it treats those norms as the outcome of a process that must be reconstructed from dated documentary evidence. It therefore differs from purely normative (doctrinal) legal research, which evaluates the internal coherence of norms; here, legal texts are read as historical sources that record choices, compromises, and exclusions.¹³ Three approaches are combined: a historical approach, used to reconstruct the formation of the KHI from the 1985 joint decree that launched the compilation project to the issuance of Presidential Instruction No. 1 of 1991; a legal-political approach, used to analyze the direction of state policy in unifying Islamic law and how the interests of those in power shaped its content and legal form; and a theoretical approach, which uses Gramsci’s theory of hegemony to identify the mechanisms through which consent was produced among the state, the ulema, and society.

The primary sources consist of two groups. The first comprises legal instruments: Presidential Instruction No. 1 of 1991 on the Dissemination of the Compilation of Islamic Law, Minister of Religious Affairs Decree No. 154 of 1991, Law No. 7 of 1989 on Religious Courts, Law No. 1 of 1974 on Marriage, and Government Regulation No. 9 of 1975. The second comprises documents of the compilation project itself: the 1985 joint decree of the Chief Justice and the Minister of Religious Affairs that established the project;¹⁴ the official edition of the Compilation published by the Directorate for the Development of Islamic Religious Courts, which contains the project’s formulation and explanatory materi-

¹² Muslim, “Pengaruh Konfigurasi Politik Hukum.”

¹³ Muhammad Rudi Syahputra, “Metodologi Penelitian Hukum dalam Menyelesaikan Problematika Hukum Kontemporer,” *Jurisprudensi: Jurnal Ilmu Hukum* 1, no. 2 (2024): 89-106.

¹⁴ Joint Decree of the Chief Justice of the Supreme Court and the Minister of Religious Affairs No. 07/KMA/1985 and No. 25 of 1985 on the Appointment of the Implementation of the Project for the Development of Islamic Law through Jurisprudence, 21 March 1985.

als;¹⁵ the results of the national workshop of ulema held in Jakarta on 2-5 February 1988, as documented by Abdurrahman;¹⁶ and contemporary writings by the project's principal architect, Busthanul Arifin, and by the Minister of Religious Affairs, Munawir Sjadzali.¹⁷ Secondary sources include scholarly monographs, reputable journal articles, and previous research on Islamic law and politics in Indonesia, while legal dictionaries were used to clarify technical terminology.

Data were collected through library and documentary research and analyzed qualitatively in three steps. First, the chronology of the compilation project was reconstructed from the project documents. Second, selected provisions of the Compilation—on marriage registration, joint property, substitute heirs, and inheritance shares—were compared with the dominant positions of classical *fiqh* in order to identify where the state selected, modified, or added norms. Third, the resulting patterns were interpreted through the Gramscian categories set out below. Because most project documents were produced or published by the state and its officials, they are read critically: they are treated as evidence of how the state sought to present the compilation as a consensus, not as neutral proof that consent existed. The study relies on published documentation of the project rather than on unpublished archival records of the Supreme Court or the Ministry of Religious Affairs, and this limitation is acknowledged in the conclusion.

The Making of the KHI: A Gramscian Reading

This study employs the theory of hegemony developed by Antonio Gramsci (1891-1937), a philosopher, political theorist, and founder of the Italian Communist Party who wrote extensively about his ideas while imprisoned by Benito Mussolini's fascist regime. Through his monumental work *Prison Notebooks*, Gramsci developed the concept of hegemony to explain how a ruling group

¹⁵ Direktorat Pembinaan Badan Peradilan Agama Islam, *Kompilasi Hukum Islam di Indonesia* (Jakarta: Departemen Agama RI, 1992).

¹⁶ Abdurrahman, *Kompilasi Hukum Islam di Indonesia*.

¹⁷ Busthanul Arifin, *Pelebagaan Hukum Islam di Indonesia: Akar Sejarah, Hambatan dan Prospeknya* (Jakarta: Gema Insani Press, 1996); Munawir Sjadzali, "Reaktualisasi Ajaran Islam," in *Polemik Reaktualisasi Ajaran Islam*, ed. Iqbal Abdurrauf Saimima (Jakarta: Pustaka Panjimas, 1988).

maintains its power not only through political domination and violence, but primarily through moral, intellectual, and cultural leadership that gains the consent of society. According to Gramsci, hegemony is the ability of the dominant group to make its values, ideologies, and interests accepted as normal by the dominated group.¹⁸ Therefore, hegemony operates through civil society institutions such as education, religion, the media, and the law, which serve to build social consensus.

In the context of this study, Gramsci's theory of hegemony is used to analyze the power relations between the state and the Muslim community in the drafting of the KHI. Gramsci defines hegemony not as physical domination through coercion, but rather as moral and intellectual leadership achieved through consensus or agreement and the approval of those being governed.¹⁹ This Gramscian approach can be used to understand how Islamic legal values, which stem from a specific belief system, were successfully institutionalized into a national legal product in the form of the KHI. This was not merely due to the aspirations of the majority, but also because of the existence of a hegemonic mechanism operating systematically. This mechanism involves the roles of the state, political elites, religious institutions, and mutually supportive social networks to produce a legal structure that appears natural, when in fact it is the result of a complex ideological construction.²⁰

There are three key elements in Gramsci's theory that will be used to analyze the emergence of the KHI, namely: first, institutional integration between civil society and political society. Gramsci distinguishes between political society as a dominant power that relies on state apparatus operating through repressive instruments and civil society as the arena where hegemony operates through ideological instruments such as religion and education using a persuasive approach.²¹ Hegemony can be achieved when civil society, as the dominated group, accepts the ideas dictated by political so-

¹⁸ Antonio Gramsci, *Selections from the Prison Notebooks* (New York: International Publishers, 1992).

¹⁹ Suhardi, "Bentuk-Bentuk Counter Hegemoni Media Era Internet," *Journal Media Public Relations* 4, no. 2 (2024): 23-30.

²⁰ Rizky Al Ikhsan, Saiful Amin, and Khairul Fahmi, "Hegemoni Hukum Islam dalam Legislasi KUHP: Analisis Gramscian Atas Undang-Undang No.1 Tahun 2023," *Al-Mubkam* 1, no. 1 (2025): 54-66.

