

## Understanding of Islamic Law Enforcement in Some Islamic Countries (Analysis of International Islamic Studies)

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### Abstract

*This religious law paper discusses the understanding of Islamic law enforcement in several countries or Islamic empires through analysis and review of hundreds of articles published in high-impact factor journals. Our data collection is carried out with a Google search engine on many scientific data-based publications such as Sagepub, Elsevier, Taylor and France, Academic Paper, and Google Books. Furthermore, the study involved the coding system, evaluation, and in-depth interpretation so that we get an understanding to answer the problems of this study. We design this study as a descriptive qualitative study on secondary data. Based on the results and discussion, we summarize the results; among others, several Islamic countries have made it mandatory for Islamic law to be applied as a whole. However, if it is not an Islamic state, the application is on agreed matters, and Muslims are obliged to fight for it gradually through a constitutional route. These findings should be input for the development of Islamic studies and law in the future.*

### Keywords

islamic law; islamic state; application and review of publications; qualitative data



## I. Introduction

The application of law in the environment in a country is not a matter of administration and governance of the Government and society, but this hope in the context of Islam is worship whose laws are required or obligatory to maintain justice and benefit, and Islamic law itself (Hefner, 2019). In essence, Islamic law is a source from God that cannot be exchanged within the legal framework of other sources in Islamic teachings. In a more profound sense, the law is practically non-existent in Islam, and although the application of Islamic law faces challenges, it is still a viable option. Being intolerant can be seen as inflexible and unacceptable, implying that it cannot be adapted to the conventions of the human mind, like life in a democratic country. The problem of applying Islamic law in Muslim countries is a fascinating study from the point of view of positive legal systems in non-Islamic countries (Moustafa, 2014).

Gaining a fair and equitable sense of justice is one of the objectives of the promulgation of laws and regulations (Njoh, 2013). He said that equality, justice, and its implications for the formulation of a state. This is in line with God's message of justice for all humanity, according to Islamic law. The history of the scientific study of Islamic law is an essential component in every country that adheres to an Islamic system (Cummings et al., 2020). It must be determined by Islamic teachings or the requirements of Islamic law and is a reflection of the way Muslims think and worship. There are solid legal principles rooted in the Qur'an, which views that Muslims in all aspects of daily life must rely on religious guidance, namely the Qur'an and hadith, as well as the opinions of scholars. The law that the Islamic world cannot impose legal changes except based on the law of the

Qur'an, although there are other laws, then everything must adhere to the principle of the first law, the Qur'an (Suparman, 2017).

This study aimed to understand the application of Islamic law in countries with Muslim populations and countries with Islamic status. Looking back on the heyday of the Ottoman Empire, Islamic law was powerful with elements that persisted into the 19th century (Rehman and Askari, 2010). However, slowly along with the arrival of western powers, the western legal system became one of the laws that had an important influence on the changes in the Islamic country itself. It would be better if other studies discuss how to apply Islamic law in countries that are now Islamic countries and countries with most Muslims. Thus, this study can color the thoughts and insights of social knowledge subject to academic and religious decision-making and state administration (Islam, 2018).

## II. Research Methods

In this section, we describe the method of this study we carried out. So, first of all, we understand the objectives and problems, among others, that this study of religious law analyzes and reviews hundreds of papers published in high-impact factor journals to gain better knowledge about the enforcement of Islamic law in various Islamic countries or kingdoms (Simon et al., 2020). Our data is collected using the Google search engine in various scientific data-driven publications, including Sagepub, Elsevier, Taylor & Francis, Academic Paper, and Google Books. In addition, this research includes an in-depth coding, assessment, and interpretation system so that we can gain an understanding of the research problem (Alshawabka and Sharma, 2020) in their study "Quranic hermeneutics: a new Islamic methodology to understanding qualitative accounting data within the Islamic world context."

## III. Results and Discussion

### 3.1 Sharia Law in Modern Muslim Nations

In today's state life, the relationship between religion and the state can be organized into three categories (Coulson, 2017). These three models are described when viewed in 4 countries with a majority Muslim population, for example, the model of implementing Islam in the Kingdom of Saudi Arabia and the Islamic Republic of Iran is a straight line between religion and the state in the sense that they run the state based on Sharia law (Namazi, 2019). For example, in other parts, the application of state law is separated from Islamic law or is categorized as secularism (Wills, 2011). In these countries, the government's law is adjusted to the results of the constitution because, in the law, it is stated that the government does not make new constructions. After all, the main thing is that if the country adheres to a constitutional system, the Qur'an and hadith are following the majority of the Muslim community there. A 2005 correction stated: "The Kingdom of Saudi Arabia is sovereign under Islamic law" (Qamariyanti, 2016).

