

# Transformation of Islamic Law: The Case of Malaysia and Qatar In Comparative Context

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**Abstract:** This comparative study investigates the transformations taking place within the Islamic legal framework in Malaysia and Qatar, examining in depth the evolution of the law and the impact of socio-cultural factors. It undertakes a detailed mapping of the complex legal developments in the two countries by analyzing legal codes, delving into historical perspectives, and examining contemporary adaptations. Through this approach, the research reveals how Malaysia and Qatar have reconceptualized their Islamic legal systems. By focusing on similarities, differences and significant transitions in the realm of Islamic law, this study highlights the diverse approaches adopted by the two countries in interpreting and implementing Islamic law, explaining the differences in interpretation and application of the law. The main objective of this study is to provide a comprehensive overview of the evolution of Islamic law in Malaysia and Qatar.

**Keywords:** Comparative Islamic Law, Malaysia, Qatar

**Abstrak:** Studi komparatif ini menyelidiki transformasi yang terjadi dalam kerangka hukum Islam di Malaysia dan Qatar, memeriksa secara mendalam evolusi hukum dan dampak dari faktor-faktor sosial-budaya. Penelitian ini melakukan pemetaan terperinci atas perkembangan hukum yang kompleks di kedua negara dengan menganalisis kode-kode hukum, menggali perspektif historis, dan memeriksa adaptasi kontemporer. Melalui pendekatan ini, penelitian ini mengungkapkan bagaimana Malaysia dan Qatar telah mengkonseptualisasikan kembali sistem hukum Islam mereka. Dengan berfokus pada kesamaan, Dengan berfokus pada persamaan, perbedaan, dan transisi yang signifikan dalam bidang hukum Islam, penelitian ini menyoroti beragam pendekatan yang diadopsi oleh kedua negara dalam menafsirkan dan menerapkan hukum Islam, menjelaskan perbedaan dalam penafsiran dan penerapan hukum. Tujuan utama dari penelitian ini adalah untuk memberikan gambaran yang komprehensif tentang evolusi hukum Islam di Malaysia dan Qatar.

**Kata kunci:** Perbandingan Hukum Islam, Malaysia, Qatar

## **INTRODUCTION**

Islamic law is a legal system based on the teachings of Islam, especially the Qur'an and the Sunnah of the Prophet Muhammad.<sup>1</sup> Islamic law aims to improve human life, both in relation to God and to fellow human beings. This goal is realised through the application of Islamic laws in daily life in a correct and proportionate manner. In implementing Islamic law, it is necessary to have a good and deep understanding of the teachings of Islam and its application in social life.

In addition, Islamic law also provides clear arrangements regarding the rights and obligations of individuals in society. This includes rights and obligations in family, social, and economic relationships. Islamic law also provides protection for individual rights such as the right to property, the right to privacy, the right to legal recognition, and so on.

Not only that, Islamic law also has a close relationship with the state and public policy. In some countries, Islamic law is used as the main source of law or even as the basis of the state constitution. However, in its application, Islamic law must also take into account human rights, justice and gender equality. The principles of Islamic law are part of domestic public policy in every Islamic country. Regardless of a particular country's legal, political or economic system, Islamic Sharia comprises a substantial component of the social and legal order in an Islamic country, even for non-Muslims living in the country's territory.<sup>2</sup>

The phenomenon of Islamic family law reform is almost carried out in all Islamic countries, either those that purely implement Sharia law or those with a majority Muslim population but do not make Sharia law the official state law. In general, Islamic countries that make and implement family law rules can be mapped into three categories: First, are countries that make and implement family law rules by still using the benchmarks of madzhab fiqh purely without being compiled specifically in the form of legislation, for example Qatar, Saudi Arabia, Yemen, and so on. Second, are secular countries in which family law rules have been replaced with modern legal laws, for example Albania and Turkey. And the third is a country that modifies family law reform by accommodating the provisions of madzhab fiqh and also paying attention to aspects of maslahah in the country, for example Egypt, Sudan, Jordan, Syria, Tunisia, Iraq, Iran, and Pakistan, Malaysia including Indonesia. If we look at this

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<sup>1</sup> B. Hasyim, "Islam Dan Ilmu Pengetahuan (Pengaruh Temuan Sains Terhadap Perubahan Islam)," *Jurnal Dakwah Tabligh* 14, no. 1 (2013): 127–39.

<sup>2</sup> A.K Abdallah, *Islamic Sharia and Arbitration in GCC States: The Way Ahead. Int'l Rev* (Jakarta: Gramedia Pustaka Utama, 2020).