²¹ Ikhsan, Amin, and Fahmi, "Hegemoni Hukum Islam."

ciety as the dominant group as something natural that is moral, intellectual, and cultural in nature.²² The application of the integration of civil society and political society in the drafting of the KHI is evident in the involvement of scholars and judges through the channel of jurisprudence. This is the state's way of embracing civil society so that this unification is not viewed as secular intervention, but rather as the state's effort to uphold Islamic law.

Second, the role of organic intellectuals. In Gramsci's theory, the success of a political project depends not only on coercion but also on consent, and intellectuals are the agents who organize that consent. Gramsci distinguishes traditional intellectuals—such as the clergy—who present themselves as autonomous from any social group and derive their authority from continuity with an older tradition, from organic intellectuals, who emerge with a particular social group or project and give it homogeneity and an awareness of its own function.²³ Organic intellectuals instill ideas and disseminate them within society on behalf of the leading group, actively participating in the formation of the desired society;²⁴ they ground ideology in others and carry out intellectual and moral reform.²⁵ Participation in a state project does not in itself make someone an organic intellectual in this sense. In this study, an actor is treated as performing an organic-intellectual function only when three conditions can be shown: the actor was institutionally located within the state's project; the actor translated the project's goals into the idiom of the group whose consent was sought—here, the language of *fiqh*; and the actor worked to win over or absorb the traditional intellectuals of that group. These criteria are applied below to Busthanul Arifin and to the ulema who took part in the compilation, who, as will be shown, occupied different positions in the hegemonic process.

Third, consensus through unification (law as an instrument of hegemony). In relation to legal entities, Gramsci explains that the law can serve as a tool for the state to educate its citizens, so that

²² Nur Jannah, "Realitas Pesantren dan Kebijakan Pendidikan Islam dalam Perspektif Hegemoni Antonio Gramsci," *Journal of Islamic Education Research* 1, no. 01 (2019): 1-21.

²³ Gramsci, *Selections from the Prison Notebooks*, 5-8.

²⁴ Jannah, "Realitas Pesantren dan Kebijakan."

²⁵ Sapriya et al., "Penguatan Komitmen Akademik dalam Memperkokoh Jatidiri PKn," *Prosiding Seminar Nasional*, 2015.

the state can work toward realizing certain desired living conditions. “Educating” here means that the law guides society following what is considered legal and recognized by the state. In a nearly identical statement, it is said that the state also uses the law as a tool to tame and/or simultaneously inspire individuals within a legal system. In this case, the authorities hold a monopoly on the formation of legal norms to influence behavior and even alter existing social structures in society.²⁶

Laws create uniformity in behavior and ways of thinking. Through unification, the state narrows the range of interpretations formally available within the Religious Courts. By consolidating thousands of *fiqh* texts into the 229 articles of the KHI, the state standardizes interpretations. This can be understood as a form of hegemony in which the state narrows the range of interpretations formally recognized within the judicial system. The state does not ban Islamic law, but it directs which aspects of Islamic law are permissible and formally applicable through the state judicial system.

Based on the above theory, the line of reasoning for this research can be formulated as follows: first, pre hegemonic period, during which the pluralism of Islamic civil law was viewed by the state as disorder that threatened national stability. Second, the process of hegemony, in which the state (political society) collaborated with ulema (civil society) to compile the KHI. Here, a process of negotiation and consensus-building took place.

The outcome of hegemony is the creation of the KHI as a form of legal unification and the subsequent fixation of the consensus behind it—what this article calls “frozen hegemony”—in which judicial *ijtihad* and legal reform are constrained by a text produced through a state-organized consensus.

New Order Politics and Islamic Legal Consensus

The creation of the KHI through Presidential Instruction No. 1 of 1991 on the Dissemination of the Compilation of Islamic Law cannot be separated from the shift in the state’s political strategy

²⁶ Ricca Anggraeni and Endra Wijaya, “Pengantar mengenai Hegemoni dan Hukum: Menyoal Kembali Bekerjanya Hukum di Masyarakat,” *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 4 (2019): 494-511.

toward Muslims toward the end of the New Order era. During the first two decades of its rule, the New Order regime was an authoritarian government that adopted a conservative policy. The New Order government tended to be at odds with the Muslim community and portrayed Islam as an extremist and separatist group that posed a potential threat to national stability. Consequently, Islam faced marginalization as Islamic ethics were disregarded in government policies, such as issues regarding gambling, the hijab, and social welfare funds with prizes, as well as other issues prone to sparking conflict.²⁷ New Order policies also targeted religious organizations through depoliticization, the standardization of the Pancasila ideology, and restrictions on Islam-based political organizations.²⁸

By the 1990s, the state's policy toward Islam had undergone a significant shift. This shift has been interpreted by scholars as part of the government's broader effort to accommodate Islamic groups and strengthen political support. The state realized that political stability could not be maintained solely through coercive approaches. In this context, the government began to embrace moderate Islamic groups and Muslim intellectuals who were relatively cooperative with the state.²⁹ In the legislative sphere, the government engaged the Muslim community by recognizing religious aspirations institutionalized within the national legal framework. In this context, the KHI emerged as a form of institutionalization of Islamic family law integrated into the state's legal system a process Bahtiar Effendy, in his book *Islam and the State in Indonesia*, refers to as legislative accommodation. Its emergence marked a significant shift from a conflictual relationship toward an accommodative one between the state and Islamic groups.³⁰

Many tend to view this phenomenon in the context of Suharto's personal interests. All of these efforts are seen merely as Suharto's political projects, designed primarily to garner political support from Muslims. More specifically, there are at least two key

²⁷ Wildaniyah and Muktafi, "Kebutuhan akan adanya Kompilasi."

²⁸ M. Ali Haidar and Arif Hidayatullah, "Depolitisasi Nahdlatul Ulama 1968-1983," *AVATAR: e-Journal Pendidikan Sejarah* 2, no. 3 (2014): 517-25.

²⁹ M. Sa Alfanny, Achmad Zuhdi Dh, and Ferhadz A. Muhammad, "Persepsi Politik Islam dan Islam Politik: Genealogi dan Perkembangan Islam di Era Orde Baru," *Journal of Politics and Policy (JPPOL)* 7, no. 1 (2025): 60-77.

