

Understanding Sharia Law in Three Cognate Countries: Similarities and Differences in Applications; Indonesia, Malaysia, And Brunei Darussalam

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**Understanding Sharia Law in Three Cognate Countries:
Similarities and Differences in Applications; Indonesia,
Malaysia, And Brunei Darussalam**

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Abstract

Many studies have been conducted on various topics of the application of Islamic law in Indonesia, Malaysia, and Brunei. However, we believe very few have tried to see the similarities and differences in the application of Islamic law, the law that forms the basis of the way of life of Muslims in the three allied countries. In order to understand the problem and application of sharia law from the point of view of similarities and differences between the three Malay countries, we have conducted a series of data analyses of the sharia law literature in the three Malay family countries. Meanwhile, to answer this research question, in the process of gaining understanding, we conducted a study using a phenomenological approach, a study technique to gain an understanding of something phenomenal among the existing data. Among other things, we coded the data, critically evaluated it, and interpreted it to obtain the relevance of the application of Islamic sharia in three Malay lands that both share Islam. Secondary data fully support this research; in the form of scientific evidence that we extracted from various published literature, both in the form of books and scientific journals, provided that we get valid answers to research problems. After examining it in depth, we can conclude that there are similarities between the three allied countries that have implemented their laws based on Islamic law. However, their application is still limited,

and the difference is that Indonesia is a country based on Pancasila while Malaysia is based on Islamic law. Brunei Darussalam is entirely based on sharia law. Regarding criminal law, Indonesia still uses positive legal sources, while civil law, which covers marriage and inheritance, fully adheres to sharia law. Thus, these findings become essential inputs for the development of future studies

Keywords

Islamic Law, Allied Countries, Similarities, Differences, Indonesia, Malaysia, and Brunei

JEL Classifications: J11, F43

1. Introduction

These three countries, Indonesia, Malaysia, and Brunei Darussalam have an essential role in the constellation of Islamic progress, which has become increasingly important considering the role of the three countries as countries with a majority Muslim population in Southeast Asia (Wardhani, 2012). With the role of these three countries as a country in the international community, especially for developing countries, this is an Islamic force that becomes important in advancing Islam and is also one of the centers where the progress of Islam when this country is taken into account. In Southeast Asia, where ministerial-level conferences are often held, as well as those from countries that organize Islamic conferences, this reflects that these three countries have become Islamic reinforcements that will positively impact the progress of increasing Islamic civilization to peace in the world (Asa, 2019). So, like it or not, Islam, from a legal perspective, which will be the basis of being Muslim, will also color the thinking in Indonesia, Malaysia, and Brunei Darussalam.

The beginning of Islam in these three allied countries, often called Southeast Asian comrades, begins with the history of the entry of Islam, starting from the tip of Sumatra to the Pasai Ocean around the 7th or 8th century Maschi (Petru, 2015). From Sumatra continues to grow to all regions in Indonesia, Islam is brought and broadcast continuously. Including the Islamic contingent led by Sheikh Ismail, whom Syarif Mecca sent to Bandar Malacca, which received a warm welcome in Aru and Malacca. In the 12th century (1276) in Malacca, Sidi Abdul Aziz, a merchant from Mecca, embraced the Islam of the king and his people. The King of Malacca then took the name of Sultan Muhammad Shah. According to a strong history, Islam entered Brunei Darussalam's territory around 977. Those who Islamized Brunei Darussalam at that time were Muslim traders from China. Their arrival spread Islam to develop for several centuries (Aydin, 2017).

Applying Islamic regulation in different Muslim-populated nations has various styles and frameworks in a country with a more significant population. Islam is not very subtle as a country generally adjusted between its disciples, assuming the nation has more than one religion (Khoo et al., 2020). The mastery

of the ruler or politics is likewise compelling to a country's legitimate strategy because the execution of Islamic regulation in Muslim nations does not just lie in that frame of mind of disciples of Islam but, on the other not set in stone by the framework created by the nation concerned (Adawiyah, 2019). A few nations in different regions run their administration and overall sets of laws that they endlessly have consented to accomplish their particular objectives. From one viewpoint, the use of Islamic regulation in a nation is without a doubt wanted by Muslims who experience the lessons of Islam; then again; there is no country on the planet whose population is 100 QA Islam, intending that in a country, the populace complies to different religions, the issue is how a nation upholds the execution of Islamic regulation. Islamic regulation if the population complies with numerous religions (Anshori et al., 2021).

One more image that occasionally emerges is the discussion about the Islamic state. Dr. Amin Rau expressed that the Islamic state does not exist in the Qur'an or Hadith. This way, Islam has no order to lay out an Islamic state (Jackson, 2010). Mainly, as long as the state completes the Islamic ethos, then maintains civil rights and makes a populist society that is distant from the abuse of people or the majority and the double-dealing of gatherings over different gatherings. In this connection, we will talk about the use of Islamic regulation in Malaysia given the current writing with different methodologies that can give exact data; testing of fundamental freedoms retaliation in Malaysia is firmly related because of multiple factors (Vargas-hernández et al., 2010).

Most Muslim nations consolidate sharia in their general laws, especially family regulations. Be that as it may, not very many complete the discipline known as hudud, which even Muslim researchers cannot help contradict (Moustafa, 2015). To put it plainly, sharia is an arrangement of strict regulation taken from the Qur'an as the expressions of Allah and Hadith or the words or activities of the Prophet Muhammad SAW. Its application has been the subject of question among moderate and liberal Muslims and is still being discussed. A few viewpoints have been widely acknowledged, like their banking application. Indeed, even Western organizations offer Islamic monetary items to draw in Muslim clients. Hudud, a cutoff in Arabic, is a discipline forced for critical sins like infidelity, assault, homosexuality, burglary, and murder. Such disciplines are seldom completed because numerous offenses should be demonstrated by admission or seen by a few grown-up Muslim men. The accompanying applies to a few nations (Moustafa, 2015).