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mapping, then Malaysia falls into the third category and Qatar falls into the first category.<sup>3</sup>

In research conducted by Soeroso, it is stated that comparative law is a branch of legal science that uses comparative methods in order to find the right answers to concrete legal problems.<sup>4</sup> The concrete steps for applying comparative law methodology consist of four steps as follows:<sup>5</sup> First, evaluating a legal system clearly, objectively and neutrally, Second, evaluating external law (law described concretely in words, actions or speech), Third, evaluating the law that applies in society or law in action which can also be said to be internal law, and Fourth, Summarising the results of comparative law which can then reflect the foreign legal culture and legal culture of the researcher.

In addition, the author also needs to emphasise in this paragraph that the interest in raising this title is based on the success of the Malaysian Islamic legal system and the Qatari Islamic legal system which is able to keep up with developments that occur in society and aims to enable readers to understand the differences and similarities of the division of sources of Islamic law in the Malaysian legal system and the Qatari Islamic legal system.

The research method that the author applies is a qualitative research method. The data used consists of secondary data, namely data that includes official documents, books, research results in the form of reports and the like.<sup>6</sup> In writing this article, the author uses literacy and digital references, both from electronic books or e-books and websites that can be accounted for, in analysing the problems that the author has formulated.

So in this study, researchers will describe the differences in the application of Malaysian Islamic law and the Islamic legal system in Qatar, which in the end can find the advantages of the Malaysian Islamic legal system and the legal system in Qatar. The hope of this research is that it can be a reference and benchmark for other countries, especially in Indonesia, to pay more attention to how it is implemented and applied in a society that has different races, cultures, languages, although Indonesia is not an Islamic country, but Islamic law needs to be an important concern for the community, especially Indonesia is a country whose majority is Muslim.

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<sup>3</sup> *Pengaruh Sosio-Kultur Terhadap Reformasi Hukum Keluarga Islam Di Maroko*, 2020.

<sup>4</sup> R. Soeroso, *Perbandingan Hukum Perdata*, ed. Sinar Grafika (Jakarta: Sinar Grafika, 2010).

<sup>5</sup> Edward J. Eberle, "The Method and Role of the Comparative Law," *Washington University Global Studies Law Review* 8, no. 9 (2009).

<sup>6</sup> Amiruddin dan H. Zainal Asikin, *Pengantar Metode Penelitian Hukum*, ed. Raja Grafindo Persada (Jakarta: Raja Grafindo Persada, 2018).

## **DISCUSSION**

### **Islamic Law in Malaysia**

Malaysia is characterised as a Muslim-majority country, as most of the population is Muslim. According to the country's demographics, out of approximately 29.6 million people 60.4% are Muslims. In addition, Article 3 of the Federal Constitution of Malaysia (hereinafter "the Constitution") declares Islam as the official state religion and also guarantees the rights of freedom of religion to a population comprised of various ethnicities. Islamic law, or Sharia Law, has never been considered under the Constitution as equivalent to the laws or legal system of the Federation, even though Islam has been designated as the religion of the Federation. In other words, Islam's status as the official religion of the Federation does not extend to its legal aspects. Islamic law has only been made a subordinate law subordinate to state law with very limited jurisdiction, confined to personal matters and offences relating to morality only, as mentioned in Article 4 of the Constitution, which is considered the supreme law of the land and shall always prevail over any other law enacted after Independence Day.<sup>7</sup>

There are five factors that led to the implementation of Islamic law in Malaysia, namely cultural, political, constitutional and colonial revolutions, and reforms.<sup>8</sup>

1. Cultural aspects as one of the factors that support the application of Islamic law in Malaysia, as mentioned that Islamic law is also based on the customs that grow and develop in society.
2. Politically, there are two major groups developing in Malaysia, namely UMNO (United Malaya National Organisation) and PAS (Islamic Party of Malaysia). When observing the politics of the Malaysian government in relation to Islam, it is the Malay view of the National line, namely UMNO, which always seeks to implement Islamic law in Malaysia but without neglecting other citizens and races. UMNO and PAS have the same mission of implementing Islamic law in Malaysia, and this is a fundamental factor so that Islamic law prevails in the neighboring country even though the Muslim population is only 65%.<sup>9</sup>

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<sup>7</sup> Adil., and Ahmad, "Islamic Law and Human Rights in Malaysia," *ICR Journal* 5, no. 1 (2014): 43–67.