In the royal structure, religious authorities – namely the ulama – became advisors in Islamic law in the kingdom. In addition to using the sharia legal system, the law applied by the Saudi Government also applies regulations and builds institutions to handle cases that are not covered by Sharia (Platteau, 2011). It is designed to conform to Shariah principles and to complement it, not replace it. Apart from Saudi Arabia, the Islamic Republic of Iran has also demonstrated an integrative religious model with the state. In 1979, the Iranian Revolution led by Ayatollah Imam Khomeini established the theocratic Islamic Republic under the name Islamic Republic of Iran. The Iranian constitution states that all political

decisions must be based on or must not conflict with Islamic law as interpreted by the religious-political authority, namely Wilāyat al-Faqīh (Namazi, 2019).

The Shia believe in twelve ma'am (holy) Imams as the power holders to succeed the Prophet. The 'Imamah' is alive and well, led by the 'four Mahdi ambassadors' who are believed to have delivered the 'priest' decision himself (War, 2020). After the 'invisibility' of the last Imam, al-Mahdi, the Shiites believe he "hides from the physical world and represents his leadership." Waly al-Faqih is a religious-political institution that acts as the leading force for the legitimacy of every government policy (Abubakar and Bima, 2020). The highest power is in the hands of a scholar who is pious, just, capable of leading, and approved by the majority of the people. Under the leadership of President Khatami, women are increasingly getting their rights as citizens on an equal basis with men (Mikail, 2015).

Current trends suggest that in both Iran and Saudi Arabia, this model also leads to a democratic political system, albeit on a minimal scale (Sapparapu et al., 2016). Turkish secularism can be termed as strict secularism of citizens to express their beliefs in public is prohibited. Whereas in Western secular countries, it protects and gives Muslims the right to practice their religion. This causes the tension between secularization and the agreement to return to Islam to be a prolonged problem (Mahendra, 2021).

Even though Turkey is a secular country, its spiritual growth is striking for most Turks. In the field of worship facilities, Turkey currently has no less than 62,000 mosques, and the construction of mosques reaches 1,500 units per year (Nolta et al., 2020). This can be seen from the number of members of religious groups, such as the Nur movement founded by Said Nursi with a membership of about 300,000 people (Abu-Rabi, 2013). The position of Sharia in the constitutional system in Indonesia has often been an ongoing debate, both during the preparation for independence with the Jakarta Charter and even today. Considering that Indonesia is a country with a pluralistic population, in terms of family law and inheritance, Islamic law is still declared as the applicable law. In matters relating to other civil law, such as banking and insurance law, the state can also change the rules of Islamic law into national law (Buskens, 2010).

The application of Islamic law in Indonesia includes an intersectional relationship model because it is carried out in three forms in national law. On the one hand, the issuance of zakat, waqf, hajj, and sharia banking is a form of acceptance of the Indonesian legal system towards Islamic law (Jahar, 2019). The application of Sharia is essential if the substantive implementation is difficult to realize in the current context, such as imprisonment for theft. The Islamic political system is not single, especially regarding the position of Sharia and its application model in the existence of a modern Islamic state.

A good rule of law in a country is that all parties can accept, not just because it is forced to follow the majority group (Bosch et al., 2019). In contrast to the first form of implementation, which is only specifically for Muslims, the second and third forms of implementation make Islamic law integrated or absorbed into national law. There is no single monolithic view of how the relationship between Islam and politics (state) should be good and right. In the Islamic world, there are interpretations of the Shari'a that sometimes contradict each other. This is what makes Islam has the nature of multiple interpretations. Almost every Muslim believes in the importance of principles, especially Islamic ethical values, in the country's political life (Stivens, 2013).

Nonetheless, relatively few people carry out the punishment known as hudud, which Muslim scholars condemn (Ismail and Awang Mat, 2016). Sharia is a system of religious law that is derived from the Qur'an as the words and Hadith of Allah, as well as the words and deeds of the Prophet Muhammad. Its application has been a source of debate among conservative and liberal Muslims and is currently under discussion. Some elements, such

as their use in banking, have been widely accepted (Iqtidar, 2011). For Muslim consumer entities, even Western businesses provide Islamic financial solutions. Hudud, which means "boundary" in Arabic, is a punishment for mortal sins that include adultery, rape, homosexuality, theft, and murder. Since many crimes have to be proven by confession or seen by many adult Muslim men, such punishments are rarely carried out. The following is how it is implemented in various countries. Kingdom of Saudi Arabia All Saudi laws are based on Sharia (Herath and Alsulmi, 2017).

Until recently, hudud penalties were often carried out in public. Homosexual activities are punishable by death but are typically punished with whipping and jail. Beheadings and amputations with a sword are often carried out on Fridays before the noon prayer (Sharma, 2017). After execution, the condemned individual was occasionally crucified in severe instances. In personal harm, the law also allows for an eye punishment called *visas*. However, in this Sunni monarchy, the relatives of murder victims were allowed to pardon those condemned frequently in return for money. Like China's, Iran, the Islamic Republic's legal system is based on Sharia, although several significant distinctions exist. Judges have the authority to examine circumstantial evidence. The law also differs from traditional Sharia in that Iran is heavily reliant on incarceration. On the other hand, Shia nations impose different Sharia punishments (Black et al., 2013).