Brunei Darussalam's minuscule and profoundly affluent outright government ignited global shock when it became the leading country in Southeast Asia to carry out outrageous sharia in 2019. Its king later said a few punishments would not be upheld, including stoning for gay sex and infidelity (Lindsey & Steiner, 2016). Indonesia, the moderate locale of Aceh in Indonesia, is the main territory of the planet's biggest Muslim-greater country with Islamic regulations. Public lashing is regular for betting, drinking, infidelity, and same-sex. Be that as it may, the focal government would not endorse decapitating. Aceh embraced strict

regulation in the wake of being conceded Independence in 2001 in Jakarta's offer to subdue a long-running nonconformist rebellion (Najeeb & Vejzagic, 2013).

2. Research Method

In this paper, we will examine the use of Islamic Law in three unitary states, Indonesia, Malaysia, and Brunei Darussalam. Considering that this paper is carried out with a phenomenological approach, it is possible to examine data from various literature centers, both books and scientific working papers on applying Islamic laws and regulations in the three countries mentioned above (Abdeldayem et al., 2021). We use a data review method in several techniques, which include coding the data, evaluating the data, and interpreting and taking conclusions by considering the validity of the data findings. We do a data search with the help of the Google search engine by installing keywords according to the study friend. This study is entirely on secondary data in the form of publications in the form of scientific evidence of academic work and other data. Those are, among other things, the steps for implementing this study, which is to obtain material for discussing the application of sharia law in the three cognate countries mentioned above (Sakti et al., 2016).

3. Results and Discussion

3.1 Historical background of Islamic shariah

The historical backdrop of the improvement of Islamic regulation can be estimated by the degree to which the use of Islamic regulation in these three nations started during the 1960 (Ismail, 2015). Canadian anthropologist Judith Nagata has spearheaded adding more writing on religion and restoration in her book *The Flowering of Malaysia Islam*. In the meanwhile, assuming that it takes a gander at the improvement of Islamic regulation in Indonesia, it tends to be seen since the appearance of Islam in the archipelago. Islamic regulation is a piece of individuals' lives socially and socially (Nagata, 2004). Since Islam came to Indonesia in the seventh century AD, its spread was fast to such an extent that in the thirteenth and fourteenth hundred years, it was perceived as a political power that could move the presence of adat. ¹⁰

Islamic regulation is a regulation in light of the Qur'an, As-Sunnah, and Al-Ijtihad to manage human existence all-around material, pertinent without fail, space, and for all people (Pulungan & Akbar, 2022). All-inclusiveness of Islamic regulation is an impression of the all-inclusive religion of Islam. Islamic regulation applied by the ruler in space is usually called a Qanun. In improving the qanun into a term to portray the standards that apply in the public eye as per the conditions, there is immediately a more definite arrangement of fiqh (Janah & Baroroh, 2021). Islamic regulation has lived amidst Indonesian culture for hundreds of years, from the hour of the Islamic domain colonization to current Indonesia (Casquet et al.,

2015). Islamic regulation can adjust the time, spot, and conditions. Individuals' lives continuously evolve, so the law needs to change to make equity public. A few techniques for removing Islamic regulations include the advantages of mursalah, istihsan, istishab, and urf.

Gradually until it was recorded, a few realms carried out Islamic regulation in the public authority framework (Bagayoko et al., 2016). The requirement of Islamic regulation as state regulation (positive regulation) should be visible in the time of Islamic realms, like the Islamic Kingdom of Samudera Pasai in Aceh (thirteenth 100 years), followed by other Islamic realms. Legislative issues and power impact the presence of Islamic regulation. Since the hour of the Islamic realm in the archipelago, Islamic regulation has been applied in different strategies, for example, making Islam the authority religion of the realm, the arrangement of imperial authorities in the field of religion, the execution of manuals or regulations are given Islamic lessons as a source of perspective for settlement case (Steiner, 2018). Islamic regulation had areas of strength for a preceding.

The Dutch sent off their lawful governmental issues in the archipelago. Issues emerge considering the presence of Islamic regulation upon the political force of a district. Numerous conversations about Islamic regulation began during the Dutch pioneer period. Because of example, length, pioneer governmental issues, and the entrance of Dutch pilgrim regulation brought about minimized Islamic regulation (Rafianti, 2018). The Netherlands resists VOCs by giving more than adequate space to advance Islamic regulation. In any case, the Dutch attempted to mediate against Islamic regulation by defying standard regulations. The Netherlands expects to carry out legislative issues, the law that controls life, with Dutch regulation in Indonesia. While during the Japanese pioneer time frame, no progressions connected with pertinent Islamic regulations. In like manner, nearby traditions do not stop the Japanese from forestalling opposition (Hashim, 2010).

In examining the most common way of applying Islamic regulation in Malaysia, the creator utilizes a verifiable, humanistic, and doctrinal methodology. These three methodologies are proper to be utilized as techniques to reveal the utilization of Islamic regulation in Malaysia because, with a verifiable methodology, past data regarding the most common way of applying Islamic regulation can be known or, previously, Islamic regulation was not known (Wanke et al., 2016). Applied because the set of experiences likewise records that Malaysia has Mer Gonse Hall's verifiable methodology is a course of looking at and examining verifiable records, implying that it is done in maslamas at specific times by gathering and evaluating information and afterward making sense of it. Hence, the example can be known by involving a humanistic methodology in getting data from different sorts of best in Malaysia (Shaza Liyana Shamri et al., 2021).