<sup>8</sup> Abdul Rahman Haji Abdullah, *Pemikiran Islam Di Malaysia Sejarah Dan Aliran*, ed. Gema Insani Press (Jakarta: Gema Insani Press, 1997).

<sup>9</sup> L Esposito John, *Islam Dan Development Religion and Sosiopolitical Change, Ter Saonuddin, Identitas Islam Pada Perubahan Sosial Politik*, ed. University Press (New York: University Press, 1980).

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3. Constitutional. Malaysia in its constitution 1957 amended in 1946 explicitly states that Islam is the federal religion (Article 3 paragraph 1 of the Constitution of Malaysia 23 August 1957), as a logical consequence of this statement there are four principles of Islamic monochromacy included in the Malaysian constitution namely: Musyawarah (Article 38 paragraph 1 of the Malaysian Constitution), the principle of justice (article 7 paragraph 1 and origin 8 paragraph 1 of the Malaysian Constitution), the principle of freedom (article 10 paragraph 1, a, b, c while the principle of freedom (article 8 paragraph 2).<sup>10</sup>
4. Colonisation. The Islamic state of the Malaysian federation had adopted British law during the colonial era known as the Straits Settlement 1936. The British principle was different from the Dutch presence in Indonesia which limited the movement of Muslims, while the British introduced Islamic law and made agreements with Malay rulers, the laws introduced were the administration of Islamic family law and the law of religious offences in the Malay federation countries under British control. In Perak the earliest laws governing family law were the Registration of Marriage and Divorce Procedures 1885 and the Islamic Divorce Code 1889.
5. Reform. All forms of laws enacted during the British colonial period were revised by the Malays to suit the aspects of the local society.

The effort to apply Islamic law in Malaysia in all fields is a cultural phenomenon because Islamic law developed simultaneously with the entry of Islam in Malaysia. Evidence of the application of Islamic law in Malaysia consists of three phases Malay period, colonial period, independence period. The earliest legal codification is contained in the Trengganu inscription which is written in jawi script and contains a list of ten rules, for violators of which they receive punishment, this inscription was made on Friday 4 rajab 702 H / February 1303 AD. In addition to the codification of the law, there is also the legal treatise of the people or the short law book *melake* which regulates all civil and even criminal matters of Islam. However, even though Islamic law is implemented in Malaysia, there are still some controversies related to its implementation. Some groups of people claim that the implementation of Islamic law in Malaysia is not perfect and still needs to be improved.<sup>11</sup> Some forms of Islamic law implementation in Malaysia include:

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<sup>10</sup> Mohammad Tahir Azhary, *Negara Hukum (Studi Tentang Prinsip-Prinsipnya Dilihat Dari Segi Hukum Islam Implementasinya Pada Periode Negara Madinah Dan Masa Makkah)*, ed. Bulan Bintang (Jakarta: Bulan Bintang, 1992).

<sup>11</sup> R Makatungkang, "Penerapan Hukum Islam Di Malaysia," *Jurnal Ilmiah Al-Syir'ah* 1, no. 1 (2016).

1. Syariah Court: In Malaysia there is a mahkamah syariah which is tasked with handling cases related to Islamic law, such as divorce, inheritance, property, and jinayah offences such as adultery, drinking alcohol, and others.
2. Islamic Family Law: Some states in Malaysia also have Islamic family laws that regulate matters such as marriage, divorce, maintenance, child custody, and others.
3. Islamic Religious Affairs Agency: This agency is tasked with managing Islamic religious affairs in each state in Malaysia, including issuing halal certificates for food and beverage products.
4. Islamic Jinayah Law: Some states in Malaysia also apply Islamic jinayah law which regulates offences of Islamic law such as khalwat (being alone with non-muhrim members of the opposite sex), drinking alcohol, and others.
5. Islamic law regulations: In Malaysia there are also several Islamic law regulations set out in Malaysian legislation, such as the Sale and Purchase Act (Akad Wakalah), the Benevolence and Safety of Children Act 1996, and the Tafsir Act 1948.
6. Zakat Institution: In Malaysia, there is also a zakat institution that collects zakat from Muslims in Malaysia and manages it to help the poor and strengthen the Muslim economy.<sup>12</sup>

The application of Islamic law in Malaysia is not only in the form of civil but also in criminal law, this is evident from various information that has been raised by Malaysian scholars including Nizam 'Uqubah in Islam and its Implementation in Malaysia, by prof. madya, Dr. Mat Saat Abdul Rahman. 'Uqubah in jinayah qisas and its implementation in a plural society by Prof. Madya Mat Saat Abdul Rahman. 'Uqubah in jinayah tazkir and its implementation in a pluralistic society.

