

# Revisiting Islamic Legal Politics under the New Order: Insights from Islamic Civilizational Thought

Zulkifli Nas

Universitas Islam Negeri Sumatera Utara, Jl. William Iskandar Ps. V, Medan Estate, Kec.  
Percut Sei Tuan, Kabupaten Deli Serdang, Sumatera Utara 20371

Email: [zulkiflinas@uinsu.ac.id](mailto:zulkiflinas@uinsu.ac.id)

Heri Firmansyah

Universitas Islam Negeri Sumatera Utara, Jl. William Iskandar Ps. V, Medan Estate, Kec.  
Percut Sei Tuan, Kabupaten Deli Serdang, Sumatera Utara 20371

Email: [herifirmansyah@uinsu.ac.id](mailto:herifirmansyah@uinsu.ac.id)

## Abstrak

Orde baru adalah merupakan sebuah babakan baru perpolitikan di Indonesia. Pada masa Orde baru terjadi pasang surut hubungan antara Islam dan Negara. Penelitian ini bertujuan untuk mengidentifikasi dan menganalisis pengaruh politik terhadap legislasi hukum Islam, serta menjelaskan mengapa Orde Baru, yang awalnya bersikap anti-politik Islam, pada akhirnya mengakomodasi aspirasi umat Muslim. Penelitian ini menggunakan metode studi kepustakaan (*library research*), dengan menelusuri dan menganalisis data dari buku-buku, jurnal, dan sumber-sumber sekunder terkait politik hukum Islam pada masa Orde Baru. Pendekatan historis-analitis digunakan untuk mengkaji kronologi peristiwa dan dinamika politik yang relevan. Penelitian ini menemukan bahwa proses legislasi hukum Islam pada masa Orde Baru tidak lepas dari tiga faktor utama, pertama, pembaruan pemikiran politik Islam dari pendekatan formalistik yang konfrontatif ke pendekatan substantif yang akomodatif, kedua, Menguatnya peran politik umat Islam dalam struktur kekuasaan negara, dan ketiga, Perubahan konfigurasi politik internal Orde Baru., yaitu melemahnya kontrol Presiden Soeharto atas militer, yang mendorongnya mencari aliansi politik baru dengan komunitas Muslim sebagai basis pendukung. Hasil dari interaksi ini adalah legislasi empat produk hukum yang sesuai dengan kepentingan umat Islam yaitu Undang-Undang Sistem Pendidikan Nasional, Undang-Undang Peradilan Agama, Kompilasi Hukum Islam, dan pendirian Bank Muamalat Indonesia.

**Kata Kunci:** Politik, Hukum Islam, Legislasi, Pengaruh, Orde Baru

## Abstract

The New Order era marked a new chapter in Indonesian politics. During this period, the relationship between Islam and the state experienced a dynamic of ebb and flow. This study aims to identify and analyze the political influences on the legislation of Islamic law, and to explain why the New Order, which was initially hostile to political Islam, ultimately accommodated Muslim aspirations. This research employs a library-based study approach, tracing and analyzing data from books, journals, and secondary sources related to the politics of Islamic law during the New Order. A historical-analytical approach is used to examine the chronology of relevant events and political dynamics. The study finds that the legislation of Islamic law during the New Order was shaped by three key factors: first, a renewal in Islamic political thought from a confrontational, formalistic approach to a substantive, accommodative one; second, the strengthening political role of the Muslim community within the state's power structure; and third, a change in the New Order's internal political configuration, specifically the weakening of President Soeharto's control over the military, which prompted him to seek a new political alliance with the Muslim community as a base of support. The result of this interaction was the legislation of four legal products that aligned with the interests of the Muslim community: the National Education System Law, the Religious Courts Law, the Compilation of Islamic Law, and the establishment of Bank Muamalat Indonesia.

**Keywords:** Politics, Islamic Law, Legislation, Influence, New Order.

## Introduction

The legislation of Islamic law in Indonesia has always been influenced by the surrounding political dynamics. Long before independence, the Dutch colonial government's legal-political policy, which adopted a confrontational approach, left a legacy of resistance to the integration of Islamic law into the national legal system.<sup>1</sup> This tension persisted into the New Order era (1966–1998), a critical period that shaped the trajectory of state–Islam relations in Indonesia. In its early phase, the New Order regime adopted a repressive stance by banning Islamic political parties and prioritizing national stability and economic development over religious-political aspirations.<sup>2</sup>

The New Order marked a new political era in Indonesia, with Soeharto as the central figure of the regime. Lasting for approximately 32 years, from

<sup>1</sup> M. Iqbal, "Politik Hukum Hindia Belanda Dan Pengaruhnya Terhadap Legislasinya Hukum Islam Di Indonesia," *Ahkam: Jurnal Ilmu Syariah* 12, no. 2 (2012): 117–26, <https://doi.org/10.15408/ajis.v12i1.972>.

<sup>2</sup> I. Rosidi, "From Political Parties to Cultural Organizations: Indonesian Islamic Movements during the New Order," *Journal of Al-Tamaddun* 17, no. 1 (2022): 43–53, <https://doi.org/10.22452/JAT.vol17no1.4>.

1966 until May 1998, the New Order established Pancasila as the sole foundation for national life, meaning all organizations and political parties in Indonesia were subject to this principle.<sup>3</sup>

The enforced single ideology caused the relationship between Islam and the state to experience periods of tension and harmony. Abdul Aziz Thaba identifies three key periods in the relationship between Islam and the state, first, Antagonistic Period (1967-1982): A time of strained relations, characterized by state policies perceived as hostile to Islam, such as the prohibition of the hijab, censorship of Eid sermons, and the legalization of the SDSB lottery.<sup>4</sup> Second, Critically Reciprocal Period (1982-1985): A period of mutual respect, marked by the acceptance of the sole principle ideology (Asas Tunggal) by major Islamic organizations like NU, Muhammadiyah, HMI, and MUI. Third, Accommodative Islamic Period (1986-1998): This was a time when the Muslim community and the state began to form a closer relationship. The state became more supportive of Muslim interests, and this period continued until Soeharto's resignation.<sup>5</sup> It is widely considered the most amicable period in the relationship between Soeharto and the Muslim community, resulting in the accommodation of many Muslim interests.

This study focuses on the accommodative period to analyze the form of Islamic legal politics in Indonesia, specifically examining the influence of political factors on the legislation of Islamic law during this time. The research aims to contribute to the understanding of the struggle and political movement of the Muslim community in realizing its political aspirations and successfully advocating for its interests in Indonesia.

Even though the relationship between Islam and the state in Indonesia during the New Order era has been a widely studied subject in academic literature,<sup>6</sup> many studies tend to focus on dynamics centered around a narrative of ideological conflict or the legislation of Islamic family law. This analysis often highlights discussions surrounding the Islamic Law Compila-

<sup>3</sup> Thabroni, *Islam Pluralitas Budaya Dan Politik* (Press Yogyakarta, 1994), h. 126.

<sup>4</sup> Abdul Aziz Thaba, *Islam Dan Negara Dalam Politik Orde Baru* (Gema Insani Press, 2000), h. 240.

<sup>5</sup> Abdul Aziz Thaba, *Islam Dan Negara Dalam Politik Orde Baru*, h. 278.

<sup>6</sup> Daniel S. Lev, "Law and Politics in Indonesia: Continuity and Change," *Journal of Asian Studies* 49, no. 4 (1990): 1083-85.

tion (KHI) and the Religious Courts Law (UU No. 7 of 1989).<sup>7</sup> This research, however, argues that the political accommodation of the New Order regime toward Islamic aspirations was far broader and more profound.