3.2 Islamic civilization in three allied countries

Malays, which are currently spreading in three partnered nations as a country that brought forth development in Southeast Asia, are not by any means the only country that plays a developing part for Islam around here, different nationalities like Creole, Arabic, Turkish, Persian, Pathan, Bengali Mogul, and Indo-Indonesian. Mongoloids play that part (Oktadiana et al., 2017). The assimilation led to different sorts of strict grasping created in the Islamic district in these three nations; the improvement of strict figuring out prompted contrasts in religious philosophy, fiqh, and Sufism. The distinctions that emerge are not guaranteed to lessen the quintessence of the three strict understandings. This paper attempts to depict the excursion of Islam as a strict level that underscores social devotion, given the lessons of monotheism as reflected in the Qur'an and al-Hadith through a time frame in light of the consideration of the schools of fiqh, the school of kalam and the schools of Sufism. Fiqh Syafi'i became predominant in the circle of love for the more significant part of the Muslim populace in Indonesia, Malaysia, and Brunei; Ahl al-Sunnah wa al-Jama'ah religious philosophy arose as a regulation that could not be isolated from the customs of Tauhidan Malays as the more significant part (Rosili, 2016).

Supporters of the progression of kalam, even though it does not prevent the presence from getting different schools. Tarekat is the last piece of Islamic personality in Southeast Asia inside the extent of Sufism is shaded by different schools. The Islamic district of Southeast Asia is indistinguishable with Islamic lessons that join components of fiqh, kalam, and Sufism as a solitary unit of Islamic lessons that consolidates components of fiqh, kalam, and Sufism as a solitary unit instructed by followers of Islam who come from Arabia, India (Mihardjo et al., 2020).

These three viewpoints entered along with the passage of Islam into Malay land through exchange or shipping lanes in the seventh century AD; this course significantly affected the spread of Islam. Proof of the significance of the job of exchange to present Islam in this related nation should be visible from every country in Southeast Asia's similitudes in taking on the Islamic way of thinking (Ghadbeigy & Jafari, 2021). Syafi'i fiqh has become prevailing in the circle of love for the more significant part of the Muslim populace in Southeast Asia; Ahl al-Sunnah wa al-Jama'ah religious philosophy arose as a tenet that cannot be isolated from the rituality of monotheism of the Malays. As the more excellent part disciples of this faction kalam, although it does not keep the presence from getting different schools. Tarekat, the last piece of Islamic personality in Southeast Asia in the circle of Sufism, is shaded by different organizations, which ordinarily have connections to the Prophet Muhammad and the Caliph ar-Rashidin (Gikandi, 2002).

3.3 Differences in the application of Islamic Law

The contrast between the two nations is the type of state and the type of government. Whereas a rule, the State of Indonesia is a unitary state, while the State of Malaysia is an organization that is partitioned into nations driven by the king in every country. While as a government, Indonesia is a republic, and Malaysia is an established government (Osman, 2017). The distinction in this general set of laws contrasts with authentic elements, particularly the mastery or colonization of 2 significant western powers. Malaysia was colonized by the British, and Indonesia was colonized by the Dutch. Both nations have their own overall sets of laws; thus, it is presently a comprehensive set of laws in the nations colonized. In Indonesia, given article 29 passage (1) and section (2) of the 1945 Constitution and the Preamble to the 1945 Constitution, the place of Islamic regulation has started to balance out and created because Islamic regulation is a regulation from God Almighty as per the definition of the state reasoning of Pancasila (Murod et al., 2022).

The Islamic regulation is perceived as God's regulation should be visible from Noel J. Coulson's assertion, where it is said, "does not outgrow an evolving society the case with framework yet is forced from a higher place." One with the framework, however, constrained from a higher place). In Malaysia, the presence of Sharia Courts at the state and local levels is entrusted with settling and choosing each issue of the execution of Islamic regulation (Hurvitz, 2013). All choices made by the adjudicators in question depend on the public authority's Islamic Deeds and Enablings⁶. Furthermore, to execute Islamic regulations in Malaysia, the presence of the Islamic Advancement Department is an establishment that upholds Islamic regulations in Malaysia.

3.4 Development of Islamic Law

Development in Indonesia and Malaysia Indonesia and Malaysia are two nations with a populace base that is overwhelmingly Muslim, so the place of Islamic regulation is vital to be essential for the overall public set of laws for Indonesia and Malaysia (Mohd Nasir, 2015). From the part of the Constitution, assuming it is seen that Indonesia, in light of Article 29 passages 2 and 2 of the 1945 Constitution of the Republic of Indonesia, has expressed that there is the opportunity of religion and everybody can rehearse their religion as per their convictions, while in the Malaysian Constitution, that the authority religion of the State is Islam. From the two-state constitutions, it very well may be seen that Indonesia is not solely Islam as the authority religion, yet Malaysia pronounces Islam as the official state religion. The two constitutions accurately depict the position and improvement of Islamic regulation in Indonesia and Malaysia. From one viewpoint, Indonesia does not solidly express that there is an opportunity for religion however does not put one religion as an authoritarian religion; with this, it tends to be deciphered that Indonesia is a nation in light of religion, from Islamic regulation, it can create and

turn into a living regulation and become a living regulation a wellspring of the regulation (Jani et al., 2015).

