



Analysis of the DPR's Position in the Process of Forming Islamic Law in Indonesia Based on *Taqnin* Theory*

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Abstract

This article explores the role of Indonesia's People's Representative Council (DPR) in shaping Islamic law, employing the *Taqnin* theory as a guiding framework. *Taqnin* theory is a crucial conceptual tool in understanding how the DPR contributes to crafting legislation aligning with Islamic principles. Beyond its legislative function, the DPR serves as an interpreter of religious precepts, navigating the intersection between Islamic values and societal needs. By applying *Taqnin* Theory, the DPR crafts laws in line with Islamic teachings and ensures their relevance within evolving social contexts. The analysis underscores the DPR's role in formulating laws reflecting Islamic values while considering formal legal, moral, and ethical dimensions inherent in Islamic teachings. This process illustrates the active engagement of the DPR in crafting laws that not only address religious imperatives but also respond to social exigencies and communal values. Despite the constructive guidance provided by *Taqnin* Theory, the article also addresses challenges in its implementation, such as interpretational disparities, community resistance, and political dynamics shaping Islamic law formation in Indonesia. As outlined in the article, the historical trajectory of Islamic law legislation in Indonesia offers insight into its evolution from the colonial era to its integration into the national legal framework. By examining the status of Islamic law in Indonesia, the article delineates the dynamics of a legal system comprising national and customary laws. While Islamic law significantly influences domains such as marriage, inheritance, and Sharia-compliant financial institutions, the foundational principles of Pancasila embody a state ethos characterised by inclusivity and tolerance towards religious and cultural diversity. Moreover, the article underscores the positive legal outcomes of applying *Taqnin*, underscoring its significance in understanding the process of Islamic law formation in Indonesia.

Keywords: DPR; Islamic Law; *Taqnin* Theory

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A. INTRODUCTION

The People's Representative Council (DPR) is crucial in formulating laws that embody Islamic legal principles in Indonesia. The DPR, as a legislative body, is tasked with the active engagement in the formulation, deliberation, and enactment of laws that align with religious tenets. Consequently, it is imperative to assess the role of the DPR in formulating Islamic law in Indonesia, mainly through the lens of *Taqnin* theory. ([Syamsoni, 2015: 168-193](#))

Taqnin theory provides a conceptual basis for understanding how the DPR interacts and plays a role in forming laws related to Islamic principles in Indonesia ([Yazid, 2017: 193-208](#)). By understanding the concept of *Taqnin* in-depth, we can see the active role of the DPR in designing a legal structure that reflects religious values in this country. This theory emphasises efforts to formulate laws consistent with spiritual teachings, especially Islam, and provides broader insight into how to apply Islamic legal norms in the legislative realm. As the main legislative body, the DPR is vital in implementing *Taqnin* Theory in law formation. They not only act as policymakers but also as interpreters of religious principles in the context of legislation. The DPR is responsible for harmonising religious principles with developing social dynamics and is actively involved in drafting laws that reflect Islamic values. They use a deep understanding of religious values, including formal, legal, moral and ethical aspects of Islamic teachings, to guide the legal formulation.

Bahrudin ([2022](#)) added that by understanding the concept of *Taqnin*, researchers or policymakers can more thoroughly understand the role of the DPR in forming and developing Islamic law in Indonesia. This involves a comprehensive investigation into how the DPR incorporates religious principles in the law and responds to social change and societal demands.

The *Taqnin* concept also provides a deeper understanding of how the DPR creates laws based on religious principles but is also relevant to the social situation and community needs. ([Jaenudin, 2017:41- 58](#)) This ensures that the resulting law is dogmatic and responsive to social change. Although the *Taqnin* concept provides an optimistic outlook, a deeper understanding also opens up opportunities to explore the challenges and potential of its application.

Syamsoni ([2015:168-193](#)) emphasised that with a deep understanding of the *Taqnin* concept, researchers or policymakers can gain a deeper

understanding of the role and contribution of the DPR in forming Islamic law in Indonesia. This is important to ensure that the regulations created reflect religious values, are relevant to all parties, and keep up with societal changes. Thus, the author will investigate the dynamics of the relationship between the DPR, Islamic law, and *Taqnin* theory and explain the DPR's contribution in formulating laws by Islamic teachings while identifying challenges and opportunities in this process. It is hoped that a comprehensive understanding of the role of the DPR in forming Islamic law in Indonesia can provide a broader perspective on the complexity of these dynamics.