This study seeks to fill a gap in the literature by arguing that the successful legislation of Islamic law was not a series of sporadic concessions, but the outcome of a dual-track political accommodation strategy that gradually emerged in the late New Order. This strategy combined state-initiated political co-optation under President Soeharto—particularly as his reliance on the military weakened—with a coordinated, though informal, policy-advocacy network among Muslim intellectuals and organizations, including Masyumi successor circles, ulama, and Islamic modernist activists. By analyzing four integrated cases—the National Education System Law (UU No. 2/1989), the Religious Courts Law (UU No. 7/1989), the Islamic Law Compilation (KHI), and the establishment of Bank Muamalat Indonesia (BMI)—this paper demonstrates that Islamic legal accommodation operated through a systematic pattern of bargaining and alliance-building between these two actors. This clarification strengthens existing scholarly interpretations that highlight a shift from confrontational to accommodative engagement between Muslim activists and the state, showing that such a shift was grounded in a recognizable political mechanism rather than in ad-hoc responses.<sup>8</sup>

Furthermore, this study specifically highlights the case of BMI's establishment as tangible evidence of an accommodation that extended beyond socio-religious issues. By including an analysis of the establishment of Indonesia's first sharia bank, we offer a new perspective showing that the politics of Islamic law during the New Order was not only focused on the private sphere (*ahwal al-syakhsiiyyah*), but also successfully penetrated the sensitive sector of public economics.<sup>9</sup> The integrated analysis of these four legal products proves that the regime's political accommodation was not merely symbolic, but substantive and transformative.

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<sup>7</sup> Masykuri Abdillah, *Demokrasi Di Persimpangan Makna, Respon Intelektual Muslim Indonesia Terhadap Konsep Demokrasi (1966-1993)* (Tiara Wacana Yogya, 1998).

<sup>8</sup> Abdul Aziz Thaba, "Islam and the State in the Politics of the New Order," *Studia Islamika: Indonesian Journal for Islamic Studies* 3, no. 2 (1996): 57–85.

<sup>9</sup> Mohammad Hifdil Islam, "Islamic Law in Indonesia (Tradition, Thought, Political Law and Legal Products)," *Asy-Syari'ah* 4, no. 1 (2018): 31–50.

Thus, the main contribution of this research lies in its ability to synthesize and connect various legislative products from the New Order era within a single, coherent analytical framework. By positioning each piece of legislation as a result of changing political dynamics, this study provides a richer understanding of the complex relationship between Islam and the state in Indonesia, and offers a more in-depth perspective on the process of Islamic law legislation in a Muslim-majority country.

## Discussion

### The Relationship between Islam and the State: From Confrontation to Accommodation

The establishment of the New Order was supported not only by the Indonesian Armed Forces (ABRI) but also by the Muslim community. These two key forces successfully suppressed communism, which had threatened the Republic of Indonesia. This led to a resurgence of hope within Islamic politics to re-establish Islam as the state's foundation, a goal that had failed during the Old Order under Soekarno.

However, the emerging issue of political parties advocating for Islam as the foundation of the state created concern for the New Order, prompting Soeharto to exert tight control over Islamic political forces. This included the rejection of efforts to rehabilitate the Masyumi Party, which was replaced by Parmusi on the condition that senior Masyumi figures were excluded from its leadership. The government also blocked the establishment of the Indonesian Islamic Democracy Party (PDII) initiated by Mohammad Hatta, and firmly rejected the proposal to reintroduce the Jakarta Charter during the 1968 MPRRS session and the 1969 Muslim Congress.<sup>10</sup> The culmination of this control was the imposition of Pancasila as the sole principle (*Asas Tunggal*) for all religious, social, and political organizations.<sup>11</sup>

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<sup>10</sup> M. Syafi'i Anwar, *Pemikiran Dan Aksi Islam Di Indonesia, Sebuah Kajian Politik Tentang Cendekiawan Muslim Orde Baru*, (Paramadina, 1995), h. 115.

<sup>11</sup> Aminuddin, *Kekuatan Islam Dan Pergulatan Kekuasaan Di Indonesia, Sebelum Dan Sesudah Runtuhnya Rezim Soeharto* (Pustaka Pelajar, 1999), h. 160.

Although initially perceived as repressive, the acceptance of the Asas Tunggal by major Islamic organizations paradoxically reduced ideological suspicion, allowing the regime to reframe Islamic groups as loyal, non-subversive actors, thereby opening political space for cooperation. Scholars have shown that once Islamic organizations publicly reaffirmed Pancasila, the regime no longer viewed them as ideological rivals; instead, it began to engage them as partners in cultural and legislative accommodation<sup>12</sup> This depoliticization through ideological compliance therefore became a precondition for the later acceptance of Islamic legislative interests, including the National Education Law and the Religious Courts Law. As Effendy notes, “the Asas Tunggal transformed Islamic groups from political threats into legitimate stakeholders,” which enabled their policy preferences to enter the state’s agenda.<sup>13</sup>

The forced implementation of the single principle greatly disappointed the Muslim community. It was seen as an effort to depoliticize Islam and erase the Islamic identity that had long been attached to both political parties and religious organizations. This also meant that the goal of making Islamic law the basis of the state was merely a fantasy and would not be realized.<sup>14</sup> Early Islamic figures, still rooted in traditional thought, believed that the objective of Islamic politics was the formalization of Islam within the state, a concept the early New Order period vehemently rejected.<sup>15</sup>

The depoliticization of Islam, the suppression of Muslim aspirations, and various policies seen as inconsistent with Islamic law led Muslim leaders to resist the state and adopt a confrontational approach. For instance, when a marriage bill was proposed that would legalize inter-religious marriage and omit the *iddah* rule (a waiting period for divorced or widowed women), Muslim figures mobilized large-scale protests, escalating tensions between Islam

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<sup>12</sup> Robert W Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton, NJ: Princeton University Press, 2000), h. 110-115.

<sup>13</sup> Bahtiar Effendy, *Islam and the State in Indonesia* (Singapore: Institute of South-east Asian Studies, 2003), h. 139–148

<sup>14</sup> Aminuddin, *Kekuatan Islam Dan Pergulatan Kekuasaan Di Indonesia, Sebelum Dan Sesudah Runtuhnya Rezim Soeharto*, h. 316.

<sup>15</sup> B.J. Boland, *Pergumulan Islam Di Indonesia, Terj. Syafruddin Bahar* (Grafiti Press, 1985), h. 154.

and the state.<sup>16</sup> Although the interests of the Muslim community were eventually accommodated in the Marriage Law, the confrontational approach caused the government to become more distant from Islamic politics.

This tension was further exacerbated by human rights abuse cases against Muslims during the New Order, which widened the rift between the government and the Muslim community, such as the Tanjung Priok<sup>17</sup> and Lampung incidents<sup>18</sup>, which were reactions to the enforcement of the single principle ideology. The bombing of Borobudur, which was considered an act of jihad and 'revenge' for the Tanjung Priok incident<sup>19</sup>, and other similar events. The government's inner circle was perceived to be anti-Islamic, as Soeharto's close associates were often non-Muslim, and the powerful military generals held anti-Islamic views.<sup>20</sup>

The introduction of modern Islamic political thought, which emphasized the substantive rather than the formalistic dimensions of Islam, encouraged the Muslim movement to shift its orientation from a confrontational to an accommodative approach. This was reflected in the thought of Nurcholis Madjid: "Islam Yes, Islamic Party No". The confrontational approach was seen as counterproductive and increasingly dangerous for the Muslim community and its interests.<sup>21</sup> This ideological shift was translated into a more coherent and deliberate political strategy, no longer expressed through demonstrative identity politics, but through policy lobbying, elite networking, and targeted penetration into key bureaucratic positions. Beginning in the late 1980s, modernist Muslim figures built policy advocacy networks through organizations such as ICMI and MUI, which served as formal channels linking Muslim intellectuals, technocrats, and state officials. Through internal forums, policy

<sup>16</sup> Abdul Aziz Thaba, *Islam Dan Negara Dalam Politik Orde Baru*, h. 253-261.