Amnesty International condemned him in 2017 for "continuing use of harsh and inhumane penalties, including as caning, amputation, and forced blindness." Brunei Darussalam's small and wealthy absolute monarchy aroused worldwide controversy in 2019 when it became the first Southeast Asian country to adopt harsh Sharia. Its sultan subsequently said that specific punishments, including stoning for homosexual sex and adultery, would not be implemented. Afghanistan Since their takeover over the weekend, the Taliban have hinted that they may relax their traditionally harsh interpretation of Sharia. The previous Taliban government imprisoned unaccompanied women in their houses and forced them to wear the full-body burqa (Rani et al., 2020).

During his five years in power, he also regularly used extreme hudud penalties. Indonesia Aceh, Indonesia's conservative area, is the only province with Islamic law in the world's biggest Muslim-majority nation. Gambling, drunkenness, adultery, and same-sex intercourse are common grounds for public whipping (Mann and Afrianty, 2020). The central Government, however, declined to authorize beheading. Aceh embraced Islamic law after being given autonomy in 2001 as part of Jakarta's effort to end a long-running separatist conflict. Sudan accepted Sharia law in 1983, but its application has been inconsistent, according to campaigners. The death sentence by stoning is still legal, although it has not been used in decades. Despite this, campaigners say that hundreds of women are caned each year for immoral conduct. As part of Pakistan's Islamization, Pakistani military ruler Muhammad Zia-ul-Haq enacted the highly criticized Hudood Act in 1979. Sharia courts, which apply the law like the UK-based penal code, are seldom utilized. Adultery, false allegations in court, property offenses, and drug and alcohol restrictions are all covered (Simons, 2016).

The Women's Protection Act was approved by legislators in 2006, eliminating instances of rape and adultery from the religious system. Decisions of Sharia courts may now be challenged in regular courts (Tønnessen, 2016). Nigeria Sharia is applied to criminal proceedings in around 12 of Nigeria's 36 states, all of which are in the north. Amputations may be ordered by the courts, although they are seldom carried out. Qatar Caning is still a legal penalty for Muslims who use alcohol or participate in illegal sexual relationships, although it is seldom utilized. Adultery is theoretically punishable by 100 lashes. Adultery between a Muslim lady and a non-Muslim man is likewise punished by

death. However, the death sentence is rarely applied in sporadic instances of murder (Santoso, 2011).

### 3.2 Contradictory Law Enforcement

While other Muslims believe that Sharia law is necessary enforcement of religion and that the issue of violence in Sharia law is exaggerated by anti-Islamic groups (Sabrow, 2020) Sharia is an Arabic term that means "the path to be taken." It is a broad expression that includes both human and religious law. Sharia comes from two sources: the Qur'an, which is a compilation of direct statements from Allah, and the Sunnah, which is a summary of the standards followed by the Prophet Muhammad. Sharia was then used as fiqh, or Islamic law (Quraishi-Landes, 2014). So, Islamic law consists of fiqh and Sharia. Since fiqh is artificial, its laws can be changed, whereas Sharia, according to many Muslims, cannot. Sharia is the word used by some Muslims to refer to the commands found in the Qur'an and Sunnah. Sharia, although often seen as a legal system, also regulates ideas, character, and behavior. Sharia law requires Muslims to believe in God, angels, prophets, revelations, and other faith-enhancing teachings. Sharia law controls Muslims to prevent lies or arrogance and encourages them to be humble and do good in character components (Rubin, 2017).

The requirements of prayer, fasting, pilgrimage, and actions related to social activities such as marriage, crime, and the economy are examples of regulated actions (Qaraḍāwī, 2010). The economic condition of the population is a condition that describes human life that has economic score (Shah et al, 2020). Some Sharia rules govern actions involving other people, while actions involving God (as well as belief and character) are a private matter between the person and God. However, some Muslim-majority countries have imposed penalties for crimes related to God. Sharia law was enforced during the ninth and tenth centuries, some 200 to 300 years after Muhammad received the first revelation (Yilmaz, 2016). The principles of Sharia were widely discussed towards the end of the 10th century, especially among Islamic students who interpreted Sharia through a fresh perspective in the form of fatwas and legal judgments. The interpretation of Sharia is carried out by legal experts known as fuqaha. Fuqahaa is the interpretation of when and when Sharia law can be applied (Mudawam, 2012).