³⁰ Effendy, *Islam and The State*.

arguments supporting this perspective: first, this was a period during which initiatives to adopt a conciliatory approach emerged one after another over a five-year span (1988–1993) a period marked by growing concerns about succession. Therefore, given the President's interest in running for president in the 1993 General Election (despite his earlier statement that his appointment as President in 1988 would be his last), these steps can easily be viewed as a deliberate effort to seek Muslim political support. Moreover, the fact that in September 1989 and May 1992, a number of prominent Muslim figures and Islamic social religious organizations, led by Alamsyah Ratu Perwiranegara (former presidential aide, Minister of Religious Affairs, and Coordinating Minister for Political and Security Affairs), voiced strong support for the continuation of Suharto's leadership. Second, perhaps the most important factor was the perception that Suharto's grip on the military the backbone of the New Order regime was weakening.

The institutional path of the Compilation shows how this political opening was translated into a legal project. On 21 March 1985, before Law No. 7 of 1989 had been enacted, the Chief Justice of the Supreme Court and the Minister of Religious Affairs issued a joint decree appointing a team to carry out the Project for the Development of Islamic Law through Jurisprudence.³¹ The project thus originated not in parliament or in Muslim organizations but in a partnership between the judiciary and the executive, and its leadership was held by Supreme Court justices—among them Bushthanul Arifin and Masrani Basran—together with officials of the Ministry of Religious Affairs.³²

The project was organized along four tracks: a review of thirty-eight classical *fiqh* works distributed among seven State Institutes of Islamic Studies (IAIN); interviews with ulema in ten regional centers; a study of the jurisprudence of the Religious Courts; and a comparative study of Islamic family law in Morocco, Turkey, and Egypt.³³ Its results were brought to a national work-

³¹ Joint Decree of the Chief Justice of the Supreme Court and the Minister of Religious Affairs No. 07/KMA/1985 and No. 25 of 1985 on the Appointment of the Implementation of the Project for the Development of Islamic Law through Jurisprudence, 21 March 1985.

³² Arifin, *Pelebagaan Hukum Islam di Indonesia*.

³³ Direktorat Pembinaan Badan Peradilan Agama Islam, *Kompilasi Hukum Islam di Indonesia*; Abdurrahman, *Kompilasi Hukum Islam di Indonesia*.

shop (*lokakarya*) of ulema held in Jakarta on 2-5 February 1988, attended by ulema from the provinces, representatives of Islamic mass organizations, academics, and judges, which accepted the draft as the material of the compilation.³⁴ Only after Law No. 7 of 1989 gave the Religious Courts jurisdiction over marriage, inheritance, bequests, gifts, and waqf was the draft issued through Presidential Instruction No. 1 of 1991 and implemented through Minister of Religious Affairs Decree No. 154 of 1991.³⁵

This sequence matters for the analysis of hegemony. Each stage—scholarly review, consultation with ulema, judicial practice, comparison with other Muslim countries, and plenary approval—generated a distinct form of authority, and together they allowed the final text to be presented as the product of an Indonesian consensus of ulema rather than as a government regulation. The state did not merely select *fiqh* opinions; it designed the procedure through which that selection would be recognized as religiously authoritative.

The Domestication and Standardization of Islamic Law

When viewed from the perspective of its drafting process, the KHI can be categorized as the *ijtihad* of Indonesian scholars. Its drafting involved scholars from various backgrounds (Islamic universities, Islamic boarding schools, Islamic mass organizations, and legal practitioners) who represent Indonesian scholars, and the result has received their approval. Furthermore, when viewed from the perspective of its content, which differs in many ways from traditional *fiqh* texts, the KHI can be categorized as Indonesian *fiqh*.³⁶

One of the fundamental issues in the practice of the Religious Courts before 1991 was the absence of standardized substantive

³⁴ Abdurrahman, *Kompilasi Hukum Islam di Indonesia*.

³⁵ Presidential Instruction No. 1 of 1991 on the Dissemination of the Compilation of Islamic Law, 10 June 1991; Minister of Religious Affairs Decree No. 154 of 1991 on the Implementation of Presidential Instruction No. 1 of 1991, 22 July 1991.

³⁶ Hendrayani et al., “Kompilasi Hukum Islam (KHI): Sejarah Penyusunan, Dasar dan Eksistensinya dalam Tata Urutan Perundang-Undangan Ditinjau dari Politik Hukum Indonesia,” *Journal Scientific of Mandalika (JSM)* 6, no. 3 (2025): 678-684.

law. Judges had broad discretion in determining the legal basis of their rulings by referring to classical *fiqh* texts (*kitab kuning*) from diverse schools of thought; even the 1958 circular of the Religious Courts Bureau only recommended thirteen works without making any of them binding.³⁷ This reflected a strong pluralism of Islamic law within judicial practice.³⁸ While this plurality reflected the richness of the Islamic scholarly tradition, it also led to disparities in rulings: differences in the *fiqh* texts cited meant that similar cases could be decided differently. The state viewed this situation as a form of legal uncertainty that could disrupt social stability and the effectiveness of the Religious Courts, and this need for legal certainty became one of the key motivations for creating the KHI as a substantive legal guide for those courts.

The KHI was drafted as an official guideline to harmonize Islamic family law with the national legal system. Thus, the KHI is not merely a compilation of religious norms, but also a legal unification project aimed at integrating Islamic legal practices into the framework of modern state administration. In this context, the state acts not only as a facilitator of the application of Islamic law but also as an actor that selects among various *fiqh* opinions.³⁹ This selection process results in a form of law that addresses the needs of Indonesian Muslims.⁴⁰ The side effects of this selection process are not insignificant. There is concern that the existence of the KHI will reduce the spirit of *ijtihad* among judges in adjudicating cases, thereby making the law static and prone to textualism.⁴¹

The content of the KHI shows a strong tendency to favor opinions that support administrative modernization, and marriage registration is the clearest example. In classical *fiqh*, the validity of a marriage depends on its pillars and conditions—the parties, a guardian, two witnesses, and the exchange of offer and ac-

³⁷ Circular Letter of the Religious Courts Bureau No. B/1/735 of 18 February 1958, which recommended thirteen *fiqh* works as references for the Religious Courts.

³⁸ Daniel S. Lev, *Islamic Courts in Indonesia: A Study in the Political Bases of Legal Institutions* (Berkeley: University of California Press, 1972).

³⁹ Muannif Ridwan, Abdul Bari Azed, and Sulaiman Saman, “Kompilasi Hukum Islam Ditinjau dari Perspektif Politik Hukum Indonesia,” *Al-Ahkam* 3, no. 1 (2021): 39-47.