In addition to these various forms of Islamic punishment, there are many new legal formulations. A committee of Islamic jurists and jurists was formed to consider various amendments, and they were sent to various Islamic countries to study Islamic law and its application in those countries.

The results of the formulation of the new law are divided into several sections, namely the administration of Islamic law, family law, criminal procedure, civil procedure, evidence and bait al-mal.<sup>13</sup>

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<sup>12</sup> F.S. Shuaib, *The Islamic Legal System in Malaysia*, 2012.

<sup>13</sup> Sudirman Tebba, *Perkembangan Mutakhir Hukum Islam Di Asia Tenggara* (Bandung: Gramedia Pustaka Utama, 1993).

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## Islamic Law in Qatar

Islam is the official religion of the State of Qatar and Islamic Law (Sharia) is the main source of legislation. Qataris are generally conservative Sunni Muslims but there are other religious groups living in Qatar namely Christians, Hindus and Buddhists.<sup>14</sup> Adhering to Islamic law is also part of Qatar's national identity. Since Qatar's independence in 1971, the Qatari government has chosen to embrace Islamic sharia law as one of their sources of law, as a form of commitment to preserve Qatar's identity and traditional values.

In addition to historical factors and national identity, the implementation of Islamic law in Qatar is also influenced by economic and political developments in the country. In recent decades, Qatar has experienced rapid economic growth, mainly thanks to its large oil and natural gas production.<sup>15</sup> In order to maintain social and political stability amidst rapid economic growth, the Qatari government has strengthened the application of Islamic law, which is considered to strengthen the moral and ethical values of society. In this regard, the Qatari government has taken various measures to strengthen the application of Islamic law in the country, such as strengthening sharia institutions, improving Islamic religious education, and encouraging the development of the halal industry.

The government of Qatar is an absolute monarchy, where supreme power is held by the Emir of Qatar who is currently held by Sheikh Tamim bin Hamad Al Thani. The system of government in Qatar is based on the constitution and Sharia law<sup>16</sup>. Under the leadership of the Emir of Qatar, the Qatari government consists of several government bodies and institutions, including<sup>17</sup>:

1. High Council for State Affairs (Council of Ministers): Is the highest executive body in Qatar headed by the Prime Minister and consists of ministers who head the departments of the Qatari government.
2. National Council (Shura Council): Is a legislative body in Qatar consisting of 45 members elected by the Emir of Qatar. The National Council plays an important role in reviewing and approving national laws and policies.

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<sup>14</sup> F.B.J Ahmed, "Challenges of the Knowledge Society: Exploring the Case of Qatar," *Global Economic Observer* 6, no. 1 (2018): 39–54.

<sup>15</sup> F.S. Shuaib, "Perbankan Syariah; Challenges Dan Opportunity Untuk Pengembangan Di Indonesia," *Jurnal Kordinat* 8, no. 1 (2006): 1–42.

<sup>16</sup> L.A. Tok, M.E., Alkhater, L.R. and Pal, *Policy-Making in a Transformative State: The Case of Qatar*, ed. Palgrave Macmillan UK (Qatar: Palgrave Macmillan UK, 2019).

<sup>17</sup> W.B. Kusuma, S.A., Purnama, C. and Darmawan, "Diplomasi Publik Dan Media: Penggunaan Jaringan Penyiaran Al-Jazeera Dalam Krisis Diplomatik Qatar 2017-2019," *JISPO Jurnal Ilmu Sosial Dan Ilmu Politik* 10, no. 2 (2020): 141–68.

3. Investment Governing Council (Qatar Investment Authority): This is the body responsible for the management of Qatar's state funds, including Qatar's oil and natural gas reserves. The board is instrumental in making investments in the financial, real estate, energy, and infrastructure sectors across the globe.
4. Supreme Council for Social Affairs: Responsible for the planning and implementation of social and welfare policies in Qatar.
5. Supreme Council for Foreign Affairs: Is the highest body responsible for the formulation and implementation of Qatar's foreign policy.

Under the above governing bodies, there are also various government departments and agencies that play a role in managing various aspects of Qatari people's lives, such as health, education, security, and infrastructure.<sup>18</sup>

Although Qatar is an absolute monarchy, the Qatari government has also undertaken reforms in recent years to increase public participation in the political process and improve civil and political rights. In 2003, the Qatari government introduced a new constitution that gave Qatari citizens the right to vote to elect members of the National Council. In addition, in 2017, Qatar also conducted its first general election to elect members of the Municipalities Council.