B. METHODS

This study employs a qualitative research method that integrates two primary approaches: the literature approach and the law approach. This study uses literature analysis to examine diverse academic sources and pertinent documents, including theories concerning the development of Islamic law (*taqnin*), the function of the DPR in Indonesia's legislative process, and additional literature that underpins the investigation of the interplay between Islamic law and the national legal framework. This literature review compiles diverse perspectives and opinions concerning the doctrine of *taqnin* and the role of the DPR in formulating Islamic law. Alongside literature, a legal framework is employed to examine relevant legislation and regulations, particularly those governing the DPR's involvement in the legislative process and its connection to enforcing Islamic law in Indonesia. This paper analyses the normative dimensions of the DPR's participation in the formulation of Islamic law, focusing on the application and integration of legal regulations within the national legal framework grounded in Islamic principles. The paper employs a dual approach to comprehensively examine the DPR's role in developing Islamic law in Indonesia, both theoretically and practically, in alignment with the *taqnin* theory.

C. RESULTS AND DISCUSSION

1. History of Islamic Law Legislation in Indonesia

The history of the formation of Islamic law in Indonesia has been a long and dynamic journey. Before independence in 1945, Islamic law had become an integral part of the legal structure in the regions that were the forerunners of modern Indonesia. ([Mayani & Wiwi Arwinda, 2019](#)) The influence of Islamic law has been felt since the Dutch colonial period when the justice

system officially applied Islamic law to Muslim citizens. ([Directorate General of Religious Courts, 2021](#)) Islamic law is used primarily in dealing with legal issues rooted in religion, such as marriage, inheritance, and disputes originating from Islamic principles. However, local customary laws and Dutch colonial regulations also remain in effect, reflecting the diversity of existing laws.

Mayani and Arwinda ([2019](#)) explain how Indonesia recognises the importance of Islamic law in its national legal framework, as reflected in the 1945 Constitution. This Constitution recognises and respects religious and cultural diversity in Indonesia. ([Ramadhani, 2011](#)) This trip shows that Islamic law had become inseparable from the legal foundation that formed this country before Indonesia's independence.

In 1974, Indonesia responded to the need for more structured and consistent rules in marriage law by issuing the Marriage Law. ([Mayani & Wiwi Arwinda, 2019](#)) This step is an essential milestone in forming the legal framework for marriage in Indonesia, which establishes the legal basis for regulating various aspects of marriage, including the terms, rights and obligations of partners. The Marriage Law of 1974 not only covers aspects of civil law but also gives official recognition to religious courts, formally incorporating Islamic law within the framework of marriage law. This provides legal certainty for Muslim communities to arrange marriages by Islamic teachings.

This regulation also reflects the spirit of inclusiveness in marriage law in Indonesia. Even though most of the population is Muslim, the Marriage Law accommodates a diversity of religions and beliefs, ensuring that all citizens have an equal legal framework to regulate their married life. ([Asmuni and Firman, 2022](#)) With the publication of the Marriage Law in 1974, Indonesia confirmed its commitment to creating a legal framework that reflects religious values while remaining inclusive of the cultural and religious diversity within its society. This law is essential for regulating marriage in Indonesia, creating a legal foundation that reflects the country's spirit of justice and diversity.

As time passes, Indonesia strives to develop its legal framework to be more consistent with Islamic teachings, including in aspects of criminal law. ([Angrayni, 2015:46-60](#)) In 1999, the government revised Law Number 1 of 1974 concerning Marriage. This revision aims to better harmonise marriage laws with Islamic principles, including more specific details and the context of religious teachings.

In 2001, awareness of the need to protect children gave rise to the issuance of Law Number 23 of 2002 concerning Child Protection. Satriya (2011:649-673) believes that this law not only regulates child protection in general but also includes provisions of Islamic law related to the rights and protection of children in a religious context. Thus, aspects of Islamic law become an integral part of the child protection framework in Indonesia. These two laws reflect the Indonesian government's commitment to accommodate Islamic religious values within the national legal framework. This change strengthens and confirms recognition of the critical role of Islamic law in various aspects of life, including marriage and child protection. This initiative forms a more comprehensive legal basis, reflecting religious principles in marriage regulations and efforts to protect children's rights. (Nurjanah, 2017) Therefore, Indonesia continues to improve and adapt its legal structure to achieve harmony between Islamic values and the demands of the times facing its society today.

Introducing regional autonomy in Indonesia opens up opportunities for implementing Sharia regulations at the local level. (Salamah and Rianto, 2014) Several regions in Indonesia are starting to take steps to implement Sharia regulations, especially those relating to marriage, inheritance, and religious justice. Regional autonomy allows each region to adapt laws more contextually according to local values and needs.