<sup>17</sup> Umi Kholisya, "Peristiwa Tanjung Priok 1984 (Sebuah Gerakan Sosial)," *Chronologia* 5, no. 2 (2023): 102–17, <https://doi.org/10.22236/jhe.v5i2.13263>.

<sup>18</sup> Kompas Cyber Media, "Kronologi Peristiwa Talangsari di Lampung 1989," KOMPAS.com, July 4, 2023, <https://www.kompas.com/stori/read/2023/07/04/120000479/kronologi-peristiwa-talangsari-di-lampung-1989->.

<sup>19</sup> Angga Novian Pratama and Ibnu Sodiq, *Sejarah Pengeboman Candi Borobudur Tahun 1985: Tinjauan Sejarah Sosial Politik di Indonesia*, 2019.

<sup>20</sup> Okrisal Eka Putra, "Hubungan Islam Dan Politik Masa Orde Baru," *Jurnal Dakwah* IX, no. 2 (2008), h. 185-201.

<sup>21</sup> Nurkholis Majid, *Keharusan Pembaharuan Pemikiran Islam Dan Masalah Integrasi Umat* (LP3ES, 1984), p. 10.



meetings, and close relations with the technocratic circle around Soeharto, these activists promoted specific legislative agendas considered essential, including strengthening religious education, consolidating the Religious Court system, and advancing the codification of Islamic family law.<sup>22</sup>

This strategy was reinforced by elite networking: the proximity of figures such as B. J. Habibie to Soeharto opened direct lines of communication that allowed Islamic legal issues to enter the state agenda, while MUI functioned as a broker of religious legitimacy, easing state acceptance of Islamic-oriented policies.<sup>23</sup> These efforts unfolded alongside the increasing representation of modernist Muslims in technical and bureaucratic posts—within the Ministry of Religious Affairs, the Parliament, and the judicial sector—who became key actors ensuring that bills and regulations related to Islam could proceed without major political obstruction. Thus, the ideological transformation did not merely produce a moderation of attitudes, but also generated a coherent political strategy—a combination of policy lobbying, elite networking, and bureaucratic insertion—that materially contributed to the legislative successes of Islamic law during the New Order.

The modern Islamic movement promoted the idea that Islam should no longer be in opposition to the state, but it was also important to ensure that Islam did not contradict Pancasila. The two were to be mutually complementary and accommodating. This shift led to the Muslim movement becoming more accommodative toward the government, which in turn began to accommodate Muslim interests. Soeharto also needed the support of the Muslim community, as they represented the majority of the population and his control over the military was beginning to weaken.<sup>24</sup>

This period was also marked by the “Islamization of Golkar,” a phenomenon known as *‘ijo royo royo,’* where many Muslim activists became members of the Parliament (DPR and MPR) through Golkar rather than through Islamic parties. A significant number of military officials were also pious Muslim

<sup>22</sup> Robert W. Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton, NJ: Princeton University Press, 2000), h. 124–130.

<sup>23</sup> Bahtiar Effendy, *Islam and the State in Indonesia* (Singapore: Institute of Southeast Asian Studies, 2003), h. 157–166.

<sup>24</sup> Bahtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia* (Paramadina, 2011), p. 311.



figures who were close to activists and Islamic movements, culminating in General Faisal Tanjung's appointment as the commander of ABRI. This was famously referred to as the "greening of ABRI" (*penghijauan ABRI*), as it had previously been dominated by non-Muslims or anti-Islam generals.<sup>25</sup>

Bachtiar Effendy identified four forms of state accommodation toward the social and political interests of the Muslim community during the New Order<sup>26</sup>: first, Structural accommodation: The inclusion of a new generation of Muslim thinkers and activists in the executive and legislative branches, as well as in Soeharto's economic team. Second, Legislative accommodation: The passing of several laws and regulations that were in line with Islamic principles, such as the Religious Courts Law and the revocation of the SDSB lottery, which was considered gambling. Third, Infrastructure accommodation: State-sponsored mosque construction through the Pancasila Amal Bakti foundation and financial support for MUI to send preachers. Fourth, Cultural accommodation such as The holding of the Istiqlal Festival and the incorporation of Islamic idioms like *adab*, *hikmah*, and *musyawarah* into the political lexicon of Pancasila.

## B. Islamic Legal Products Legislated During the Accommodative New Order Period

Legislation, from the English term, means the act of making rules, regulations, and laws.<sup>27</sup> In Islam, this process is known as *taqin*, which means to create and establish a law.<sup>28</sup> The result of the *taqin* process is *qanun*, which refers to a law, regulation, and so forth. Legislated Islamic law means that it is a law that is valid in a country and binding on all its citizens,<sup>29</sup> including in

<sup>25</sup> Iswara N. Raditya, "Soeharto dan Isu Agama di Tubuh Tentara," *tirto.id*, January 26, 2018, <https://tirto.id/soeharto-dan-isu-agama-di-tubuh-tentara-cDNA>.

<sup>26</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, p. 273-276.

<sup>27</sup> John M. Echols and Hassan Shadily, *Kamus Inggris Indonesia* (PT. Gramedia, 2003), p. 353.

<sup>28</sup> Ahmad Warson Munawwir, *Al-Munawwir Kamus Arab-Indonesia* (Pustaka Progressif, 1997), p. 1252.

<sup>29</sup> Subhi Mahmasani, *Falsafah Al-Tasyri' Fi al-Islam*, Terj. Ahmad Sudjono (Al-Maarif, 1981), p. 22.

Indonesia. Whereas the term “legislated Islamic law” refers to Islamic law in the sense of *fiqh*, which is an *ijtihadi* legal product by the *mujtahids* in understanding Islamic sharia.<sup>30</sup>

The purpose of legislating Islamic law, besides its positification, is also for unification. Islamic law is highly pluralistic in terms of both its definition and content. Legal pluralism in Islamic law can be unified through formalization or legislation. Legal unity provides legal certainty within society. Judges can refer to the formalized law, ensuring consistent and uniform decisions for similar cases.<sup>31</sup>

Products of Islamic-nuanced laws and regulations generally take three forms, first, Islamic law that formally and materially uses an Islamic approach. Second, Islamic law that, in the *taqwin* process, serves as a source for legal content, with its principles and tenets inspiring every product of law and regulation. Third, Islamic law that is formally and materially transformed as a persuasive source and authority source.

During the New Order, particularly in the accommodative period, several regulations were considered products of Islamic law legislation in Indonesia. During the New Order, especially in the accommodative period, there were at least several laws and regulations considered as products of Islamic law legislation in Indonesia. To focus the discussion, there are at least four regulations and laws, including:

### 1. Law No. 2 of 1989 on the National Education System<sup>32</sup>

In the early stages of the development of Islamic education in Indonesia, religious education did not occupy a proper or recognized position within the national education system.<sup>33</sup> However, after the enactment of Law No. 2 of 1989 on the National Education System—further reinforced by Government Regulations No. 28 and 29 of 1990 concerning primary and secondary education—Islamic education finally

<sup>30</sup> Busman Edyar, *Legislasi Hukum Islam Pada Masa Pemerintahan Susilo Bambang Yudhoyono (2004-2014)* (CND Barokah, 2021), p. 21.

<sup>31</sup> Yuni Rosalili, *Formalisasi Hukum Pidana Islam Di Indonesia*, Disertasi Tidak Diterbitkan (UIN Jakarta, 2009), p. 105.

<sup>32</sup> “UU No. 2 Tahun 1989,” Database Peraturan | JDIH BPK, accessed September 21, 2025, <http://peraturan.bpk.go.id/Details/46794/uu-no-2-tahun-1989>.

<sup>33</sup> Zuhairini, *Sejarah Pendidikan Islam* (Bumi Aksara, 1997).

obtained a status equal to that of general education.