Islamic law in Qatar is governed by the Qatar Islamic Religious Council (Qatar Islamic Affairs and Charitable Activities Department), which is the institution responsible for religious and charitable activities in Qatar. The institution was established in 1960 and falls under the auspices of Qatar's Ministry of Religious Affairs and Waqf. The Qatar Islamic Religious Assembly has various duties, including ensuring that Sharia law is applied consistently throughout Qatar, providing religious direction and guidance to the people of Qatar, overseeing religious and charitable activities in Qatar, and advising the Qatari government in terms of religious policy. The Qatar Islamic Religious Assembly is also responsible for religious education and the dissemination of an understanding of Islam in Qatar. It operates various educational institutions, including religious schools, training centres, and Islamic universities. In addition, the Qatar Islamic Religious Assembly also has an important role in addressing religious and social issues in Qatar, including family issues, domestic violence, and mental health. The institution works closely with various government agencies and civil society organisations in Qatar to promote Islamic values and improve the well-being of Qatari society.

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<sup>18</sup> A. Badran, "Developing Smart Cities: Regulatory and Policy Implications for the State of Qatar," *International Journal of Public Administration* 1, no. 2 (2021): 1–14.

### **Differences in the Application of Islamic Law in Malaysia and Qatar**

Malaysia and Qatar are countries that adhere to Islamic law as one of their sources of law. However, although both countries adhere to Islamic law, there are some differences in the application of Islamic law in Qatar and Malaysia, including:

- 1) Legal System: Malaysia adheres to a mixed legal system consisting of Islamic sharia law, customary law and common law whereas Qatar adheres to a legal system based on Islamic sharia and criminal law, where Islamic law is the main source of law.<sup>19</sup> Therefore, the implementation of Islamic law in the two countries can be different.
- 2) Inheritance: In terms of inheritance, in Malaysia, inheritance is governed by civil law, where the estate is divided in accordance with the provisions of the law, whereas Qatar, inheritance is governed by Islamic sharia law, where the estate is divided in accordance with the provisions of Islamic sharia law.
- 3) Application of Sharia Law: In Malaysia, Islamic sharia law is applied mainly in family matters, such as marriage, divorce, and inheritance, whereas in Qatar, Islamic sharia law is applied widely in the legal system, including in criminal, family, and civil matters.
- 4) Types of Punishment: In Malaysia, the death penalty still exists and can be imposed in certain cases such as murder, drugs, and organised crime, the punishment is strictly regulated and carried out after various fair judicial processes. Meanwhile, in Qatar, the death penalty still exists but its application is more limited and other punishments such as flogging, confinement, and fines are more commonly applied.
- 5) Execution of Sentences: In Malaysia, sentences are decided by the judicial system and executed by the prison authorities.<sup>20</sup> In Qatar, sentences are decided by Sharia courts and executed by the Police and Prison Departments.
- 6) Human rights protection: In Malaysia, there is strong and independent human rights protection, and greater media openness. In Qatar, although there is progress in human rights protection, it is still limited and media openness is very limited. In Malaysia, women have greater rights, and are afforded legal protection in various matters, including marriage, divorce and inheritance rights, whereas in Qatar, women have limited rights in some matters, such as marriage, divorce and inheritance.

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<sup>19</sup> M.R Mutholingah, S. and Zamzami, "Relevansi Pemikiran Maqashid Al-Syariah Jasser Auda Terhadap Sistem Pendidikan Islam Multidisipliner," *TaLimuna: Jurnal Pendidikan Islam* 7, no. 2 (2018): 90–111.

<sup>20</sup> I Ansori, "Kedudukan Fatwa Di Beberapa Negara Muslim (Malaysia, Brunei Darussalam Dan Mesir)," *Analisis: Jurnal Studi Keislaman* 17, no. 1 (2017): 137–66.

7) Zakat Arrangement: In Qatar, zakat is administered by the state and collected through its natural resources, while in Malaysia, zakat is administered by the zakat amil agency and collected from the Muslim community voluntarily.

Overall, although both countries apply Islamic law, there are significant differences in the way they apply it. In Malaysia, Islamic law is only applied in certain areas, this is related to Malaysia's history and political, social and cultural context which is different from Qatar or countries that apply Islamic law exclusively. Since its independence in 1957, Malaysia has adopted a constitution that establishes the country as a state based on Islamic principles, but also upholds the principles of democracy, freedom and human rights. Therefore, Malaysia introduced a dual legal system as a way to take into account the interests of a diverse society, including non-Muslim minorities.