This correlation outlines the reason for the advancement of Islamic regulation, both in Indonesia and Malaysia. The premise is a fundamental development, with the goal that it will give lucidity to the presence of Islamic regulation in both Malaysia and Indonesia. The organization of Islamic regulation in Malaysia, through the Enakmens of the nations, fortifies the place of Islamic regulation in Malaysia as a general set of laws in Malaysia (Suyadi, 2019). In Indonesia, the guideline of Islamic regulation at the commonplace, locale/city levels cannot be explicitly controlled. In Aceh, which explicitly has the honor so the development of a sharia Perda (Qanun) can be carried out by the nearby government as per the Law of the Republic of Indonesia Number 11 of 2006 concerning the Government of Aceh, Article 23 passage (1), letters and though the Aceh People's Representative Council (DPRA) has the accompanying specialists: a) to lay out Aceh Qanun which is examined with the lead representative for joint endorsement; b) do management over the execution of the Aceh Qanun and different regulations and guidelines. With this power, Islamic regulation can be carried out in Aceh (Afrianty, 2015).

The design of the Malaysian and Indonesian general sets of laws, the comprehensive set of laws on the planet is partitioned into 4, specifically Anglo Saxon (custom-based regulation), European mainland (common regulation), Islamic regulation, and standard regulation frameworks. The general set of laws in Malaysia and Indonesia is unique. This is because Malaysia applies the Anglo-Saxon general set of laws (custom-based regulation) while Indonesia applies the European mainland comprehensive set of laws (common law). The distinction in this general set of laws varies on verifiable elements, specifically the mastery or colonization of the two significant western powers (Amalina Wan Abdullah et al., 2013). Malaysia was colonized by the British, and Indonesia was colonized by the Dutch. These two nations have their own overall sets of laws; thus, it is currently a general set of laws in the nations colonized. Indonesia's territory brought regulations from the Netherlands; this could happen because the Netherlands was for roughly 300 years in the past. As of not long ago, Indonesia's affable regulation utilizes the Civil Code. Impact the Netherlands, which has a precedent-based regulation general set of laws, Indonesia splits between open regulation and confidential regulation, yet it is still under one legal roof (Wardhani, 2012).

This is because Malaysia needs to keep up with the law as per the qualities that exist in its general public. So legitimate mindfulness is consistently simpler to develop than upgrading the whole lawful culture with another culture. This practice of the custom-based regulation framework from England remains amidst the Islamic set of laws (which is carried out by the court or the Syari'ah Court) and the customary laws of different native gatherings. Malaysia has four principal wellsprings of regulation: composed regulation, standard regulation, Islamic regulation, and standard regulation. Composed regulation comprises government

and state constitutions, administrative parliamentary and state regulation, and good regulation (regulations and guidelines) by bodies or people approved to perform such obligations under government parliamentary or state regulation and additional regulation (Noordin & Kassim, 2019).

3.5 Status of Fatwa in Malaysia

Malaysia is a league country in light of Islam, yet simultaneously gives open doors to different religions to be drilled securely and calmly in all pieces of the organization. Yang di-Pertuan Agong heads the Islamic religion in the domain of the Federation of Kuala Lumpur, Labuan, and Putrajaya (Hosen & Nahrawi, 2012). For this reason, Parliament is allowed by regulation to make arrangements to manage strict Islamic undertakings and is a Council that exhorts Yang di-Pertuan Agong in regards to the Islamic religion. Meanwhile, the constitutions of the provinces of Malacca, Penang, Sabah, and Sarawak, will separately make decisions for exchange that the Yang di-Pertuan Agong heads the religion of Islam in those countries. Under the government constitution article 11(4), bureaucratic state regulation has some control over or limits the spread of any strict convention or conviction among individuals of the Muslim confidence as for bureaucratic regions Kuala Lumpur, Labuan, and Putrajaya. Article 12(2) of the Constitution likewise ensures that each strict gathering has the privilege to make and keep up with foundations for the schooling of kids as per their religion, and there ought to be no legitimate oppression regulatory establishments and guidelines (Hashim, 2010).

However, it should be lawful for a league or state to make or keep up with or aid the foundation or support of Islamic organizations or give or help with giving strict Islamic guidance and giving the vital costs to that inspiration. In light of the arrangements of this Constitution, both the organization and the states have a similar obligation to create everything connected with the improvement of the Islamic religion, remembering fatwas for Malaysia (Fauzia, 2017). The administration of fatwas in the states is upheld through a state regulation called the Islamic Religion Administration. The state realms laid out the Mufti division by sanctioning this regulation's arrangements. This office is laid out independently from MAIN (Majlis Agama Islam Negeri). However, the Mufti is answerable for helping and prompting the DYMM (Duli Yang Maha Mulia), the Sultan, or Yang di-Pertuan Agong to connect with all syara regulations. The Mufti is likewise the ruler. The absolute authority after DYMM Sultan or Yang di-Pertuan Agong. The Mufti is the super decision party after the Sultan in strict issues for each state for issues connecting with religion (Mehmood et al., 2015).

Nonetheless, the Mufti may not meddle in that frame of mind of sharia regulation in the Sharia Court. The Sharia Court is a different body in the implementation of free equity. Under the watchful eye of revisions to state, regulations were made, the Mufti was the administrator of the panel of the Court of Appeals for most of states; as a rule, the Mufti in Malaysia has the accompanying obligations: a) Adviser on Islam for the Islamic religion to the state government;

b) Expert Majlis (Member of the Council) of State Islamic Religion; c) Chair of the Power of Attorney (Chairman of the Committee) State Fatwa/Sharia; d) Expert of the Power of Attorney (Committee Member) National Level Fatwa, Member of the National Level Fatwa Committee; e) Chairperson of the Office of Power (Chairman of the Committee) Election of Mosque/Surai Imams (Nasohah et al., 2012).