This equalization was not merely a curricular development but carried significant political consequences, particularly the enhancement of the institutional authority of the Ministry of Religious Affairs, which supervises Islamic educational institutions. By granting formal parity to madrasahs and other Islamic schools, the Ministry of Religious Affairs acquired stronger structural legitimacy within the national education sector, including expanded influence over standardization, budgeting, and curriculum formulation. This shift implicitly fulfilled one of the long-standing political aspirations of modernist Muslim groups, namely to ensure that Islamic education was not only legally recognized but also endowed with structural bargaining power within the state bureaucracy. Thus, the passage of Law No. 2/1989 can be interpreted as a form of the state's *structural accommodation* toward the Muslim community, broadening the Ministry of Religious Affairs' influence in shaping national education policy.<sup>34</sup>

Law No. 2 of 1989 on the National Education System explains that this education includes two different types: religious education as a subject in public schools, regulated by the Minister of Education and Culture, and religious education as the main subject in religious schools, regulated by the Minister of Religious Affairs. This second type of religious school, which is a subsystem of the National Education System, covers all levels from primary school to university, namely Madrasah Ibtidaiyah, Madrasah Tsanawiyah, Madrasah Aliyah, and Islamic Religious Institutes. Most of these schools are private institutions.<sup>35</sup> This means that through this law, religious education is recognized as having an equal position with general education

## 2. Law No. 7 of 1989 on Religious Courts<sup>36</sup>

Law No. 7 of 1989 established the independence and uniformity of the Religious Courts throughout Indonesia. This law represented a new and

<sup>34</sup> Robert W. Hefner, "Islamization and Bureaucratic Expansion: The Politics of Education in Indonesia," *Indonesia journal*, no. 90 (2010): 55, <https://doi.org/10.5728/indonesia.90.0041>.

<sup>35</sup> Masykuri Abdillah, *Demokrasi Di Persimpangan Makna, Respon Intelektual Muslim Indonesia Terhadap Konsep Demokrasi (1966-1993)*.

<sup>36</sup> "UU No. 7 Tahun 1989," Database Peraturan | JDIH BPK, accessed September 21, 2025, <http://peraturan.bpk.go.id/Details/46804/uu-no-7-tahun-1989>.

highly welcomed development for the Muslim community, whose aspirations for a distinct judicial authority based on Islamic law had long been constrained, particularly during the Dutch colonial period when various policies were designed to distance Muslims from their religious legal traditions.<sup>37</sup> Yet the passage of Law No. 7/1989 cannot be understood solely as a normative legal improvement; it also reflected a deliberate political strategy by the New Order regime. In the aftermath of the intense political conflict surrounding the 1974 Marriage Law—when mass Muslim mobilization challenged state authority—Soeharto increasingly recognized the need to de-escalate ideological tensions by selectively accommodating Muslim demands in the realm of private and family law (*ahwal al-syakhsiiyyah*).

By formally ceding regulatory authority over this domain to the Religious Courts and, by extension, the Ministry of Religious Affairs, the regime effectively redirected Muslim political energies away from broader demands for an Islamic state toward issues that could be more easily managed within the bureaucratic framework. This strategic concession allowed the government to present itself as responsive to Muslim concerns while simultaneously maintaining control over the boundaries of Islamic political expression. Thus, the successful legislation of Law No. 7/1989 functioned both as a legal milestone and as part of a controlled accommodation strategy designed to neutralize ideological conflict and stabilize the New Order's relationship with the Muslim community.<sup>38</sup>

Before this law, the names and authorities of religious courts varied by region. For example, in Java and Madura, they were called Religious Courts, with the High Islamic Court (*Mahkamah Islam Tinggi*) as the court of appeal. In Banjarmasin, South Kalimantan, they were known as the *Kerapatan Qadhi* with the *Kerapatan Qadhi Besar* as the court of appeal. Outside of Java and Madura, they were called Religious Courts/Sharia Courts and the Religious Court/Sharia Court Province as the court of appeal, as regulated by Gov-

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<sup>37</sup> Aqib Suminto, *Politik Islam Hindia Belanda* (LP3ES, 1986).

<sup>38</sup> Mark Cammack, Lawrence A. Young, and Tim Heaton, "Legislating Social Change in an Islamic Society: Indonesia's Marriage Law," *The American Journal of Comparative Law* 43, no. 3 (1995): 495–519, <https://doi.org/10.2307/840623>.

ernment Regulation No. 45 of 1957.<sup>39</sup> With the implementation of Law No. 7 of 1989, this varied situation ceased to exist, and all religious courts across Indonesia gained the same name and authority. These courts are exclusively for Muslims.

The ratification of the Religious Courts Law was a significant event, not only for the development of the national legal system but also for the Muslim community. With its passing, the position of the Religious Court became more firmly established as an independent body within the judiciary, upholding the law based on Islamic principles.<sup>40</sup>

### 3. Bank Muamalat Indonesia (BMI)

The idea to establish Bank Muamalat Indonesia (BMI) was initially conceived by Islamic leaders and scholars to create an Islamic bank. This idea gained traction during a 1990 workshop on “Bank Interest and Banking”. The concept was then followed up at the fourth national conference (*munas*) of the Indonesian Council of Ulama (MUI) in the same year. After the conference, MUI formed a steering committee to prepare for the bank’s establishment, including administrative processes and human resources.<sup>41</sup>

The deed of establishment for Bank Muamalat Indonesia was signed on November 1, 1991. Based on the Decree of the Minister of Finance of the Republic of Indonesia No. 1223/MK.013/1991 dated November 5, 1991, and business license No. 430/KMK:013/1992 dated April 24, 1992, BMI began operations on May 1, 1991, to serve the community’s needs through its services.<sup>42</sup>

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<sup>39</sup> Zainal Ahmad Noeh, *Sejarah Singkat Peradilan Agama Islam Di Indonesia* (Bina Ilmu, 1983), p. 23.

<sup>40</sup> Mohammad Daud Ali, *Hukum Islam Dan Peradilan Agama* (Rajawali Pers, 1997).

<sup>41</sup> Warkum Sumitro, *Asas-Asas Perbankan Islam Dan Lembaga-Lembaga Terkait, BMUI & Takaful Di Indonesia* (PT. RajaGrafindo Persada, 1996), pp. 71-73.

<sup>42</sup> Warkum Sumitro, *Asas-Asas Perbankan Islam Dan Lembaga-Lembaga Terkait, BMUI & Takaful Di Indonesia*.

#### 4. Compilation of Islamic Law (KHI)<sup>43</sup>

The Compilation of Islamic Law (KHI) in Indonesia is a consolidated summary of Islamic jurisprudence (*fiqh*) drawn from a wide range of classical scholarly opinions and texts.<sup>44</sup> It functions as an authoritative reference for the Religious Courts, systematically organizing and harmonizing legal materials into a uniform body of rules. However, the significance of the KHI lies not only in its substantive content but also in the manner of its promulgation. The fact that the KHI required a Presidential Instruction for its enactment demonstrates a decisive shift in the state's approach—from merely tolerating Islamic legal practices to actively participating in their formal codification (*taqnīn*).

By authorizing a presidentially mandated drafting team composed of Islamic legal experts, bureaucrats, and judicial officials, the state assumed an explicit role in shaping the authoritative form of Islamic law applicable in the Religious Courts. This political involvement indicates that the New Order regime no longer positioned Islamic law as an informal, community-based normative system, but as a domain in which the state held the authority to define, standardize, and institutionalize Islamic legal norms within its judicial framework. In this sense, the KHI illustrates the state's strategic move toward controlled accommodation: the formalization of Islamic law under state supervision, allowing the regime to respond to Muslim aspirations while maintaining regulatory authority over its final form.<sup>45</sup>

The KHI was created based on Indonesian Presidential Instruction No. 1 of 1991, to be used in the judicial practice of the Religious Courts. Since its inception, the KHI has remained in effect and has become a powerful legal precedent. With the implementation of the KHI, the problem of inconsistent rulings among judges in the Religious Courts, who previously based their decisions on different schools of thought, was resolved, leading to uniform

<sup>43</sup> "Inpres No. 1 Tahun 1991," Database Peraturan | JDIH BPK, accessed September 21, 2025, <http://peraturan.bpk.go.id/Details/293351/inpres-no-1-tahun-1991,tentangKompilasiHukumIslam>.