⁴⁰ Hikmatullah, “Selayang Pandang Sejarah Penyusunan.”

⁴¹ Hendrayani et al., “Kompilasi Hukum Islam (KHI).”

ceptance—and registration is not among them. The Compilation does not directly contradict this position. Article 4 affirms that a marriage is valid if performed according to Islamic law, in line with Article 2(1) of Law No. 1 of 1974, while Article 5 requires every marriage to be registered so that “the order of marriage for the Muslim community is guaranteed,” and Article 6(2) states that a marriage conducted outside the supervision of a marriage registrar “has no legal force.”⁴² Registration is therefore not formally made a condition of religious validity; instead, the Compilation separates religious validity (*sah*) from legal force (*kekuatan hukum*) and makes the latter dependent on the state. The policy is justified by considerations of public welfare, including: (1) provides legal certainty for husbands, wives, and children; (2) facilitating the proof of marital status; (3) ensuring the protection of women’s and children’s rights; (4) providing an administrative database for the state.

A distinction must be drawn here between state regulation and hegemony. The fact that the state imposes a registration requirement is, in itself, regulation: a command backed by a sanction. It becomes hegemony only when the requirement is accepted by those subject to it as right and religiously meaningful, so that compliance no longer depends mainly on sanction. The sanction for failing to register has always been weak—Government Regulation No. 9 of 1975 provides only a modest fine⁴³—and the Compilation does not declare an unregistered marriage religiously void. The question, then, is how an administrative requirement acquired social and religious legitimacy.

The sources point to four mechanisms. First, *juridical separation*. By distinguishing religious validity from legal force (Articles 4-6), the Compilation avoided a direct confrontation with classical *fiqh*. Ulema could accept registration without conceding that the state had altered the conditions of a valid marriage, while the state gained control over the legal consequences of marriage. Second, *translation into the idiom of fiqh*. Registration was justified in the language of *maṣlaḥah mursalah* and *sadd al-dharī‘ah*, and by analogy with the Qur’anic command to record debts (al-Baqarah [2]: 282), so

⁴² Compilation of Islamic Law, Articles 4, 5(1), and 6(2); Law No. 1 of 1974 on Marriage, Article 2.

⁴³ Government Regulation No. 9 of 1975 on the Implementation of Law No. 1 of 1974 on Marriage, Article 45.

that it appeared as an application of Islamic legal reasoning rather than as a secular imposition. Third, *institutional incentives*. Article 7 makes the marriage certificate the only proof of marriage and provides for *ithbāt nikāḥ* (judicial confirmation) for marriages that were not registered. Because proof of marriage became necessary for birth certificates, inheritance claims, divorce, and access to state services, registration came to be experienced as a practical necessity rather than as an external command. Fourth, *endorsement by ulema*. The decisive step in the religious legitimization of registration was taken by ulema themselves. The 2006 Ijtima' Ulama of the MUI Fatwa Commission held that a marriage not registered with the state (*nikah di bawah tangan*) is valid if its pillars and conditions are fulfilled but becomes forbidden (*ḥarām*) if it causes harm, and it urged that marriages be registered.⁴⁴

These mechanisms show that consent to registration was produced gradually and through mediation, not simply by state intervention. The hegemony, however, remains incomplete. Unregistered (*siri*) marriages continue to be practiced, many *ithbāt nikāḥ* petitions reach the Religious Courts every year, and when the Constitutional Court in 2012 recognized the civil relationship between a child born outside a registered marriage and its biological father, the ruling provoked strong objections from the MUI.⁴⁵ Registration is thus widely accepted as useful and increasingly as religiously recommended, but not universally as a requirement of a proper Islamic marriage. This partial and contested acceptance is precisely what distinguishes hegemony from mere regulation: consent has to be continuously produced and negotiated rather than simply commanded.

Through the KHI, the state has thus contributed to a new legal consciousness among Indonesian Muslims in which marriage is understood not only as a religious event but also as an administrative legal event. From a hegemonic perspective, this marks the emergence of a new common sense—the belief that state recognition is a normal component of a proper marriage—produced

⁴⁴ Majelis Ulama Indonesia, Keputusan Ijtima' Ulama Komisi Fatwa se-Indonesia II (Gontor, Ponorogo, 2006), on marriages not registered with the state (*nikah di bawah tangan*).

⁴⁵ Constitutional Court Decision No. 46/PUU-VIII/2010, 17 February 2012; Majelis Ulama Indonesia, Fatwa No. 11 of 2012 on the Status of Children Born of Zina and Their Treatment.

through juridical design, religious translation, institutional incentives, and ulema endorsement rather than through coercion alone.

Organic Intellectuals in the Making of Islamic Law

In Antonio Gramsci's theory of hegemony, the success of a political project is determined not only by the state's coercive power, but also by its ability to build social consent through the role of organic intellectuals. Organic intellectuals serve to disseminate, rationalize, and legitimize the ruling ideology so that it is accepted as the common will.⁴⁶ In the context of the formation of the KHI, the state did not impose the unification of Islamic law repressively, but rather utilized a network of ulema, academics, and judges as actors who produced religious legitimacy for the state's legal policies.⁴⁷

The history of the Compilation allows the organic-intellectual function to be demonstrated rather than assumed, and it shows that the actors involved occupied different positions. Busthanul Arifin meets the three criteria set out above most clearly. First, he was institutionally located within the state project: as Junior Chief Justice of the Supreme Court for the Religious Courts, he was one of the initiators and leaders of the compilation project established by the 1985 joint decree. Second, he translated the state's agenda into the idiom of Islamic law. In his account, the plurality of kitab references in the Religious Courts was framed not as legitimate diversity but as a source of legal uncertainty that prevented Islamic law from being institutionalized (*dilembagakan*) in the national legal system; unification was thus presented as a condition for the dignity of Islamic law itself rather than as a demand of the state.⁴⁸ Third, the project he led was designed to bring traditional religious authority into the process, since the draft was to be tested against the classical texts and approved by ulema before it was issued. Supreme Court justices and Islamic law experts carried out this function through three strategies: translating the state's legal unification

⁴⁶ Jannah, "Realitas Pesantren dan Kebijakan."

⁴⁷ Nazila Naura Azqiana and Muhammad Jaidi, *Kompilasi Hukum Islam (KHI) Sebagai Wujud Adaptasi Hukum Islam dalam Sistem Hukum Nasional Indonesia*, 18, no. 2 (2025): 56-71.