In practice, the application of Islamic law in Malaysia is limited to certain areas such as family law, wills and inheritance. For Muslims, Islamic law can be applied in matters of divorce, maintenance, inheritance rights, and dispute resolution, but secular law still applies in other matters such as criminal and civil law. However, even though Malaysia does not practise Islamic law exclusively, the country still endeavours to ensure that Islamic law is applied fairly and correctly, and in line with the principles of democracy and human rights.

There are several factors that have led to Islamic law not being fully implemented in Malaysia, including:<sup>21</sup>

- 1) The Malaysian Constitution: The Malaysian Constitution establishes the country as a state based on Islamic principles, but also upholds the principles of democracy, freedom and human rights. Hence, a dual legal system was introduced as a way to take into account the interests of a diverse society, including non-Muslim minorities.
- 2) Cultural and historical influences: Malaysia has a different history from countries that apply Islamic law exclusively, and has a plural and diverse culture. Hence, the dual legal system is considered as a way to maintain harmony between different societies in terms of religion and culture.
- 3) Challenges in the interpretation of Islamic law: As in many other Muslim countries, there are challenges in interpreting and applying Islamic law correctly and fairly in Malaysia. The Malaysian government has designated the Islamic Religious Council as the body responsible for the application of Islamic law, but challenges remain in carrying out this task properly.

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<sup>21</sup> Y.W. Rini, "Politik (Legislasi) Hukum Islam Di Malaysia," *Jurnal ASAS* 8, no. 1 (2016).

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- 4) Protection of human rights: Malaysia is also mindful of human rights in implementing Islamic law. Some Islamic punishments such as the death penalty and flogging are seen as controversial and considered to violate human rights. Therefore, these punishments are only applied in certain cases and after a fair trial.

Whereas in Qatar, Islamic law is widely applied and is the main source of law. In Qatar, flogging and exile are still applied as punishment for certain crimes. Flogging is usually given as an additional punishment for crimes such as moral offences or drinking, while exile is used as the main punishment for crimes such as murder or sexual crimes. Flogging punishments are usually administered in predetermined amounts, with different numbers of lashes for different crimes. For example, in the case of moral offences, it is usually imposed around 40 to 100 lashes. This punishment is usually carried out in a prison or other place determined by the court, where the offender will be tied or tied to a pole or wall, and then struck with a whip.

Meanwhile, exile is the main punishment applied in Qatar for serious crimes such as murder or sexual offences. Exile is usually given for several years or for the rest of the offender's life, depending on the extent of the crime. During the period of exile, the offender will be isolated from society and moved to a special place designated by the government, where he will serve his sentence. It should be noted that the use of flogging and exile in Qatar has drawn criticism from a number of human rights groups, who consider these punishments a form of violence and inhumane treatment.

Any case involving flogging or exile in Qatar will be processed through the existing legal system. The legal system in Qatar is based on modern Islamic and civil law, and ensures that the rights of citizens are protected and respected. Typically, these cases will be resolved through the courts in Qatar. The court process will include stages such as the examination of evidence, examination of witnesses, and decision-making by an authorised judge. Once the court decides that a person is guilty, then the punishment will be administered in accordance with the applicable laws and legal provisions. Flogging is usually carried out in public in designated places, such as a field or prison, with witnesses and supervisors present. Meanwhile, exile is usually carried out by expelling the person from Qatar to their home country or another country approved by Qatar.

Regarding Qisas law, in Malaysia it is applied in several cases of crimes, such as murder and assault. However, Qisas law in Malaysia has some differences with Qisas law in other Islamic countries. In Malaysia, the

implementation of Qisas law is regulated by the Syariah Criminal Act which applies in certain states. The Malaysian judicial system distinguishes between Islamic criminal law and civil criminal law which apply in separate legal systems. In the Islamic criminal law system in Malaysia, the victim's family can choose to forgive the perpetrator or file for Qisas in accordance with Islamic law. If the victim chooses to forgive the perpetrator, then the perpetrator will be sentenced to ta'zir (punishment determined by the judge) or diyat (fine paid to the victim's family).

Whereas Qatar applies Qisas law in accordance with Islamic sharia law. In Qatar's legal system, Qisas is applied to cases of murder and serious offences. In murder cases, the victim's family can choose to press Qisas charges against the perpetrator or pardon and accept diyat (fine). If the victim's family chooses to press Qisas charges, the perpetrator will be sentenced to death by beheading, unless the victim's family pardons or agrees to diyat in lieu of Qisas. In cases of serious offences, the Qisas punishment applied can be corporal punishment such as cutting off the hands or feet. However, the application of such Qisas punishment must go through a court process and strong and clear evidence is required.