<sup>44</sup> Nasrun Harun, *Ensiklopedi Hukum Islam* (PT Ichtiar Baru van Hoeve, 2001), p. 968.

<sup>45</sup> Ratno Lukito, *Legal Pluralism in Indonesia: Bridging the Unbridgeable* (London: Routledge, 2013), p. 142–150.

judgments.<sup>46</sup>

Before the KHI's uniform application, the implementation of Islamic law in court decisions was a source of concern for officials in the Religious Courts and the Ministry of Religious Affairs. The different legal references (*fiqh*) and *mazhabs* (schools of thought) used by judges could lead to varying legal outcomes for the same case. The KHI filled this legal void, resolving the concerns of legal officials, government officers, and many others.

### C. The Political Influence on Islamic Law Legislation during the New Order

The success of the Muslim community in advancing its aspirations during the New Order—specifically, in passing laws based on or aligned with Islamic teachings—is undeniably due, in part, to the influence of Indonesian politics, which began to place political Islam on a path toward the center of power. This achievement was a result of the increasingly close relationship between Islam and the government, particularly with President Soeharto during the New Order era.

The legislation of Law No. 2 of 1989 on the National Education System, for example, was a legal product that ensured the provision of religious education in public schools and granted religious schools an equal standing with general schools. Initially, the draft of the National Education System Bill did not include religious education. Its inclusion was a victory for the Muslim community, meaning that Muslim students in non-Muslim schools were now required to receive religious education in accordance with Islamic teachings.<sup>47</sup> This was seen by Islamic figures as a way to prevent secularization and a path to the apostasy of Muslim students.

Furthermore, Law No. 7 of 1989 on Religious Courts was also a tangible result of the struggle by Muslim activists who successfully lobbied political

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<sup>46</sup> Pagar, *Pembaharuan Hukum Islam Indonesiam Kajian Terhadap Sisi Keadilan Ahli Waris Pengganti Dalam Kompilasi Hukum Islam* (Cita Pustaka Media, 2007), p. 50.

<sup>47</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, p. 281.



powers to pass this sensitive law, as it was specifically designated for Muslims. This was a remarkable feat, given that Islam and the state had historically been in opposition. During a parliamentary hearing on the Religious Courts Bill, Bustanul Arifin, the head of the bill's team, was asked by a member of parliament why the name was not explicitly stated as "Islamic Religious Courts," since it was for Muslims. While seemingly a simple change, altering the nomenclature to "Islamic Religious Courts" would have faced significant rejection from non-Muslim citizens and could have prevented the law from being enacted. Once again, political lobbying and support from New Order government officials were crucial.<sup>48</sup>

The same political support was essential for the establishment of Bank Muamalat Indonesia, which operates purely on a sharia-compliant economic system free from *riba* (interest), and for Presidential Instruction No. 1 of 1991 on the Compilation of Islamic Law, which is used to settle cases in Religious Courts. Had the relationship between Islamic figures and the government remained strained, it would have been difficult to secure the political support needed to legislate Islamic law in Indonesian regulations.

The following is a discussion of some of the factors that influenced the New Order government's accommodation of the aspirations of the Muslim community after a period of intense confrontation. These include: first, the development of a new Islamic political thought; second, the strengthening political role of the Muslim community in the government; and third, the change in the political configuration of the New Order.

## Renewal of Islamic Political Thought

The renewal of Islamic political thought, often called the Islamic modernism movement, was initiated by Islamic intellectuals such as Nurcholis Majid, Amien Rais, Abdurrahman Wahid (Gusdur), and their colleagues. In the context of Indonesian politics, the discourse of these Islamic modernism activists led to three theories: first, a re-evaluation of the theological or philo-

<sup>48</sup> Munawir Sjadzali, *Relevansi Hukum Keluarga Islam Dengan Kebutuhan Masa Kini Dalam Dimensi Hukum Islam Dalam Sistem Hukum Nasional* (Gema Insani Press, 1996), pp. 230-232.

sophical foundations of Islam. Second, the re-definition of the political goals of Islam. Third, a re-assessment of how these political goals could be achieved effectively. The vision of this group was no longer to create tension with the bureaucracy but to create an accommodative relationship and unite political parties, especially Islamic political parties, so they would not be fragmented but united for the development and struggle for the welfare of the Muslim community. This renewal movement and thought sought to position Islam not as an opponent of the state, but as a complementary element in the social and political order.<sup>49</sup>

The renewal of Islamic political thought also gave rise to the notion of “cultural Islam,” which emphasized the substantive practice of Islamic values rather than the pursuit of formal symbols of an Islamic state.<sup>50</sup> This intellectual shift did not deny the relevance of symbols, but responded to the political reality of the New Order, which firmly closed the door to any formalistic Islamization. Crucially, however, this shift also had a strategic political function: by framing Islamic aspirations in cultural, ethical, and technocratic terms—rather than in the language of ideological symbolism—Muslim intellectuals were able to recast Islamic policy proposals as nationally safe, non-threatening, and compatible with Pancasila.

This strategy enabled initiatives such as the National Education Law (which strengthened religious education in the public sphere) and the establishment of Bank Muamalat Indonesia (which introduced Islamic financial principles into the economic sphere) to be presented not as steps toward the formalization of an Islamic state, but as pragmatic solutions to national development needs. By employing technocratic arguments—such as improving educational quality, enhancing moral development, expanding financial inclusion, and stabilizing the banking sector—Muslim actors successfully aligned Islamic-inspired reforms with the New Order’s developmentalist agenda, thereby reducing the likelihood of elite resistance. As scholars have noted, Cultural Islam functioned as an effective discursive bridge: it allowed Islamic legislation to advance substantively while remaining acceptable to

<sup>49</sup> Abdurrahman Wahid, “Pribumisasi Islam”, *Dalam Muntaha Azhari Dan Abdul Muin Saleh, Islam Di Indonesia Menatap Masa Depan* (P3M, 1989), p. 83.

<sup>50</sup> Abuddin Nata, *Peta Keragaman Pemikiran Islam Di Indonesia* (PT.RajaGrafindo Persada, 2001), pp. 173-174.

the secular elite because it avoided the symbolic language that had triggered political confrontation in earlier decades.<sup>51</sup>

The idea of cultural Islam was very significant in diffusing the prejudice that arose between the government and the religiously oriented people. This is because it was previously believed that a strong Islamic orientation was always associated with opposition to the government. This is not surprising because Indonesian Islam played a consistent role as an ideology against colonialism. This role resulted in national independence. Because Muslims put forward political ideas that were not always in line with the practical demands of the republic, a prejudice grew between Islam-oriented politics and the nationally-oriented government.<sup>52</sup>

This is what gave rise to the significance of a more inclusive understanding of Indonesian Islam. This means that Islamic symbols must be open and understandable to all Muslims, both inside and outside the government. This is not an excuse to compromise and abandon the high ideals of Islam, but an effort to incorporate the role of Islam in Indonesian politics so that it can be more accepted and accommodated by the political elite who are oriented toward nationhood and nationalism.<sup>53</sup>

Hefner mentions that political Islam, which has transformed into cultural Islam, has produced an “unintended consequence,” leading to a fundamental change that began around the 1980s between the government and Islam, with a pattern of mutual accommodation. This atmosphere fostered a climate of political rapprochement. Hefner’s belief stems from his observation of the thoughts of Muslim figures who were aware that there was now an “Islamic revival” in a fairly favorable atmosphere.<sup>54</sup>

Therefore, Abdul Munir Mulkan (1946) saw that what he termed a “shift in the strategy of Islamic struggle and socialization” had occurred. Due to the

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<sup>51</sup> Bahtiar Effendy, *Islam and the State in Indonesia* (Singapore: Institute of South-east Asian Studies, 2003), pp. 145–155

<sup>52</sup> Nurcholish Madjid, *Islam, Kemodernan, Dan Keindonesiaan* (Mizan, 1993), pp. 72–73.