⁴⁸ Arifin, *Pelembagaan Hukum Islam di Indonesia*.

agenda into religious law;⁴⁹ framing the Compilation as the result of the collective *ijtihad* of the ulema;⁵⁰ and employing legitimizing concepts such as *maṣlahah mursalah* and *tajdid* to provide a theological foundation for the compilation.⁵¹ Munawir Sjadzali, as Minister of Religious Affairs, performed a comparable function in public debate through his call for the “reactualization” of Islamic teachings, which sought to show that adapting *fiqh* to Indonesian conditions was itself an Islamic obligation.⁵²

The ulema who took part in the interviews and in the 1988 workshop occupied a different position. In Gramsci’s terms they are better understood as traditional intellectuals—bearers of an authority rooted in the pesantren and the classical texts that predate, and is formally independent of, the state. Their participation was not itself an organic-intellectual function but its object: the project sought their consent precisely because their authority was not the state’s. Their role was nonetheless active, and the workshop was also a site of negotiation whose limits are recorded in the final text. The clearest example concerns inheritance. Munawir Sjadzali’s suggestion, raised in the years before the workshop, that the two-to-one ratio between the shares of sons and daughters be reconsidered met strong opposition from ulema and was not adopted; the Compilation retained the classical ratio (Article 176) and instead allowed heirs to agree on a different distribution once each knows his or her share (Article 183).⁵³ Similarly, substitute heirs (Article 185) were accepted only on condition that the substitute’s share may not exceed that of an heir of the same degree, and adopted children were given an obligatory bequest (*waṣīyyah wājibah*, Article 209) rather than the status of heirs. These provisions show that the ulema’s consent was obtained through com-

⁴⁹ Lalu Sukrizal Watoni, “Kedudukan dan Penerapan Kompilasi Hukum Islam Sebagai Mazhab Fiqih di Indonesia,” *Jurnal Darussalam: Pemikiran Hukum Tata Negara dan Perbandingan Hukum* 5, no. 1 (2025): 132-46.

⁵⁰ Watoni, “Kedudukan dan Penerapan Kompilasi.”

⁵¹ R. Fakhruddin, “Rujuk dalam Kompilasi Hukum Islam (KHI) Perspektif Maslahah Mursalah,” *Jurnal Ekonomi dan Hukum Islam* 9, no. 1 (2025): 46-56; Rais Siswanto, “Pembaharuan Hukum Islam Indonesia,” *Eksekusi: Journal Of Law* 5, no. 1 (2023): 1-24.

⁵² Sjadzali, “Reaktualisasi Ajaran Islam.”

⁵³ Sjadzali, “Reaktualisasi Ajaran Islam”; Nurlaelawati, *Modernization, Tradition and Identity*.

promise: the state's reformist aims were admitted where they could be expressed in the language of *fiqh* and withdrawn where they could not.

The term "Indonesian *fiqh*" represents a key intellectual strategy in the formulation of the KHI. This concept asserts that the KHI constitutes a form of contextual *ijtihad* that is suited to the social conditions of Indonesian society.⁵⁴ This framing carries strong hegemonic implications. By positioning the KHI as a product of Indonesian ulema's *ijtihad*, resistance to the KHI can be perceived as resistance to the renewal of Islamic law. From a hegemonic perspective, this process demonstrates the state's success in transforming the political-legal agenda into an agenda of religious renewal.

The involvement of the Indonesian Ulema Council (MUI) in endorsing the KHI was a key factor in its dissemination.⁵⁵ In the relationship between state and religion in Indonesia, the MUI serves as an institution that provides religious legitimacy to state policies, and its support allowed the Compilation to be presented as consistent with Islamic sharia. From a Gramscian perspective, this support constitutes a form of consent that complements state power through moral and intellectual legitimacy.

The KHI was enacted through a Presidential Instruction, an instrument with a weak and uncertain position in the hierarchy of legislation. Yet its issuance was not met with the kind of mass protest that had greeted the 1973 marriage bill, which Muslim parties and organizations opposed inside and outside parliament until the government agreed to revise it.⁵⁶ The absence of open opposition, however, cannot by itself be taken as evidence of consent. The evidence of consent lies elsewhere: in the recorded approval of the 1988 workshop, in the endorsement of the MUI, in the circulation of the Compilation to all Religious Courts and its adoption as the reference in their decisions, and in the compromises written into the text itself. The sources also show the limits of that consent. Research on judicial practice has found that judges continued to consult the kitab alongside the Compilation and at times departed

⁵⁴ Herawati, "Kompilasi Hukum Islam (KHI)."

⁵⁵ Watoni, "Kedudukan dan Penerapan Kompilasi."

⁵⁶ Mark Cammack, Lawrence A. Young, and Tim Heaton, "Legislating Social Change in an Islamic Society: Indonesia's Marriage Law," *American Journal of Comparative Law* 44, no. 1 (1996): 45-73.

from its provisions when they considered them inconsistent with *fiqh*.⁵⁷ Within the framework of hegemony, the acceptance of the Compilation is therefore best described as negotiated and differentiated consent: it was produced by a procedure that the state designed, expressed through institutions that the state recognized, and conditioned by compromises that the ulema were able to extract.

The KHI as a Frozen Hegemony

The term “frozen hegemony” is proposed here to describe a specific condition. Hegemony, in Gramsci’s sense, is never a finished state; it is an unstable equilibrium that must be continuously renewed as social forces change. Frozen hegemony refers to a situation in which the consensus reached at a particular historical moment is fixed in an authoritative text and then removed from the processes through which it could be renegotiated, so that the settlement of one period continues to govern the next without being renewed by fresh consent. In the case of the Compilation, the consensus negotiated between the state and the ulema in 1985-1991 has been fixed in this way by three factors: its textual form, which replaced an open corpus of *fiqh* with a closed list of articles; its legal form as a Presidential Instruction, which gives it practical authority in the courts while keeping it outside the legislative process; and its routinization in judicial practice.

The concept should be distinguished from three related notions. Codification refers to the technique of stating law in systematic written articles; it describes the form of the Compilation but not the politics of its authority. Positivization refers to the conversion of religious norms into binding state law; yet the Compilation is an incomplete positivization, since a Presidential Instruction does not formally bind judges and the Compilation has never been enacted as a statute. Institutionalization refers to the embedding of Islamic law in state organizations such as the Religious Courts, a process that can remain open to change. Frozen hegemony adds to these notions an account of how consent is preserved: the authority of the Compilation rests on the

⁵⁷ Nurlaelawati, *Modernization, Tradition and Identity*.

consensus of its founding moment, and its ambiguous legal status keeps that consensus from being reopened either through judicial *ijtihad* or through parliamentary debate.