It is important to note that this development aligns with Indonesia's spirit of diversity and religious freedom. (Abdillah, 2024) In 2000, the 1945 Constitutional Amendment to Indonesia recognised Islamic law as one of the country's sources of law. Article 29, paragraph (1) guarantees freedom of worship by individual religion and beliefs. Despite progress in recognising and integrating Islamic law, there are still challenges. Differences in the interpretation of Islamic law, management in its implementation, and uniformity of application throughout Indonesia are part of the dynamics that continue to emerge in efforts to integrate Islamic law into the national legal system. (Kasmad, 2020) These changes show cultural diversity, religious interpretations and diverse regulatory systems in various regions of Indonesia. (Rumapea et al., 2023) While religious freedom is respected, these challenges require additional efforts to achieve an appropriate balance between Islamic principles and the diverse needs of society. Therefore, although there have been positive steps to recognise and unify Islamic law at the local and national levels, challenges such as differences in interpretation, governance and consistency of implementation are still part of the journey towards harmony between Islamic law and the national legal system in Indonesia. Wise and

inclusive steps need to be taken to overcome these challenges and maintain a balance that aligns with the principles of democracy and Indonesian diversity.

The history of Islamic law legislation in Indonesia reflects a long, dynamic journey, with strong efforts to accommodate Islamic principles into a broader national legal framework. These changes reflect the development of a legal system responsive to changes in societal dynamics while attempting to uphold a legal framework that aligns with religious values in a diverse country. ([Abbas, 2017](#))

2. Islamic Law in Law in Indonesia

Sumarni ([2012:447-458](#)) stated that in Indonesia, Islamic law holds a unique position in line with the long history and cultural and religious diversity inherent in the diversity of this country. Even though the majority of Indonesia's population adheres to Islam, the legal system is not entirely Islamic. Pancasila influences this as the basis of state law, which forms Indonesia's ideology.

Pancasila, as the foundation of the state, has five main principles, including the values of the oneness of God, justice and human civilisation, the unity of Indonesia, a government system based on deliberation or representation, and equal distribution of social justice for all Indonesian citizens. Even though the majority of the population is Muslim, Pancasila does not explicitly state that Indonesian law must rely on Islamic teachings. ([Parasong, 2024](#))

Indonesia respects and adheres to religious freedom, reflected in its constitution and laws. Although Islamic law has a vital role in several aspects of life, including marriage, inheritance and religious justice, the national legal system remains inclusive of the diversity of religions and beliefs of its people. In other words, although Islamic law has a significant role, Indonesia accommodates various faiths and religions adhered to by its people, reflecting a spirit of inclusivity and tolerance. Then, Indonesia also implemented a dual legal system ([Nursadi, 2007](#)), namely national law and customary law, which reflects the diversity of cultures and traditions throughout the country. National law applies uniformly throughout the region, while customary law relates to diverse local norms and is often used in everyday life. Even though Indonesian law is not completely Islamic ([Sahid, 2016: 14](#)), several aspects of law take inspiration from Islam, especially regarding marriage, inheritance and sharia financial institutions. Indonesia also has a Sharia Court to handle

Islamic law cases. Indonesia also upholds the principle of protection and freedom of religion for all citizens, guaranteed by the constitution and other regulations. This reflects the spirit of inclusivity and tolerance in a multicultural society. Thus, the status of Islamic law in Indonesia reflects an inclusive and tolerant spirit in a country that respects religious and cultural diversity, while Pancasila remains the primary foundation for government and the social life of Indonesian society.

3. The Positive Legal Characteristics of *Taqnin* Results in Indonesia

The laws implemented based on the *Taqnin* Theory in Indonesia reflect harmony between religious values and the social needs of developing society. ([Syamsoni, 2015](#)) This legal formation process produces a legal framework that is responsive, dynamic, and can accommodate religious values which are an integral part of Indonesian society.

According to Syamsoni ([2015:168-193](#)), the *Taqnin* Theory provides a conceptual framework for understanding how Islamic legal norms can be applied in legislation. This theory allows for a careful balance between religious principles, especially Islam, and the needs and dynamics of modern society. Thus, the resulting law combines religious values with social interests, forming a legal framework responsive to societal changes and developments.

This dynamic legal landscape reflects Indonesia's ability to incorporate religious values into its legal framework without sacrificing flexibility and adaptability to evolving social needs. The legal formulation process involving *Taqnin* Theory also shows efforts to maintain harmony between positive legal aspects and Islamic religious values so that the resulting law remains relevant and acceptable to diverse communities. ([Manan et al., 2021](#)) In addition, the distinctive characteristics of positive law produced through *Taqnin* show that Indonesia not only relies on religious principles as the basis of its law but also recognises and respects the dynamics of needs and changes in its society. Thus, positive law arising from implementing *Taqnin* Theory creates a legal paradigm that adapts religious principles to social reality, making law a tool capable of meeting society's demands and aspirations. ([Syamsoni, 2015](#))

The formation of laws resulting from *Taqnin* in Indonesia reflects a legislative process that reflects religious norms and resilience in facing changes in societal dynamics. ([Syamsoni, 2015: 168-193](#)) The law created not only forms a normative basis but also shows its ability to adapt to the realities of everyday life, forming a legal framework responsive to the diversity and needs that

continue to develop in society.