3.6 Status of Fatwa in Brunei Darussalam

Brunei Darussalam is a Malay country that Muslim lords have for quite some time governed. The primary Sultan of Brunei was Awang Alak Better, who in the wake of embracing Islam was known as Sultan Muhammad Shah (1363M - 1402M) and presently, the Sultan will be Sultan Haji Hassanal Bolkiah (1967 as of not long ago). The conventional legislature of the Brunei Malay Sultanate depends on four components: Kanun, Syarak, Adat Istiadat, and Resam. "Kanun" alludes to "Regulation Kanun Brunei" (Brunei regulation), "Syarak" alludes to strict Islamic lessons, "Adat Istiadat" alludes to Brunei's traditions, while "Resam" alludes to things beyond customs. Brunei's Constitution records Islam as the official state religion with the Shafii way of thinking and permits different religions to be drilled securely and flawlessly by their disciples. The Sultan was delegated as the top of the state's true religion (Ansori, 2017). The Islamic Religious Council was laid out as a body liable for giving guidance to the Sultan on all matters connecting with the Islamic religion. The Sultan and the Islamic Religious Council can regulate all matters connecting with the religion of Islam (Sa'adan & Pauzi, 2017).

The Ministry of Religious Affairs of the State of Brunei Darussalam was laid out to manage matters connecting with religion. This service is responsible for five positions (divisions): Department of Administration, Department of Sharia Affairs, Department of Islamic Studies, Department of Hajj Affairs, and Muslim Transportation and Center for Da'wah Islamiyah. The fatwa was set under the Hal Ehwal Syariah Office. Since 7 November 1994, by request of Sultan Hassanal Bolkiah, the Royal Mufti division was presently not under the Hal Ehwal Uagama Ministry. However, it turned into a different division under the Prime Minister. The Royal Mufti is straightforwardly dependable to His Majesty Ke Bawah Duli concerning his obligations as the Royal Mufti. With the situation of the Mufti position under the Prime Minister, the position and status of the fatwa turned out to be significantly more grounded. The mission of the Mufti of the Kingdom is as a foundation that issues fatwas and Irshad (direction and direction) and turns into an organization that gathers issues and disperses Islamic information (Müller, 2016). For strict practice, the Royal Mufti division is outfitted with two principal segments, specifically the Hal Ehwal Fatwa and Hal Ehwal Pentadbiran (organization) areas. The Hal Ehwal Fatwa segment directs three areas, to be specific: Ifta', Buhūth and Irsyād, and Tasyri'. The tops of these three segments are specialists. In the meantime, the Pentadbiran Hal Ehwal segment directs the accompanying areas: Fatwa Secretariat, which is coordinated with staff and administrations; Publishing

and Information; Design and Finance are melded with Qismul shrewdness; and, Ifta' converges with Buhūth and Tasyri.' (Bakar et al., 2020).

3.7 Fatwa Decision Making in Brunei

The ijthihad technique and dynamic system are additionally made sense of exhaustively in this Law. It is expressed that during the time spent deciding the fatwa, it ought to be as per the last promise of the Shafi'i school. Assuming the previous commitments struggle with the public interest and are not against, the Sultan can follow the day promises of the Shafi'i school. Suppose the muktamad or daif promises from the Shafi'i school are in opposition to the public interest. In that case, the Majlis or the Legislative Authority may, with exceptional consent from the Sultan, follow the promises of three schools (Hanafi, Maliki, Hambali), per the clarification considered (Salihin et al., 2015).

Meanwhile, corresponding to the system for pursuing fatwa choices, it made sense that the Office of the Attorney General ought to consider each solicitation for a fatwa from anybody, except if, as he would see it, the solicitation for a fatwa is viewed as not serious or for other valid justifications that do not merit being replied. Assuming the fatwa is supported consistently by the Office of the Power of Attorney or by the specialists present, the fatwa for the Majlis is given. In the meantime, if the Office of the Power of Attorney cannot arrive at a consistent vote, then the fatwa should be returned to the Majlis and the fatwa taken by the more significant part vote of the specialists (Ansori, 2017).

3.8 The Implementation of Islamic Sharia in Indonesia

Islamic regulation in Aceh has been active in Aceh since before the freedom of the Republic of Indonesia, specifically since the rule of King Iskandar Muda, and then proceeded with the period after Independence, the New Order time, the renewal, and up to the current day. The legitimate reason for executing Islamic regulation in Aceh is Law No. 44 of 1999 and Law No. 18 of 2001, as well as qanuns that direct Islamic regulation (Siregar, 2008). After the establishment of Islamic criminal regulation, which incorporates mayor (betting), khimar (alcohol), and khalawat (prostitution), the culprits of the above violations have been concluded by the sharia court and pronounced legitimately restricting. The court's choice of sharia will be executed by the public examiner and helped by the killer (whipman), which will be completed in the mosque's yard after Friday's petitions (Uddin, 2009).

When contrasted with different locales in Indonesia, Aceh is exceptional throughout Islamic Shari'a Aceh because its kin can assimilate the culture and adjust. Law no. 44 of 1999 concerning the Privileges of the Province of the Special Region of Aceh places the ulama in a respectable job in society, country, and state. For instance, the ulama in Aceh (Syech Nurdin Arraniry and Syech Abdurrauf as Singkili had a prime spot for giving perspectives, ideas, and contributions to lay out a strategy on the sovereign who was then driving Aceh.