The implementation of the KHI since 1991 has been recognized as successful in providing legal certainty for religious court practices in Indonesia. The KHI has reduced disparities in judicial rulings and provided uniform guidelines on substantive law. However, behind this success lies another consequence: a tendency toward the cessation of *ijtihad* in religious judicial practice, as judges focus on resolving cases based on the provisions of the KHI.⁵⁸ Before the KHI was enacted, judges had broad scope for *ijtihad* by referring to various classical *fiqh* texts. After the KHI came into effect, the dynamics of legal discovery in Religious Courts tended to shift toward a textual approach oriented toward the articles of the KHI. This change indicates a significant transformation from a dynamic *fiqh* tradition toward a compiled and normative Islamic law.

The issue of judges' adherence to the normative formulations in the articles of the KHI stems from the fact that society is undergoing significant social changes. Yet Islamic law is not a static entity but a living entity that continues to evolve with the changing times.⁵⁹ This situation indicates that the KHI has become a constraint on the creativity of judicial *ijtihad*. Consequently, the scope for legal reform through court rulings has become more limited. Yet, in the *fiqh* tradition, social change should be one of the primary foundations for the development of law through *ijtihad*. This phenomenon reveals a shift from a *fiqh*-based *judge made law* paradigm toward a state regulation based *codified law*.

The unification of Islamic law through the KHI has transformed the nature of Islamic law in Indonesia. Whereas previously Islamic law developed in a flexible manner and was responsive to social change, following the KHI, Islamic law has tended to operate within the state's positive legal framework, which is more rigid and textual.⁶⁰ This transformation

⁵⁸ Ridwan, Azed, and Saman, "Kompilasi Hukum Islam Ditinjau."

⁵⁹ Bunawan Daimun and Husain, "Dialektika Hukum Islam dan Perubahan Sosial, Ekonomi dan Politik," *Jurnal Sibaliparriq* 1, no. 1 (2024): 12-31.

⁶⁰ Achmad Suhaili, "Integrasi Maqāṣid Al-Syarī'ah dalam Praktik Peradilan Agama di Indonesia: Studi Alternatif Penyelesaian Sengketa Keluarga," *Jurnal Hukum Keluarga* 06, no. 1 (2025).

demonstrates that the state has not only integrated Islamic law into the national legal system but has also aligned Islamic law with the administrative needs and legal certainty of the modern state. Thus, the KHI has become a crucial instrument in the process of the positivization of Islamic law in Indonesia.

Unification through the KHI indirectly strengthens the state's position as the primary authority in the reform of Islamic family law. Whereas previously legal reform could be achieved through the *ijtihad* of scholars and judicial practice, following the KHI, legal changes have become heavily dependent on state policy.⁶¹ This situation is evident in the failure to transform the KHI into legislation to date. Various legislative initiatives regarding the KHI have frequently faced an unfavorable and unaccommodating political climate at the legislative level.⁶² This indicates that the state tends to maintain the KHI in the form of a Presidential Instruction, which allows control over Islamic family law to remain within the executive branch without having to go through a more open and political legislative process.⁶³

The failure to transform the KHI into legislation reflects the state's caution in managing issues of Islamic family law. Legislation through the House of Representatives has the potential to spark more serious and sensitive public debate.⁶⁴ Therefore, maintaining the KHI in the form of executive regulations is viewed as a more stable legal political strategy. This phenomenon confirms that the executive branch remains the dominant actor in determining the direction of the development of Islamic family law in Indonesia.

The fate of later reform initiatives illustrates this frozen condition. In 2004 the Gender Mainstreaming Team of the Ministry of Religious Affairs published a Counter Legal Draft of the Compilation that proposed, among other things, equal

⁶¹ Atun Wardatun, "Kompilasi Hukum Islam: Dari Dominasi Fiqh Menuju Dominasi Aturan," *Istinbath: Jurnal Hukum dan Ekonomi Islam* 5, no. 1 (2007): 1-128.

⁶² Ridwan, Azed, and Saman, "Kompilasi Hukum Islam Ditinjau."

⁶³ Muh Fakhri B. Katili et al., "Reformasi Politik dan Kewenangan Presiden: Analisis Kritis terhadap Peran Instruksi Presiden dalam Pembentukan Kebijakan Nasional," *Politika Progresif: Jurnal Hukum, Politik dan Humaniora* 2, no. 2 (2025): 373-83.

⁶⁴ Wardatun, "Kompilasi Hukum Islam."

inheritance shares and a prohibition of polygamy.⁶⁵ The draft was strongly criticized by the MUI and other Muslim organizations and was withdrawn by the Ministry shortly afterwards.⁶⁶ The episode reveals two sides of frozen hegemony. On the one hand, the consensus of 1991 was defended not by the state alone but by ulema and Muslim organizations who now treated the Compilation as the Islamic baseline; a text produced under state sponsorship had become their common sense. On the other hand, the same consensus also constrains the state: proposals to amend it, whether progressive or conservative, face the difficulty of reopening a settlement whose authority depends on its not being reopened.

Conclusion

This article has argued that the KHI is best understood as a hegemonic project rather than simply as an administrative codification or a political concession. Hegemony operated through three identifiable mechanisms. First, the state designed the procedure of religious legitimation: the 1985 joint decree, the four-track project, and the 1988 national workshop turned a state need for uniform substantive law into a text that could be presented as the collective *ijtibād* of Indonesian ulema. Second, jurist-bureaucrats such as Busthanul Arifin performed an organic-intellectual function by translating the state's agenda into the idiom of *fiqh*, while the traditional authority of the ulema was drawn into the project through consultation and compromise. Third, the resulting norms were made acceptable through juridical design, institutional incentives, and ulema endorsement, as the case of marriage registration shows.

The study adds to existing interpretations in two ways. Against readings of the Compilation as legal unification or political accommodation, it shows that what the state achieved was not only the selection of *fiqh* opinions but the organization of consent to that selection. Against readings of the Compilation as an Indonesian *ijtibād* or as a state madhhab imposed from above, it shows that this consent was institutionally documented but negotiated,

⁶⁵ Tim Pengarusutamaan Gender Departemen Agama RI, *Pembaruan Hukum Islam: Counter Legal Draft Kompilasi Hukum Islam* (Jakarta: Departemen Agama RI, 2004).