<sup>53</sup> Nurcholish Madjid, *Islam, Kemodernan, Dan Keindonesiaan*, p. 73.

<sup>54</sup> Robert W. Hefner, *ICMI Dan Perjuangan Menuju Kelas Menengah Indonesia* (Tiara Wacana Yogya, 1995), p. 25.

vulnerability and powerlessness of the Muslim community in the political field related to their socioeconomic position, the fulfillment of political needs was able to temporarily shift the ethical and theological interests as norms and teachings of Islam.<sup>55</sup>

## 2. Political Role of the Muslim Community in Government

As explained in the previous chapter, the relationship between the New Order and Islam can be distinguished into three phases. The first period was the antagonistic period (1967-1982). This period made Islam a strong opponent of the New Order's policies that wanted to eliminate the "Islamic" group from the country's political arena. Various policies cornered the "Islamic" community, such as the refusal to rehabilitate Masyumi as a party and the merger of Islamic parties into one party in the PPP, and so on.<sup>56</sup>

The second period was the critical reciprocal period (1982-1985). This period was marked by a process of mutual respect between the government and the Muslim community. This period began with a "political test" conducted by the New Order government by conceptualizing a single principle for all social organizations (ormas) and social-political organizations (orsos-pol). This meant that any ormas or orsospol that did not accept Pancasila as its sole principle would be forcibly deactivated and disbanded. Initially, the reaction of the Muslim community varied, with some accepting and others firmly rejecting it. However, due to pressure, the Muslim community eventually accepted it. This acceptance of the single principle was initiated by NU, followed by other ormas like Muhammadiyah (1986), HMI, and MUI.

The third period was the accommodative period (1986-1998). The accommodative period was adopted by the Muslim community considering that the power of the New Order was very strong and dominated all aspects of life. In addition, this accommodative relationship was also due to the government's policies that benefited the Muslim community, such as the aboli-

<sup>55</sup> Abdul Munir Mulkan, *Perubahan Prilaku Politik Dan Polaritas Umat Islam* (Rajawali Pers, 1989), 56.

<sup>56</sup> M. Syafi'i Anwar, *Pemikiran Dan Aksi Islam Di Indonesia, Sebuah Kajian Politik Tentang Cendekiawan Muslim Orde Baru*, p. 9.

tion of the ban on wearing hijab for school students, the recognition of religious education in the national education system, the recognition of religious educational institutions, the increased role of the Pancasila Muslim Charity Foundation (YABMP), the establishment of Bank Muamalat, the abolition of the SDSB lottery, the holding of the Istiqlal festival, the ratification of the Religious Court Bill, the establishment of ICMI, and the ratification of the Islamic Law Compilation.

This accommodative phase, which had nuances of harmonization between Islam and the state, opened the door wide for the Islamization of social, cultural, political, and Islamic legal institutions in Indonesia. In this regard, the development of Islamic law, which quantitatively influenced social-cultural, political, and legal structures, was then qualitatively accommodated in various regulations and laws legislated by government and state institutions. This phase strengthened the position of the Muslim community in the government, and many of their aspirations were accommodated by the New Order, in this case, Soeharto. In fact, many of the Muslim community's programs were not only approved but also fully supported with large funds, as exemplified by the Islamic Law Compilation project and the establishment of Bank Muamalat Indonesia (BMI).

Before this phase, the disharmony between Islam and the state caused access for Islamic political activists to the corridors of power to shrink drastically, and their political position declined, especially during the first 25 years of the New Order government. Some illustrations that clearly depict the defeat of political Islam are the dissolution of the Masyumi party and the rejection of its rehabilitation efforts (1960) ; senior Masyumi figures not being allowed to lead Parmusi (1968) ; the reduction of Islamic political parties from four (NU, MI, PSII, and Perti) to just one, the PPP ; the reduction of Islamic representatives in parliament and cabinet ; and through the single principle of Pancasila, Islam was not allowed as the basis for social and political organizations (1985). What was more saddening than all of this was that political Islam had become a target of ideological suspicion. The state often suspected Islamic political activists of being anti-Pancasila, the state ideology.<sup>57</sup>

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<sup>57</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, p. 271.

It was this kind of unfavorable situation that the new generation of Muslim activists, who emerged in the early 1970s, wanted to overcome. Their emphasis was on transforming the legalistic-formalistic and exclusive idealism and activism of the early Islamic political activists into a more substantive and integrative political approach. It was hoped that with such a strategy, a suitable political synthesis between Islam and the state could be truly realized. These hopes began to materialize in the accommodative era of Islam.<sup>58</sup>

One piece of evidence showing this new development was the state's softening politics toward Islam in recent years, marked by the implementation of several state policies that were in line with the socioeconomic and political interests of the Muslim community. Muslim activists were also asked to occupy several important political and bureaucratic positions, which gave them relatively easy access to power that was clearly beneficial for fulfilling the interests of the Muslim community. The state provided a structural mechanism to allow Muslim groups to express and fight for their interests. Although still limited in scope, since the 1970s, we have witnessed the accommodation of the bureaucracy toward several Muslim intellectuals such as Sularso, Bintoro Tjokroaminoto, Barli Halim, Busthanul Arifin, Sya'dillah Mursyid, and Mar'ie Muhammad.<sup>59</sup>

The government's accommodation of the Muslim community also extended to the field of legislative law. There were at least five important things related to the form of state legislative accommodation toward Islam. 1) The enactment of the National Education Law (UUPN) in 1989; 2) the enactment of the Religious Courts Law in 1989 and the Islamic Law Compilation in 1991; 3) the change in policy regarding the hijab in 1991; 4) the issuance of a joint ministerial decree concerning the Zakat, Infaq, and Shadaqah Collection Agency (Bazis) in 1991 ; and 5) the abolition of the Philanthropic Social Lottery (SDSB) in 1993. The enactment of these things was in line with the interests of many Muslims.

In addition to this accommodation, the government also built many plac-

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<sup>58</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*.

<sup>59</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, pp. 274-275.

es of worship (mosques) for the interests of the Muslim community through the Pancasila Muslim Charity Foundation, which was founded by President Soeharto in 1982. But even more phenomenal than the state's infrastructure accommodation of the Muslim community's interests was not just permitting, but also helping to establish an Islamic Bank, namely Bank Muamalat Indonesia (BMI) in 1991. At Bogor Palace, President Soeharto sponsored a massive fund mobilization that reached more than 110 billion rupiah to be used as initial capital for BMI's operations.<sup>60</sup>

From what has been presented above, it is clear that there is nothing strange in the state's becoming increasingly accommodative toward Islam. Not every form of accommodation above was new in its substance. Some of them—the National Education Law, the Religious Courts Law, the joint ministerial decree on the Zakat, Infaq, and Shadaqah Collection Agency (BAZIS)—show an expansion or continuation of long-standing practices. Although the formation of ICMI, which is often considered the culmination of the accommodative attitude of Islam, to a certain extent strengthened the political bargaining position of Islam, the organization would not rival the decisive role of other important channels such as NGOs, Muhammadiyah, NU, MUI, Golkar, and the bureaucracy. It is no exaggeration to say that the increasing number of new Islamic representatives in both parliament and the cabinet was largely due to the increasingly diverse approaches taken by the new generation of Islamic political thinkers and activists in articulating and realizing their socioeconomic and political interests.<sup>61</sup>

From this perspective, it can be said that the state basically only strengthened the structural, infrastructural, and cultural channels of the Muslim community in order to articulate and realize their social, religious, economic, and political agendas. However, considering the nature of the political relationship between Islam and the state in the past, these accommodative steps undoubtedly served as important indicators that, however symbolic, showed the fading of political tension between Islam and the state.<sup>62</sup>

<sup>60</sup> Tempo, "Bank Dengan Agunan Amanah," *Tempo*, Nopember 1991.