Different models, Acehese pastors since the seventeenth century have had the option to acknowledge and try and support the presence of ladies in the domain of public exercises, for example, being individuals from the People's Representative Council, decided at courts, warlords, and, surprisingly, becoming heads of state (Sultanah), which in many spots is considered as not following Islamic lessons (Sumardi et al., 2021).

Aceh can be supposed to be a region with verifiable experience, as referenced above, in that its transformation has been moderately adaptable to nearby culture and can be a spot for the execution of Islamic Shari'a kaffah. In light of this, Daud Rasyid said that Aceh should be a pilot for the national project for the Shari'a battle (Feener, 2013). As per Rusdi Ali Muhammad in his debut discourse to the Chancellor of UIN Ar-Raniry Banda Aceh that an absence of comprehension of the Qur'an will prompt a thinking design that does not have the soul of comprehensiveness, adaptability, is dry of humanistic subtleties, and will try and muddle the use of Islamic Shari'a in its execution. Human existence. However, the substance of the presence of Islamic Shari'a is to carry advantage to people both in this world and in the great beyond. In reality, Islamic regulation is applied to support humanity, paying little mind to race, class, and religion concerning the honors of Aceh by President Habibie (Makin, 2016).

In this way, Law No. 18/2001 was passed by the Megawati government concerning unique Independence, which included asserting the execution of Islamic Shari'a in Aceh. Then, at that point, a few issues emerge in regards to how to apply it since there are no Islamic nations that can be utilized as a kind of perspective in the use of Islamic Shari'ah; among the reasons is the comprehension and execution of unbending Shari'ah in various social, socio-social fundamental factors and others (Afrianty, 2015). Recently, there has been no ideal model in a country that executes Islamic Shari'ah. Following this, Azra, in his works, specifies one of the issues in carrying out Islamic Shari'ah in Aceh because there is no state as a source of perspective for executing Islamic Shari'a.

4. Conclusion

We can conclude that a competitive study to explore the application of Islam in the three countries of the Malay, Indonesian, Malaysian, and Brunei Darussalam families to gain a deep understanding in terms of differences and similarities in its application. Through evidence from various views of experts, especially Islamic scholarship and also its application, we have gained a deeper understanding starting from the history of Islamic law in the three Malay family countries and then how this cognate country developed under the development of Islamic law, which is a country with a majority population—Islam in Southeast Asia. There are several differences and similarities in the application of Islamic sharia law. Each country, such as Indonesia, has a source of law other than Islamic law, which is used for criminal matters, while civil it fully uses Islamic law except for the Aceh area at the tip of Sumatra—which received legality from the central government of Jakarta.

Meanwhile, Malaysia and Brunei Darussalam have implemented Islamic law, although they are still limited in their application to civil and criminal law issues. Both of these countries, in the majority, have used the law sourced from the quran.

Regarding the difference, because Indonesia is a country based on Pancasila law, Indonesia has not been able to fully implement Islamic law compared to Malaysia and Brunei Darussalam, which are partly based on Anglo Saxon or also known as common law. We believe this finding certainly has many limitations and weaknesses. Therefore, we expect a lot of criticism and input for future improvements.

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References

- Abdeldayem, M. M., Al Dulaimi, S. H., & Al Dulaimi, F. H. (2021). A qualitative approach to evaluate the reconciliation of GOLDX and OneGram in Islamic Finance. *Zbornik Radova Ekonomskog Fakulteta u Rijeci: Časopis Za Ekonomsku Teoriju i Praksu*, 39(1), 113–134. <https://doi.org/10.18045/zbefri.2021.1.113>
- Adawiyah, R. (2019). The Reform of Muslim Women's Rights in the Marriage Law of Indonesia and Malaysia. *Journal of Law, Policy and Globalization*, 82, 115.
- Afrianty, D. (2015). *Women and Sharia Law in Northern Indonesia: Local women's NGOs and the reform of Islamic law in Aceh*. Routledge. <https://doi.org/10.4324/9781315744568>
- Amalina Wan Abdullah, W., Percy, M., & Stewart, J. (2013). Shari'ah disclosures in Malaysian and Indonesian Islamic banks: The Shari'ah governance system. *Journal of Islamic Accounting and Business Research*, 4(2), 100–131. <https://doi.org/10.1108/JIABR-10-2012-0063>
- Anshori, M. A., Prasojo, Z. H., & Muhtifah, L. (2021). Contribution of Sufism to the Development of Moderate Islam in Nusantara. *International Journal of Islamic Thought*, 19(1), 40–48. <https://doi.org/10.24035/ijit.19.2021.194>
- Ansori, I. (2017). Kedudukan Fatwa di Beberapa Negara Muslim (Malaysia, Brunei Darussalam dan Mesir). *Analisis: Jurnal Studi Keislaman*, 17(1), 137–166. <https://doi.org/10.24042/ajsk.v17i1.1790>
- Asa, R. S. (2019). AN OVERVIEW OF THE DEVELOPMENTS OF HALAL CERTIFICATION LAWS IN MALAYSIA, SINGAPORE, BRUNEI AND INDONESIA. *Jurnal Syariah*, 27(1), 173–200. <https://doi.org/10.22452/https://doi.org/10.22452/js.vol27no1.7>
- Aydin, C. (2017). *The Idea of the Muslim World: A Global Intellectual History*. Harvard University Press.
- Bagayoko, N., Hutchful, E., & Luckham, R. (2016). Hybrid security governance in Africa: Rethinking the foundations of security, justice and legitimate public authority. *Conflict, Security & Development*, 16(1), 1–32. <https://doi.org/10.1080/14678802.2016.1136137>
- Bakar, M., Ahmad, S., Salleh, A., & Md Salleh, M. F. (2020). The Swot Analysis Of Waqf Governance In Brunei Darussalam. *International Research Journal of Shariah, Muamalat and Islam*, 2, 01–22. <https://doi.org/10.35631/IRJSMI.23001>