⁶⁶ Nurlaelawati, *Modernization, Tradition and Identity*.

differentiated, and incomplete. It also proposes the concept of frozen hegemony to explain the durability of the Compilation: the consensus of 1985-1991 has been fixed in a text whose ambiguous legal status keeps it outside both judicial *ijtihad* and parliamentary contestation, so that it limits the scope of judicial *ijtihad* and has frozen the dynamics of Islamic family law for more than three decades.

These findings have broader implications for understanding the relationship between the state and Islamic legal authority in Indonesia. The state did not displace the ulema as a source of Islamic law, nor did it simply defer to them; rather, it made its authority over Islamic law depend on, and partly constitute, the authority of the ulema. The same mechanism that secured the legitimacy of the Compilation now limits its renewal, as the fate of later reform drafts shows. Future reform of Islamic family law in Indonesia is therefore likely to depend not only on technical legal drafting, but also on the capacity to build renewed consensus between state institutions and religious authorities. Further research using unpublished archival records of the compilation project and court decisions over time would allow the patterns of consent and resistance identified here to be tested more precisely.

Bibliography

1. Books, Academic Articles, Thesis/Dissertation

- Abdurrahman. *Kompilasi Hukum Islam di Indonesia*. Jakarta: Akademi Pressindo, 1992.
- Alfanny, M. Sa, Achmad Zuhdi Dh, and Ferhadz A. Muhammad. "Persinggungan Politik Islam dan Islam Politik: Genealogi dan Perkembangan Islam di Era Orde Baru." *Journal of Politics and Policy (JPPOL)* 7, no. 1 (2025): 60-77. <https://doi.org/10.21776/ub.jppol.2025.7.1.4>.
- Ali, Zezen Zaenudin. "Pemikiran Hegemoni Antonio Gramsci (1891-1937) di Italia." *YAQZHAN* 3, no. 2 (2017): 63-81. <https://doi.org/10.24235/jy.v3i2.5482>.
- Anggraeni, Ricca, and Endra Wijaya. "Pengantar mengenai Hegemoni dan Hukum: Menyoal Kembali Bekerjanya Hukum di Masyarakat." *Jurnal Magister Hukum Udayana (Udayana Master*

- Law Journal*) 8, no. 4 (2019): 494-511. <https://doi.org/10.24843/JMHU.2019.v08.i04.p05>.
- Arifin, Bushthanul. *Pelebagaian Hukum Islam di Indonesia: Akar Sejarah, Hambatan dan Prospeknya*. Jakarta: Gema Insani Press, 1996.
- Azqiana, Nazila Naura, and Muhammad Jaidi. "Kompilasi Hukum Islam (KHI) Sebagai Wujud Adaptasi Hukum Islam dalam Sistem Hukum Nasional Indonesia." *Annahdhah: Jurnal Ilmiah Keagamaan dan Kemasyarakatan* 18, no. 2 (2025): 56-71. <https://doi.org/10.63216/annahdhah.v18i2.505>.
- Cammack, Mark. "Indonesia's 1989 Religious Judicature Act: Islamization of Indonesia or Indonesianization of Islam?" *Indonesia* 63 (1997): 143-68.
- , "Islamic Law in Indonesia's New Order." *International and Comparative Law Quarterly* 38, no. 1 (1989): 53-73.
- Cammack, Mark, Lawrence A. Young, and Tim Heaton. "Legislating Social Change in an Islamic Society: Indonesia's Marriage Law." *American Journal of Comparative Law* 44, no. 1 (1996): 45-73.
- Daimun, Bunawan, and Husain. "Dialektika Hukum Islam dan Perubahan Sosial, Ekonomi dan Politik." *Jurnal Sibali-parriq* 1, no. 1 (2024): 12-31.
- Direktorat Pembinaan Badan Peradilan Agama Islam. *Kompilasi Hukum Islam di Indonesia*. Jakarta: Departemen Agama RI, 1992.
- Effendy, Bahtiar. *Islam and the State in Indonesia*. Singapore: Institute of Southeast Asian Studies, 2003.
- Fakhrurrazi, R. "Rujuk dalam Kompilasi Hukum Islam (KHI) Perspektif Masalah Mursalah." *Jurnal Ekonomi dan Hukum Islam* 9, no. 1 (2025): 46-56. <https://doi.org/10.35316/istidlal.v9i1.767>.
- Gramsci, Antonio. *Selections from the Prison Notebooks*. New York: International Publishers, 1992.
- Haidar, M. Ali, and Arif Hidayatullah. "Depolitisasi Nahdlatul Ulama 1968-1983." *AVATARA: e-Journal Pendidikan Sejarah* 2, no. 3 (2014): 517-25.
- Hendrayani, Saifullah, Kamal Tamrin, Asmaret Desi, and Julhadi. "Kompilasi Hukum Islam (KHI) Sejarah Penyusunan, Dasar dan Eksistensinya dalam Tata Urutan Perundang-Undangan