Sharia law is upheld by judges who group Sharia punishments as obligatory, suggested, unbiased, legal, however, suggested, or denied (Malkawi and Murad, 2013). For quite a long time, Islamic law specialists have recorded their perspectives in books utilized by courts to decide (Ercanbrack, 2019). In Islamic regions, ordinary courts and Sharia exist together. Sharia courts are frequently used to determine family law debates. According to Otto, (2010) Muslim general laws fall into three classes: customary sharia frameworks, common frameworks, and half-breed frameworks. Sharia has an authority or significant level situation in nations with conventional sharia frameworks, impacting overall sets of laws, including family law, criminal law, and, in specific regions, laws for breaks of individual convictions like truancy.

In many states where most Muslims are Muslim, the implementation of the law is not fully enforceable, considering the circumstances there still allow for implementation following the constitution and the wishes of the public. As the official law of the state, Islamic law and the law as a whole, such as the family, district court, and all aspects of religious life, socio-political, and education, are imperative to be regulated by the state based on Islamic law. Education is one of the efforts to improve the ability of human intelligence, thus he is able to improve the quality of his life (Saleh and Mujahiddin, 2020). Such countries include Algeria, Libya, Samaria, Lawrence, Bangladesh, Brunei, Sting,



Malaysia, Oman, and Surya, all countries that primarily adhere to a legal system based on Islamic law. However, many countries have many Muslims who do not follow Islamic law; for example, Mali is a country that has a stand, stand, and Turkey, all of these countries are predominantly Muslim, but the constitution has not fully implemented Islam. However, there are also some other countries which are the non-Muslim majority, but the constitution has given authority to Muslims to have Islamic family law courts in Muslim minority countries, there are no Islamic courts in America and no human rights courts in countries like Europe that are non-Muslim (Moustafa, 2014).

For instance, to give a separation in the United States, a court in the United States should infrequently acknowledge the authenticity of an Islamic marriage contract from a Muslim country (Lepore, 2012). Nonetheless, large numbers of these feelings were done of setting, toppled, or practically testing to set up. For instance, for somebody to be indicted for infidelity, there should be four trustworthy observers to the lead. The Quran additionally commands the removal of the hoodlum's hand, albeit this ought not to be done (and this is often ignored) if the criminal has apologized. Researchers who support sharia law contend that such a Sharia discipline framework must be carried out in an informed and local moral area to keep away from torment and forestall repetitive offenses. In light of contemporary ideas, actual discipline would be phenomenal in such a general public. Many accept that assailant Islamist associations in Afghanistan, Somalia, and Syria and governments in Iran, Saudi Arabia, the Indonesian area of Aceh, and others have utilized actual discipline (Macfarlane, 2012).

### 3.3 Sharia Law Controversy

In a rapidly growing globe and contemporary society, the implementation of Sharia law has been a source of contention in many debates in Indonesia since many of its rules are seen to deprive people of their rights as beings (Firmansyah and Anwar, 2019). Smith Al Hadar, an Islamic observer, said that a law should be created following its period. "There are ideals that must be considered while adopting a legislation, whether it is consistent with existing standards or not," Hadar went on to say that the law is existential and that it arose as a result of an agreement between different people who were conscious of the growth of civilization and the necessity to establish a foundation that serves as a mediator of a societal issue. "The law is a balancing complement that a nation needs in society (Savage-Smith, 2021). According to Mann and Afrianty, (2020), the establishment of Sharia law in Aceh was carried out primarily due to the Acehnese's attachment to Islam, the dominant religion at Sumatra's tip. Implementing Sharia law in Aceh is also a strategy for local officials to demonstrate the area's Islamic identity as the Veranda of Mecca.

"However, this does not imply that all Acehnese are familiar with Sharia law. Many Acehnese know sharia law as the law that was in effect during the Prophet's time, without understanding what it entails," Hadar elaborated. According to Hadar, an in-depth study of Sharia law should have been conducted and agreed upon by all Acehnese. As a result, sharia law may be born in a law compatible with Aceh's culture. "The world community is now looking at Indonesia's democracy, which has become a role model for many nations. Do not allow one of the areas ruin this image by enforcing regulations that are not in line with the norms of the present period" (Roberts, 2011).

## IV. Conclusion

In this final section, we write a summary of this study to discuss how to understand the application of Islamic law by Islamic countries through the study and analysis of secondary data from several sources mentioned above. We believe that the purpose of this study has been answered with evidence of studies from various sources and the context of the application of the results of studies published in well-known journals. Therefore, to explain further, we convey the results, among other things, that in general, countries that apply it in full, such as the Kingdom of Saudi Arabia, apply it in an integrated manner, which means that the state provides an opportunity for laws to be produced based on the constitution without being based on Islam. Meanwhile, Muslim-majority countries still have a secular system that separates religion from positive law. This study ends with the controversy of the international community, especially Europe, with the application of Islamic law in Aceh. Hopefully, the results of this study are helpful for the development of future studies.

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