- Casquet, J., Bourgeois, Y. X. C., Cruaud, C., Gavory, F., Gillespie, R. G., & Thébaud, C. (2015). Community assembly on remote islands: A comparison of Hawaiian and Mascarene spiders. *Journal of Biogeography*, 42(1), 39–50. <https://doi.org/10.1111/jbi.12391>
- Fauzia, A. (2017). Islamic Philanthropy in Indonesia: Modernization, Islamization, and Social Justice. *Advances in Southeast Asian Studies*, 10(2), 223–236. <https://doi.org/10.14764/10.ASEAS-2017.2-6>
- Feener, R. M. (2013). Social Engineering through Shari'a: Islamic Law and State-Directed Da'wa in Contemporary Aceh. *Indonesia Law Review*, 3, 285.
- Ghadbeigy, Z., & Jafari, M. (2021). *The Islamic Fundamentalism in Southeast Asia (The Case of Indonesia and Malaysia)* (No. 2021050708). Preprints. <https://doi.org/10.20944/preprints202105.0708.v1>
- Gikandi, S. (Ed.). (2002). *Encyclopedia of African Literature*. Routledge. <https://doi.org/10.4324/9780203361269>
- Hashim, R. (2010). *Reclaiming the Conversation: Islamic Intellectual Tradition in the Malay Archipelago*. The Other Press.
- Hosen, M. N., & Nahrawi, A. A. (2012). Comparative analysis of Islamic banking products between Malaysia and Indonesia. *International Journal of Academic Research in Economics and Management Sciences*, 1(2), 120.
- Hurvitz, N. (2013). *The Contribution of Early Islamic Rulers to Adjudication and Legislation: The Case of the Mazalim Tribunals* (hlm. 133–156). Brill. https://doi.org/10.1163/9789004249516_008
- Ismail, S. Z. (2015). *At the Foot of the Sultan: The Dynamic Application of Shariah in Malaysia*. 3, 16.
- Jackson, R. (2010). *Mawlana Mawdudi and Political Islam: Authority and the Islamic state*. Routledge. <https://doi.org/10.4324/9780203848722>
- Janah, T. N., & Baroroh, U. el. (2021). Pluralism in the Fiqh Sosial's Perspective. *Santri: Journal of Pesantren and Fiqh Sosial*, 2(1), 17–34. <https://doi.org/10.35878/santri.v2i1.277>
- Jani, H. H. M., Harun, N. Z., Mansor, M., & Zen, I. (2015). Exploring the Islamic Garden Concept as Inspirational Landscape Design. *Procedia - Social and Behavioral Sciences*, 170, 359–368. <https://doi.org/10.1016/j.sbspro.2015.01.046>
- Khoo, Y. S. K., Ghani, A. A., Navamukundan, A. A., Jahis, R., & Gamil, A. (2020). Unique product quality considerations in vaccine development, registration and new program implementation in Malaysia. *Human Vaccines & Immunotherapeutics*, 16(3), 530–538. <https://doi.org/10.1080/21645515.2019.1667206>
- Lindsey, T., & Steiner, K. (2016). Islam, the monarchy and criminal law in Brunei: The Syariah Penal Code Order, 2013. *Griffith Law Review*, 25(4), 552–580. <https://doi.org/10.1080/10383441.2016.1273294>
- Makin, A. (2016). ISLAMIC ACEHNESE IDENTITY, SHARIA, AND CHRISTIANIZATION RUMOR: A Study of the Narratives of the Attack on the Bethel Church in Penauyong Banda Aceh. *JOURNAL OF INDONESIAN ISLAM*, 10(1), 1–36. <https://doi.org/10.15642/JIIS.2016.10.1.1-36>
- Mehmood, S., Allison, T. M., & Robinson, C. V. (2015). Mass Spectrometry of Protein Complexes: From Origins to Applications. *Annual Review of Physical Chemistry*, 66(1), 453–474. <https://doi.org/10.1146/annurev-physchem-040214-121732>
- Mihardjo, L. W. W., Jermisittiparsert, K., Ahmed, U., Chankoson, T., & Iqbal Hussain, H. (2020). Impact of key HR practices (human capital, training and rewards) on service recovery performance with mediating role of employee commitment of the Takaful industry of the Southeast Asian region. *Education + Training*, 63(1), 1–21. <https://doi.org/10.1108/ET-08-2019-0188>
- Mohd Nasir, M. (2015). Kelantan Malay Cultural Landscape: The Concept of Kota Bharu Islamic City. *WASET*, 17, 2096–2102.