- ditinjau dari Politik Hukum Indonesia.” *Journal Scientific of Mandalika (JSM)* 6, no. 3 (2025): 678-84.
- Herawati, Andi. “Kompilasi Hukum Islam (KHI) Sebagai Hasil Ijtihad Ulama Indonesia.” *Hunafa: Jurnal Studia Islamika* 8, no. 2 (2011): 321-40. <https://doi.org/10.24239/jsi.v8i2.367>.
- Hikmatullah. “Selayang Pandang Sejarah Penyusunan Kompilasi Hukum Islam Di Indonesia.” *Jurnal AJUDIKASI* 1, no. 2 (2017): 39-52. <https://doi.org/10.30656/ajudikasi.v1i2.496>.
- Hooker, M. B. *Indonesian Syariah: Defining a National School of Islamic Law*. Singapore: Institute of Southeast Asian Studies, 2008.
- Ikhsan, Rizky Al, Saiful Amin, and Khairul Fahmi. “Hegemoni Hukum Islam dalam Legislasi KUHP: Analisis Gramscian Atas Undang-Undang No.1 Tahun 2023.” *Al-Muhkam* 1, no. 1 (2025): 54-66. <https://doi.org/10.65980/almuhkam.v1i1.35>.
- Jannah, Nur. “Realitas Pesantren dan Kebijakan Pendidikan Islam dalam Perspektif Hegemoni Antonio Gramsci.” *Journal of Islamic Education Research* 1, no. 01 (2019): 1-21. <https://doi.org/10.35719/jier.v1i01.16>.
- Junianto, Muhammad Nurafni, and Dwi Naili Hidayah. “Perbandingan Pengaturan Ahli Waris Pengganti dan Harta Gono Gini dalam Hukum Islam dan Perdata di Indonesia.” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 1322-32. <https://doi.org/10.61104/alz.v4i1.3232>.
- Katili, Muh Fakhri B., Riyanto Moonti, Roy Marthen Moonti, and Muslim A. Kasim. “Reformasi Politik dan Kewenangan Presiden: Analisis Kritis terhadap Peran Instruksi Presiden dalam Pembentukan Kebijakan Nasional.” *Politika Progresif: Jurnal Hukum, Politik dan Humaniora* 2, no. 2 (2025): 373-83. <https://doi.org/10.62383/progres.v2i2.2057>.
- Lev, Daniel S. *Islamic Courts in Indonesia: A Study in the Political Bases of Legal Institutions*. Berkeley: University of California Press, 1972.
- Muslim, Mochammad. “Pengaruh Konfigurasi Politik Hukum Orde Baru Terhadap Kompilasi Hukum Islam (KHI) di Indonesia.” *al-Daulah* 4, no. April (2014). <https://doi.org/10.15642/ad.2014.4.01.220-242>.
- Nurlaelawati, Euis. *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam: Amsterdam University Press, 2010.

- Ridwan, Muannif, Abdul Bari Azed, and Sulaiman Saman. "Kompilasi Hukum Islam Ditinjau dari Perspektif Politik Hukum Indonesia." *Al-Abkam* 3, no. 1 (2021): 39-47. <https://doi.org/10.37035/ajh.v17i1.4739>.
- Sapriya, Syaifullah, Muhammad Mona Adha, and Candra Cuga. "Penguatan Komitmen Akademik dalam Memperkokoh Jatidiri PKn." *Prosiding Seminar Nasional*, 2015.
- Siswanto, Rais. "Pembaharuan Hukum Islam Indonesia." *Eksekusi: Journal of Law* 5, no. 1 (2023): 1-24. <https://doi.org/10.24014/je.v5i1.18423>.
- Sjadzali, Munawir. "Reaktualisasi Ajaran Islam." In *Polemik Reaktualisasi Ajaran Islam*, edited by Iqbal Abdurrauf Saimima. Jakarta: Pustaka Panjimas, 1988.
- Suhaili, Achmad. "Integrasi Maqāṣid Al-Syarī'ah dalam Praktik Peradilan Agama di Indonesia: Studi Alternatif Penyelesaian Sengketa Keluarga." *Jurnal Hukum Keluarga* 06, no. 1 (2025). <https://doi.org/10.62097/mabahits.v6i01.2236>.
- Suhardi. "Bentuk-Bentuk Counter Hegemoni Media Era Internet." *Journal Media Public Relations* 4, no. 2 (2024): 23-30. <https://doi.org/10.37090/jmp.v4i2.1893>.
- Syahputra, Muhammad Rudi. "Metodologi Penelitian Hukum dalam Menyelesaikan Problematika Hukum Kontemporer." *Jurisprudensi: Jurnal Ilmu Hukum* 1, no. 2 (2024): 89-106. <https://doi.org/10.70193/jurisprudensi.v1i02.08>.
- Tauratiya, and Ekaningsih Lailasari. "Plaatsvervulling dalam Hukum Waris Indonesia: Mengungkap Kedudukan Ahli Waris Pengganti." *Islamitsch Familierecht Journal* 5, no. 2 (2024): 105-26. <https://doi.org/10.32923/ifj.v5i2.5035>.
- Tim Pengarusutamaan Gender Departemen Agama RI. *Pembaruan Hukum Islam: Counter Legal Draft Kompilasi Hukum Islam*. Jakarta: Departemen Agama RI, 2004.
- Wahid, Marzuki, and Rumadi. *Fiqh Madzhab Negara: Kritik atas Politik Hukum Islam di Indonesia*. Yogyakarta: LKiS, 2001.
- Wardatun, Atun. "Kompilasi Hukum Islam: Dari Dominasi Fiqh Menuju Dominasi Aturan." *Istinbath: Jurnal Hukum dan Ekonomi Islam* 5, no. 1 (2007): 1-128.
- Watoni, Lalu Sukrizal. "Kedudukan dan Penerapan Kompilasi Hukum Islam Sebagai Mazhab Fiqih di Indonesia." *Jurnal Da-*

- russalam: Pemikiran Hukum Tata Negara dan Perbandingan Hukum* 5, no. 1 (2025): 132-46. <https://doi.org/10.59259/jd.v5i1.238>.
- Wildaniyah, Fina, and Ahmad Muktafi. "Kebutuhan akan adanya Kompilasi Hukum Islam bagi Peradilan Agama sudah lama." *Jurnal Kajian Hukum Keluarga Islam* 7, no. 2 (2025): 49-58. <https://doi.org/10.58293/asa.v7i2.154>.

2. Laws, Regulations, and Official Documents

- Circular Letter of the Religious Courts Bureau No. B/1/735 of 18 February 1958.
- Constitutional Court Decision No. 46/PUU-VIII/2010.
- Government Regulation No. 9 of 1975 on the Implementation of Law No. 1 of 1974 on Marriage.
- Joint Decree of the Chief Justice of the Supreme Court and the Minister of Religious Affairs No. 07/KMA/1985 and No. 25 of 1985 on the Appointment of the Implementation of the Project for the Development of Islamic Law through Jurisprudence.
- Law No. 1 of 1974 on Marriage.
- Law No. 7 of 1989 on Religious Courts.
- Majelis Ulama Indonesia. Fatwa No. 11 of 2012 on the Status of Children Born of Zina and Their Treatment.
- Majelis Ulama Indonesia. Keputusan Ijtima' Ulama Komisi Fatwa se-Indonesia II. Gontor, Ponorogo, 2006.
- Minister of Religious Affairs Decree No. 154 of 1991 on the Implementation of Presidential Instruction No. 1 of 1991.
- Presidential Instruction No. 1 of 1991 on the Dissemination of the Compilation of Islamic Law.