<sup>61</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, p. 310, .

<sup>62</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*.



### 3. Change in the Political Configuration of the New Order

In the early period of the New Order government, the main supporting actor on the national political stage was ABRI, especially the Army. This was in line with the *dwifungsi* (dual function) concept of ABRI, first coined by A.H. Nasution in a police meeting in Porong. He explained that in addition to its combat function to defend the existence of the state, the military must also strive to create or maintain a well-structured society.<sup>63</sup> This means that in addition to its conventional function (combat), it also acts as a social builder and protector, both for national defense and national development. This *dwifungsi* made the military highly dominant in the New Order government, based on the argument that civilians still needed strong leadership that could only be guaranteed by the Army.<sup>64</sup>

The New Order began its government with a libertarian style. The New Order had shifted Indonesia's political system from the extreme authoritarian point of guided democracy to a liberal democratic system. However, the libertarian style did not last long, because in addition to being a reaction to the previously existing authoritarian system, this system was only tolerated while the government sought a new political format for Indonesia. As soon as the new format was established, the liberal system shifted back to an authoritarian one. As stated earlier, the New Order's obsession from the beginning was to build national stability in order to protect the smooth running of economic development. National integration, often used synonymously with the term national unity and cohesion, became a development target that had to be achieved at any cost.<sup>65</sup> Because the more solid a nation's integration level is, the higher the quality of its national stability.

Initially, the New Order did begin its steps with a liberal style, so that critical thoughts could be tolerated democratically. So, in the early days of the New Order, the authoritarian style was replaced by a libertarian one. During

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<sup>63</sup> Abdul Haris Nasution, *17 Oktober Dalam Rangka Proses Mencari Posisi TNI Dalam Kehidupan Bernegara* (Stensilan, 1974), p. 24.

<sup>64</sup> Harold Crouch, *The Army and Politics in Indonesia* (Cornell University Press, 1978), h. 390.

<sup>65</sup> Juwono Sudarsono, "Integrasi, Demokrasi Dan Pembangunan Politik," *Kompas*, Desember 1987.

this early period, the mass media were free to fully express political aspirations and realities in society, with the exception of the PKI and its left-wing groups.<sup>66</sup> The liberal atmosphere, which only lasted for a short time at the beginning of the New Order, can be explained by the fact that the obsession with “stability and national integration” in the New Order was very prominent. Tolerance for liberalism at the beginning of the New Order was only given during a transition period while the government sought a new political format for Indonesia. Perhaps this tolerance was also given to seek legitimacy for the New Order, as the New Order was born as an opponent of the highly authoritarian Old Order with its guided democracy.<sup>67</sup>

The main steps taken by the early New Order government to make itself a strong state included drafting the Election Law, streamlining political parties, and forming Golkar as the government party. These three things were done so that the New Order’s power could win the elections and be solid in government because it was always supported by a parliament dominated by Golkar as the government party, and in the 1971 election, this was successfully realized.

Harold Crouch assessed that Golkar’s extraordinary victory in the 1971 Election reduced the ability of opposition to the government among civilian organizations. The victory subsequently led Golkar to become a hegemonic party that, along with ABRI, became the government’s main pillar for dominating all political processes. Although experts try to provide different identifications, they have one thing in common: Indonesia under the New Order displayed an undemocratic political configuration. In this regard, Afan Gaffar wrote: “All of the arguments presented by the scholars of Indonesian politics, however, shared one thing in common, that is, the political process under the New Order regime is not a democratic one.”<sup>68</sup>

As stated above, the emergence of such a configuration was because the logic of economic development demanded stability and national integration.

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<sup>66</sup> Amir Effendi Siregar, *Pers Mahasiswa Indonesia, Patah Tumbuh Hilang Berganti* (PT. Karya Unipress, 1983), p. 32.

<sup>67</sup> Mahfud MD, *Politik Hukum Di Indonesia* (Rajawali Pers, 2020), p. 217.

<sup>68</sup> Afan Gaffar, *Javanese Voters, A Case Study of Election Under Hegemonic Party Sistem* (Gadjah Mada University Press, 1992), p. 186.

The logic of economic development made the role of the state dominant.<sup>69</sup> In addition to the logic of development, the political configuration of the New Order can be distinguished from the Old Order in terms of its foundation. As Alfian said:

“If Soekarno primarily relied on his power on the influence of his charisma as a leader and on his ability to hold the key to the balance between competing and conflicting political forces, Soeharto primarily relied on his power as the head of the executive by building strong political organs, the military and Golkar. Therefore, if Soekarno’s great political power seemed ineffective due to the lack of a strong political organ as a foundation, Soeharto’s political power, with the military and Golkar as his main foundation and support, seemed very effective.”<sup>70</sup>

In the mid-1980s, the political configuration of the New Order began to slowly but surely change. Political Islam and its activists, who had been marginalized in Indonesia’s political system, were now given space and positions to hold strategic roles in government institutions and legislative structures.

To many observers, these steps clearly indicated a tactical retreat to win. The scenario planners presented a logical subplot: Soeharto needed the political support of the Muslim community to win the upcoming general election. Faced with opposition to his attempt to seek a sixth term in the presidency in 1993, and under the threat of an increasingly dissatisfied military group, Soeharto seemed to want to grasp the only card in his increasingly frail hand. He explicitly showed that when he died, he wanted the Muslim community to perform the funeral prayer for him.<sup>71</sup>

Soeharto’s efforts to accommodate the interests of the Muslim community and approach their activists, even placing them in strategic government and legislative positions as representatives of Golkar, was his new strategy to

<sup>69</sup> Mohtar Mas’oed, *Perubahan Sosial, Ekonomi, Dan Politik Selama Orde Baru*, Dalam Akhmad Zaini Abar (Ed), *Beberapa Aspek Pembangunan Orde Baru, Esai-Esai Dari Fisipol Bulaksumur* (Ramadhan, 1990), p. 159.

<sup>70</sup> Alfian, “Format Baru Politik Indonesia,” *Indonesia Magazine*, 1998, p. 53.

<sup>71</sup> Michael R.J. Vatikiotis, *Indonesian Politics Under Soeharto: Order, Development and Pressure of Change* (Routledge, 1993), p. 132.

raise his position in order to win the 1993 general election. There were at least two important reasons that supported this view. First, the historical momentum in which these accommodative efforts took place was a period marked by growing public attention to the issue of succession. For this reason, along with the President's desire to return to the presidency after the 1993 general election, the accommodative steps were easily seen as deliberate efforts to seek the political support of the Muslim community. In addition, the fact that several prominent Muslim leaders and Islamic organizations, led by Alamsyah Ratuperwiranegara (former aide to President Soeharto, Minister of Religious Affairs, and Coordinating Minister for People's Welfare), in September 1989 and May 1992 issued a unanimous resolve for Soeharto to be willing to be re-elected as President further strengthened this analysis.<sup>72</sup>

The second, and perhaps the most important, reason was the perception of Soeharto's weakening control over the military group, which, along with the bureaucracy in Golkar, was the backbone of the New Order government. As explained by Liddle:

"After a quarter of a century, Soeharto's control over power began to show signs of weakening. The first important evidence of this weakening control occurred in March 1988, when his proposed vice-presidential candidate [Sudharmono] was fiercely and openly opposed by representatives of the military group at the People's Consultative Assembly session. Although Soeharto eventually won, he realized that the military group as a whole and especially the senior Generals were looking ahead to a time when they, as individuals and institutions, would remain players, while he himself would not."<sup>73</sup>

As stated, Soeharto eventually won. But the rift did not disappear with the end of the MPR General Session. Immediately after the General Session ended, the military group tried to strengthen their political position by taking control of the Golkar leadership in the regions. In fact, it was reported that the Generals also began to encourage student activists in Bandung, Yogyakarta, and other cities to hold protests on local issues and demand that Soeharto

<sup>72</sup> Tempo, *Halal-Haramnya Kebulatan Tekad*, 26 Mei 1990, pp. 22-28.