- Moustafa, T. (2015). Judging in God's Name: State Power, Secularism, and the Politics of Islamic law in Malaysia. Dalam *Religious Rights*. Routledge.
- Müller, D. M. (2016). Paradoxical Normativities in Brunei Darussalam and Malaysia Islamic Law and the ASEAN Human Rights Declaration. *Asian Survey*, 56(3), 415–441. <https://doi.org/10.1525/as.2016.56.3.415>
- Murod, M., Sulastri, E., Gunanto, D., Sahrasad, H., & Mulky, M. A. (2022). Islam and the state: Indonesian mosque administrators' perceptions of Pancasila, Islamic sharia and transnational ideology. *HTS Theological Studies*, 78(4), 1–10. <https://doi.org/10.4102/hts.v78i4.7382>
- Nagata, J. (2004). Alternative models of Islamic governance in Southeast Asia: Neo-Sufism and the Arqam experiment in Malaysia. *Global Change, Peace & Security*, 16(2), 99–114. <https://doi.org/10.1080/0951274042000233332>
- Najeeb, S. F., & Vejzagic, M. (2013). Development, Growth and Challenges of Islamic Capital Markets: Comparative Insights from the Malaysian, Indonesian, United Arab Emirates and Brunei Markets. *Journal of Emerging Economies and Islamic Research*, 1(3), 100–137. <https://doi.org/10.24191/jeeir.v1i3.9132>
- Nasohah, Z., Laluddin, H., Kusrin, Z. M., & Muwazir, R. (2012). Standardisation of fatwa in Malaysia: Management and problems. *Advances in Natural and Applied Sciences*, 6(6), 923–930.
- Noordin, N. H., & Kassim, S. (2019). Does Shariah committee composition influence Shariah governance disclosure? Evidence from Malaysian Islamic banks. *Journal of Islamic Accounting and Business Research*, 10(2), 158–184. <https://doi.org/10.1108/JIABR-04-2016-0047>
- Oktadiana, H., Pearce, P. L., Pusiran, A. K., & Agarwal, M. (2017). Travel Career Patterns: The Motivations of Indonesian and Malaysian Muslim Tourists. *Tourism Culture & Communication*, 17(4), 231–248. <https://doi.org/10.3727/109830417X15072926259360>
- Osman, M. N. M. (2017). The Islamic conservative turn in Malaysia: Impact and future trajectories. *Contemporary Islam*, 11(1), 1–20. <https://doi.org/10.1007/s11562-016-0373-3>
- Petru, T. (2015). *Graffiti, Converts and Vigilantes: Islam Outside the Mainstream in Maritime Southeast Asia*. Oriental Institute, the Czech Academy of Sciences.
- Pulungan, E. N., & Akbar, A. (2022). IJTihad AS A SOURCE OF DYNAMICS ESTABLISHMENT OF ISLAMIC CULTURE. *An Nadwah*, 28(1), 8–20. <https://doi.org/10.37064/nadwah.v28i1.12466>
- Rafianti, F. (2018). Implementation Of Islamic Law on Three Countries (Study Of Comparison On Indonesia, Malaysia, And Brunai Darusalam). *International Conference of ASEAN Perspective and Policy (ICAP)*, 1(1), 339–343.
- Rosili, N. A. K. (2016). De-radicalization programs in South-East Asia: A comparative study of rehabilitation programs in Malaysia, Thailand, Indonesia & Singapore. *Journal of Education and Social Sciences*, 4.
- Sa'adan, M., & Pauzi, N. (2017). The Implication Of Differences In Halal Standard Of Malaysia, Indonesia, Brunei And Singapore. *The Journal of Muamalat and Islamic Finance Research*, 157–170.
- Sakti, M. R. P., Syahid, A., Tareq, M. A., & Mohd Mahdzir, A. (2016). Shari'ah issues, challenges, and prospects for Islamic derivatives: A qualitative study. *Qualitative Research in Financial Markets*, 8(2), 168–190. <https://doi.org/10.1108/QRFM-06-2015-0024>
- Salihin, A., Fatima, A. H., & Ousama, A. A. (2015). *Analysis of the True and Fair View Concept: An Islamic Perspective* (SSRN Scholarly Paper No. 2610366). <https://papers.ssrn.com/abstract=2610366>
- Shaza Liyana Shamri, Nurul Hadirah Muszaffarsham, Elina Mohd Husini, Mohd Zin Kandar, & Manaf, A. A. (2021). *A Review On Case Studies Of Office Building Facades In Malaysia Based On Maqasid Syariah*. <http://localhost:8080/jspui/handle/123456789/14543>

- Siregar, H. B. (2008). Lessons Learned from the Implementation of Islamic Shari'ah Criminal Law in Aceh, Indonesia. *Journal of Law and Religion*, 24(1), 143–176. <https://doi.org/10.1017/S074808140000196X>
- Steiner, K. (2018). Branding Islam: Islam, Law, and Bureaucracies in Southeast Asia. *Journal of Current Southeast Asian Affairs*, 37(1), 27–56. <https://doi.org/10.1177/186810341803700102>
- Sumardi, D., Lukito, R., & Ichwan, M. N. (2021). Legal Pluralism within The Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5(1), 426–449. <https://doi.org/10.22373/sjhk.v5i1.9303>
- Suyadi, S. (2019). Mainstreaming The Knowledge Of Islamic Education With Progress And Of Islam Nusantara Education. *Akademika : Jurnal Pemikiran Islam*, 24(1), 39–66.
- Uddin, A. T. (2009). Religious Freedom Implications of Sharia Implementation in Aceh, Indonesia. *University of St. Thomas Law Journal*, 7, 603.
- Vargas-hernández, J. G., Investigador, P., Investigadores, S. N., Internacionales, N., Universitario, C., Administrativas, C. E., Noruzi, M. R., & Sariolghalam, N. (2010). *An Exploration of the Effects of Islamic Culture on Entrepreneurial Behaviors in Muslim Countries*.
- Wanke, P., Azad, M. D. A. K., & Barros, C. P. (2016). Predicting efficiency in Malaysian Islamic banks: A two-stage TOPSIS and neural networks approach. *Research in International Business and Finance*, 36, 485–498. <https://doi.org/10.1016/j.ribaf.2015.10.002>
- Wardhani, N. (2012). *The Role Of Shariah Board In Islamic Banks: A Case Study Of Malaysia, Indonesia And Brunei Darussalam*.

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