The application of Qisas law in Qatar is still a controversial topic<sup>22</sup>. Some groups criticise Qisas punishments as being too severe and barbaric, whereas others argue that they are effective in fighting crime and maintaining social justice. However, Qatar ensures that any application of Qisas punishment is done transparently and with due regard for human rights and prevailing standards of justice.

However, it is important to note that legal proceedings in Qatar must be conducted with transparency and fairness, and with due regard for human rights. If there is a violation of human rights in the process, then the affected party can appeal and seek assistance from human rights organisations or authorised agencies.

### **Similarities in the Application of Islamic Law in Malaysia and Qatar**

The similarities in the application of Islamic law in Malaysia and Qatar are that both countries also have bodies or institutions responsible for implementing Islamic law, such as Sharia courts in Malaysia and the Ministry of Justice and Sharia courts in Qatar. Both also have laws related to Islamic law, such as family, business, and criminal law. They also have institutions such as

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<sup>22</sup> A.S Hassanein, "The Impact of Islamic Criminal Law on the Qatari Penal Code," *Arab Law Quarterly* 32, no. 1 (2018): 60–79.

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the Ulema Council and other bodies responsible for providing guidance and fatwas in matters relating to Islamic law.

In addition, both also apply Islamic law as a form of national identity and pride, demonstrating that they are states that pay attention to Islamic values and provide protection to Muslims. This is also reflected in their emblems, where Islamic elements are often part of the design, which seeks to raise public awareness and understanding of Islamic law through education and training, as well as through media and other public programmes. The aim is to strengthen the appreciation and practice of Islamic teachings in daily life.

Another similarity is that it seeks to integrate the principles of Islamic law in national development and economic development. This is reflected in various government programmes and policies that encourage the development of economic sectors based on Islamic values, such as the Islamic finance sector and halal tourism. Another similarity in the application of Islamic law in Malaysia and Qatar is the effort to guarantee individual rights and social justice in the application of Islamic law. While Islamic law emphasises the importance of adherence to religious teachings, it also emphasises the importance of justice, equality and the protection of human rights. In this regard, both countries have developed mechanisms and legal institutions responsible for guaranteeing individual rights and social justice in the application of Islamic law, such as human rights watchdogs, sharia courts, and ordinary courts.

In addition, various laws and regulations have been developed that guarantee individual rights, such as the right to education, the right to work, and the right to freedom of religion. Both countries also encourage active community participation in the application of Islamic law, by providing opportunities to provide input and suggestions in the formulation of Islamic law policies. This is reflected in the existence of forums and dialogues between the government and the community on various issues of Islamic law. Another similarity in the implementation of Islamic law in Malaysia and Qatar is the effort to strengthen cooperation between religious institutions and the state in managing Islamic law. In both countries, religious institutions, such as the Ulema Council and the Islamic Religious Council have an important role in policy-making and implementation of Islamic law.

However, these religious institutions also cooperate with the government to ensure the application of Islamic law in accordance with the public interest and the principles of social justice. This is reflected in the cooperation between religious institutions and government bodies in various matters, such as the drafting of Islamic laws and regulations, the implementation of Islamic law

programs, and the resolution of legal problems that occur in society. Both countries also seek to strengthen dialogue and consultation between religious institutions and the government on various issues of Islamic law. This is done to ensure that Islamic law is implemented in accordance with correct Islamic principles and in accordance with the public interest. Thus, religious and state institutions in both countries are working together to achieve the same goal of maintaining justice and equality in society.

## **CONCLUSIONS**

In terms of the application of Islamic law, Qatar and Malaysia have some differences and similarities. Qatar is a country that adheres to Sharia as the highest source of law, and its application is quite strict in some cases, such as violations of criminal law, such as the death penalty, flogging, and imprisonment. On the other hand, Malaysia is a country that adheres to a dual legal system, namely Islamic law and secular law. In Malaysia, the application of Islamic law is limited to family matters and customs, such as divorce, wills, and grants.

However, this difference does not mean that one country is better or worse than the other in applying Islamic law. Both countries have distinctive features and different cultural and political contexts, which affect their application of Islamic law. In addition, both countries also experience challenges and difficulties in applying Islamic law correctly and fairly, such as economic disparities, ethnic differences, and challenges in interpreting Islamic law correctly.