<sup>73</sup> R. William Liddle, "Indonesia's Threefold Crisis," *Journal of Democracy* 3, no. 4 (1992): 61.

step down from power.<sup>74</sup>

All of this was a clear sign of the stumbling block that Soeharto had to face if he wanted to be elected (and indeed he was) president for the sixth time in 1993. The quiet disobedience of the military to his leadership not only created serious doubts about their traditional support for Soeharto, but also created the impression that they themselves might be a potential threat to his desire to return as president. It was primarily for this reason that the argument emerged that he made maneuvers to re-embrace the military by placing people with family ties and former aides in key positions, but also to embrace old enemies, the Indonesian Islamic political movement, with the clear goal of offsetting the military's weakening support for him.<sup>75</sup>

Although it is viewed that the state's accommodative efforts and harmony toward Islam were merely a maneuver by President Soeharto to secure his presidency in 1993, it can be argued that without the intellectual transformation carried out by Islamic political activists in the 1970s, the state's accommodative efforts toward the interests of the Muslim community might not have been realized. In other words, if Islam still adhered to its old political idealism and activism, where the struggle for the formation of an Islamic state or a state based on Islamic ideology was its main goal, then the accommodative steps above or the state's softening political attitude might not have occurred.<sup>76</sup>

These three factors did not operate in isolation; rather, they converged in a coherent and mutually reinforcing manner that enabled the successful passage of the four key Islamic legal and institutional products of the late New Order—namely the National Education Law (1989), the Religious Courts Law (1989), the Compilation of Islamic Law (KHI, 1991), and Bank Muamalat Indonesia (BMI, 1991). The renewal of Islamic political thought supplied an ideological framework that made Islamic aspirations appear culturally and nationally acceptable. Meanwhile, the strengthening political role of Muslim

<sup>74</sup> Michael R.J. Vatikiotis, *Indonesian Politics Under Soeharto: Order, Development and Pressure of Change*, p. 143.

<sup>75</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, p. 312-313.

<sup>76</sup> Bachtiar Effendy, *Islam Dan Negara, Transformasi Pemikiran Dan Praktik Politik Islam Di Indonesia*, p. 319.

actors within the state—through increased bureaucratic representation, the rise of ICMI, and closer access to the presidential circle—provided institutional channels through which Islamic-oriented proposals could be articulated and negotiated. Finally, the changing political configuration of the New Order, marked by Soeharto’s declining dependence on military hardliners and his growing reliance on Muslim technocrats, created structural incentives for the regime to selectively accommodate Islamic demands.

The convergence of these three forces created a policy window in which Islamic legislative initiatives could be advanced without triggering ideological confrontation. Each law, however, depended on a different configuration of these factors. The following model maps which factor was most critical for each legislative product, while also showing how the other factors functioned as enabling conditions rather than primary drivers.

Table 1. Convergence of Key Factors Behind Islamic Legislative Products under the New Order

Legislative Product	Renewal of Islamic Political Thought (Cultural Islam)	Strengthened Political Role of Muslim Actors	Changing Political Configuration of the New Order	Most Crucial Factor
National Education Law (UU 2/1989)	Enabled Islamic education demands to be framed as moral–developmental rather than ideological.	Muslim bureaucrats in the Ministry of Religious Affairs pushed for parity of Islamic education.	Regime sought stability through controlled accommodation after tensions of the 1970s.	Muslim bureaucratic influence
Religious Courts Law (UU 7/1989)	Moderated ideological tone, making judicial reform appear nationally safe.	Strong lobbying by Muslim jurists and Ministry of Religious Affairs officials.	Soeharto needed to de-escalate post–Marriage Law political tensions.	Change in political configuration (conflict de-escalation)
Compilation of Islamic Law (KHI, 1991)	Cultural Islam discourse legitimized non-ideological codification ( <i>taqnīn</i> ).	Muslim legal experts actively involved as state-appointed drafters.	Presidential Instruction signaled regime’s shift to supervised accommodation.	State configuration shift toward guided accommodation
Bank Muamalat Indonesia (BMI, 1991)	Allowed Islamic finance to be framed as developmental economics, not Islamic formalism.	ICMI networks and Muslim technocrats (especially Habibie’s circle) mobilized elite support.	Regime support for economic diversification and technocratic initiatives.	Strengthened Muslim elite networks (ICMI)

Together, these findings suggest that Islamic legislative success under the New Order was not the product of ad-hoc concessions but of a triangular convergence: an ideological reframing (Cultural Islam), an expanding Muslim presence within the bureaucracy, and a shifting political environment that incentivized controlled accommodation. Each of the four products emerged from a different balance of these factors, but all were enabled by the same overarching pattern of state–Muslim synergy under tightly managed political conditions.



## Conclusion

This research confirms that the legislation of Islamic law during the New Order reflected a complex and evolving political dynamic. The main findings demonstrate that the shift from confrontation to accommodation constituted a necessary precondition for the successful formalization of Islamic law. Legislative outcomes such as the National Education System Law, the Religious Courts Law, the Compilation of Islamic Law, and the establishment of Bank Muamalat Indonesia stand as concrete evidence of this transformation.

More specifically, this success cannot be understood without considering three interrelated causal factors: the renewal of Islamic political thought from a formalistic to a substantive orientation; the strengthened political role of Muslim actors within the state structure; and, most crucially, the shift within the New Order's internal political configuration that led Soeharto to seek and institutionalize Muslim support. The convergence of these factors created an environment in which Islamic legal aspirations could be accommodated without destabilizing the regime's ideological framework.

The conceptual contribution of this research lies in identifying that these developments collectively produced a new, durable model of state-Islam relations, best described as a "Managed Constructive Partnership." This term most accurately captures the dual character of the New Order's accommodative phase: *managed*, because the state retained firm regulatory oversight and determined the limits of Islamic political expression; *constructive*, because Muslim intellectuals, technocrats, and jurists actively contributed to shaping substantive policy reforms.

This "Managed Constructive Partnership" enriches the scholarly understanding of how the formalization of religious law — even within an authoritarian context — can emerge from strategic adaptation, institutional collaboration, and the ability of societal actors to utilize shifting political opportunities. It offers a deeper and more dynamic account of how Islamic aspirations became embedded within the state's legal system through the complex interplay of social, intellectual, and political forces.

This research contributes by presenting the novelty that the legislation of Islamic law was the result of a strategic synthesis, not merely a one-sided demand. This contribution enriches the literature by showing that the formalization of religious law, even in an authoritarian regime, can be achieved through intellectual adaptation and the ability to utilize emerging political gaps. This provides a more in-depth and dynamic understanding of how religious aspirations can be accommodated into the state's legal system through a complex interaction between social, intellectual, and political forces.

The findings of this study carry several significant implications for the broader scholarship on state-Islam relations. First, the concept of a "Managed Constructive Partnership" demonstrates that the formalization of Islamic law did not rely solely on societal pressure, but also on the internal configuration of the state and the intellectual flexibility of the Muslim community. This model can serve as an analytical framework for explaining how both authoritarian and semi-authoritarian regimes accommodate religious aspirations without relinquishing political control. Second, the study underscores that the successful legislation of Islamic law during the New Order was the product of a multidimensional interaction involving intellectual discourse, elite dynamics, and state political calculations. This insight enriches the literature on legal politics in Indonesia by offering a more nuanced and layered understanding of the mechanisms through which religious norms can be incorporated into the state's legal system.

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