The uniqueness of the legal formation resulting from *Taqnin* lies in the non-monolithic interpretation of religious norms. Although it still recognises religious values, this law provides room for interpretation that considers Indonesian society's cultural diversity and background. This creates a flexible legal framework that can adapt to cultural diversity so that law becomes a tool that recognises and understands the diversity and complexity of Indonesian society. ([Syamsoni, 2015: 168-193](#))

Community participation is a crucial element in forming laws resulting from *Taqnin*. This legislative process becomes more inclusive by providing space for various parties, including religious leaders, academics and the general public. By involving multiple perspectives and understandings, the resulting law has formal legitimacy from the legislative body and is more likely to be accepted by society. ([Bunyamin, 2024](#))

Overall, the law resulting from *Taqnin* not only forms a normative framework that reflects religious principles but also shows resilience, adaptability and inclusiveness in responding to the dynamics of Indonesian society. This law reflects the participatory spirit and diversity rooted in the legislative process, ensuring that the resulting law is relevant, accepted, and able to embrace cultural diversity and the needs of diverse communities. ([Syamsoni, 2015: 168-193](#))

The legal flexibility resulting from *Taqnin* reflects its openness to contemporary challenges that may arise in the dynamics of modern society. ([Syamsoni, 2015: 168-193](#)) When new, previously unforeseen problems arise, these laws can be adjusted and updated responsively to remain relevant to current developments. This characteristic creates a legal framework that is not rigid but adaptive to environmental changes and evolving needs. Apart from that, the primary basis for the formation of laws resulting from *Taqnin* is the protection of human rights and the principles of justice. This law was designed to protect individual human rights, ensuring that every citizen has their fundamental rights enforceable. In every aspect, justice is a principle that is upheld so that the law not only forms a normative framework but also maintains the implementation of the fundamental rights of every citizen. ([Mahbib, 2024](#))

This legal flexibility is not only a response to environmental change but also recognises the diversity of society. The law resulting from *Taqnin* creates a legal system that reflects religious values and guarantees fundamental rights

inclusively, ensuring that justice is recognised and upheld in every aspect of society's life. Thus, the law resulting from *Taqnin* is not only an adaptive legal instrument but also reflects a commitment to maintaining the implementation of human rights and principles of justice in the context of changing times. ([Jaenudin, 2017: 41-58](#))

Syamsoni ([2015:168-193](#)) concludes that overall, the positive law resulting from *Taqnin* in Indonesia not only forms a legal framework that reflects religious values but also embraces diversity, is responsive to social change, and upholds human rights and the principles of justice. In this journey, Indonesia has demonstrated its commitment to maintaining harmony between religion and social needs, establishing an inclusive and adaptive legal foundation.

D. CONCLUSIONS

Along with developments over time and societal changes, analysis of the People's Representative Council (DPR) 's role in forming Islamic law in Indonesia has become essential to understanding how legislative institutions respond to the need for justice based on religious principles. In this context, *Taqnin's* theory provides a valuable perspective in understanding the contribution of the DPR in creating a legal framework that reflects Islamic values. More specifically, the positive legal implementation of the *Taqnin* concept in Indonesia can be seen through regulations governing marriage, inheritance and sharia financial institutions. Regarding marriage regulations, the law reflects Islamic law principles relating to marriage, the rights and obligations of spouses, and divorce procedures, ensuring that the law reflects religious values regarding marriage.

Regulations on inheritance also describe the principles of Islamic law in the distribution of inheritance. A deep understanding of the concept of *Taqnin* is the basis for making laws that consider Sharia principles in the distribution of inheritance to maintain justice between heirs through religious teachings. Furthermore, the laws governing Sharia financial institutions demonstrate Indonesia's commitment to creating a financial system based on Islamic principles. By recognising and regulating Sharia-based financial institutions, positive law creates a framework that supports business practices by religious values.

Positive law originating from the *Taqnin* concept in Indonesia creates a unique and complex legal paradigm. By incorporating religious principles, especially Islam, into the national legal framework, Indonesia has successfully

created favourable laws that are responsive, inclusive, and able to adapt to social change. Making this law involves community participation and inclusiveness in responding to cultural and religious diversity in Indonesia. The unique characteristics of *Taqnin* law reflect the spirit of justice, flexibility, and resilience needed to respond to the needs and dynamics of modern society. Thus, the positive law resulting from *Taqnin* is a normative basis and a tool that reflects the spirit of inclusiveness, justice and resilience in the Indonesian legal system.

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