Therefore, to assess the comparative application of Islamic law in Qatar and Malaysia, it is necessary to look further into the political, social and cultural context of each country. Although both countries have their own characteristics in implementing Islamic law, their main goal is to create a just, peaceful and prosperous society in accordance with Islamic principles.

## **BIBLIOGRAPHY**

- Abdallah, A.K. *Islamic Sharia and Arbitration in GCC States: The Way Ahead*. Int'l Rev. Jakarta: Gramedia Pustaka Utama, 2020.
- Abdullah, Abdul Rahman Haji. *Pemikiran Islam Di Malaysia Sejarah Dan Aliran*. Edited by Gema Insani Press. Jakarta: Gema Insani Press, 1997.
- Adil, M.A.M. and Ahmad, N.M. "Islamic Law and Human Rights in Malaysia." *ICR Journal* 5, no. 1 (2014): 43–67.
- Ahmed, F.B.J. "Challenges of the Knowledge Society: Exploring the Case of Qatar." *Global Economic Observer* 6, no. 1 (2018): 39–54.

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- Ansori, I. "Kedudukan Fatwa Di Beberapa Negara Muslim (Malaysia, Brunei Darussalam Dan Mesir)." *Analisis: Jurnal Studi Keislaman* 17, no. 1 (2017): 137–66.
- Asikin, Amiruddin dan H. Zainal. *Pengantar Metode Penelitian Hukum*. Edited by Raja Grafindo Persada. Jakarta: Raja Grafindo Persada, 2018.
- Azhary, Mohammad Tahir. *Negara Hukum (Studi Tentang Prinsip-Prinsipnya Dilihat Dari Segi Hukum Islam Implementasinya Pada Periode Negara Madinah Dan Masa Makkah)*. Edited by Bulan Bintang. Jakarta: Bulan Bintang, 1992.
- Badran, A. "Developing Smart Cities: Regulatory and Policy Implications for the State of Qatar." *International Journal of Public Administration* 1, no. 2 (2021): 1–14.
- Eberle, Edward J. "The Method and Role of the Comparative Law." *Washington University Global Studies Law Review* 8, no. 9 (2009).
- Hassanein, A.S. "The Impact of Islamic Criminal Law on the Qatari Penal Code." *Arab Law Quarterly* 32, no. 1 (2018): 60–79.
- Hasyim, B. "Islam Dan Ilmu Pengetahuan (Pengaruh Temuan Sains Terhadap Perubahan Islam)." *Jurnal Dakwah Tabligh* 14, no. 1 (2013): 127–39.
- John, L Esposito. *Islam Dan Development Religion and Sociopolitical Change, Ter Saonuddin, Identitas Islam Pada Perubahan Sosial Politik*. Edited by University Press. New York: University Press, 1980.
- Kusuma, S.A., Purnama, C. and Darmawan, W.B. "Diplomasi Publik Dan Media: Penggunaan Jaringan Penyiaran Al-Jazeera Dalam Krisis Diplomatik Qatar 2017-2019." *JISPO Jurnal Ilmu Sosial Dan Ilmu Politik* 10, no. 2 (2020): 141–68.
- Makatunggang, R. "Penerapan Hukum Islam Di Malaysia." *Jurnal Ilmiah Al-Syir'ah* 1, no. 1 (2016).
- Mutholingah, S. and Zamzami, M.R. "Relevansi Pemikiran Maqashid Al-Syariah Jasser Auda Terhadap Sistem Pendidikan Islam Multidisipliner." *TaLimuna: Jurnal Pendidikan Islam* 7, no. 2 (2018): 90–111.
- Pengaruh Sosio-Kultur Terhadap Reformasi Hukum Keluarga Islam Di Maroko*, 2020.
- Rini, Y.W. "Politik (Legislasi) Hukum Islam Di Malaysia." *Jurnal ASAS* 8, no. 1 (2016).
- Shuaib, F.S. "Perbankan Syariah; Challenges Dan Opportunity Untuk Pengembangan Di Indonesia." *Jurnal Kordinat* 8, no. 1 (2006): 1–42.
- . *The Islamic Legal System in Malaysia*, 2012.

Soeroso, R. Perbandingan Hukum Perdata. Edited by Sinar Grafika. Jakarta: Sinar Grafika, 2010.

Tebba, Sudirman. Perkembangan Mutakhir Hukum Islam Di Asia Tenggara. Bandung: Gramedia Pustaka Utama, 1993.

Tok, M.E., Alkhater, L.R. and Pal, L.A. Policy-Making in a Transformative State: The Case of Qatar. Edited by Palgrave Macmillan UK. Qatar: Palgrave Macmillan UK, 2019.