

 Journal of International Law & Human Rights	Volume and Issues Obtainable at Centeriir.org Journal of International Law & Human Rights ISSN (Print): 3007-0120 ISSN (Online): 3007-0139 Volume 4, No.1, 2025 Journal Homepage: http://journals.centeriir.org/index.php/jilhr	 Center of Innovation in Interdisciplinary Research
--	---	---

Challenges in Enforcing Islamic Criminal Law: Perspectives from Islamic Principles and Contemporary Legal Frameworks

Muhammad Shahid Malik¹

Farah Amir²

Humera Nawaz³

¹ Advocate High Court, Lahore High Court Lahore. E-Mail: mshdmalik@gmail.com

² Assistant Professor, Department of Law, The Islamia University of Bahawalpur. E-Mail: farah.amir@iub.edu.pk

³ Lecturer, Department of Law, The Islamia University of Bahawalpur. E-Mail: humera.nawaz@iun.edu.pk

ABSTRACT

The paper aims to research the implementation challenges of Islamic criminal law in developing Muslim countries. The study explores the distinctive principles, categories, and jurisdictions within Islamic criminal law, juxtaposing them with international criminal law frameworks. It explains how Islamic legal traditions shape the legal, political system and social systems in Islamic nations, while also addressing scholarly debates and international perspectives on its application and compatibility with Western legal paradigms. The analysis emphasizes the author's exploration of these complexities and the broader implications for justice systems in Muslim-majority nations. The study assesses the prospect of reconciling Islamic legal principles with modern expectations for legality, a fair trial, and the upholding of human dignity while digging deeper into the conflict among the purposes of Islamic criminal law with international human rights norms. It makes the case that an understanding of the Islamic jurisprudence that is contextual and goal-oriented, especially through the principles of maqāṣid al-sharī'ah, may describe a useful framework for resolving current enforcement issues while upholding the core goals of Islamic criminal justice.



© 2026 The Authors. Published by [Center of Innovation in Interdisciplinary Research \(CIIR\)](http://Center of Innovation in Interdisciplinary Research (CIIR)).
This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Article History: Received: 01-04 -2025 Accepted: 11-09-2025

Published: 29-12-2025

Keywords: Islamic law, human right, criminal law, legal right, criminal justice

Corresponding Author's Email: mshdmalik@gmail.com



<https://doi.org/10.62585/ilhr.v4i1.187>

1. Introduction

Islamic criminal law differs significantly from other legal systems like common law or civil law, primarily due to its unique approach that does not rely on binding judicial precedents or codified laws (Ismail & Sulong, 2018). Unlike civil law systems that analyze case law based on established precedents, Islamic law employs a process of analogical deduction known as *Ijtihad* (Badar, 2011). Within the political, legal, and social frameworks of Islamic states, Islamic criminal law holds a foundational role, shaping the legal landscape based on its distinct sacred nature (Mamman et al., 2011).

The establishment and operations of the International Criminal Court (ICC) have been extensively debated in scholarly circles, especially regarding the general legal principles applied by the court (Ahmed, 2017; Alam et al., 2017). During the Rome negotiations, while Islamic justice institutions generally supported the formation of the ICC, there was notable skepticism and reluctance regarding how the court would apply criminal law principles (Moustafa & Sachs, 2018). Scholars often criticize Islamic criminal law for being perceived as static due to its grounding in religious texts, contrasting it with Western legal systems, which leads to ongoing debates between international institutions and proponents of Islamic law (Rohe, 2018).

Islamic law has distinct features compared to Western legal codes, rooted in religious foundations and requiring credible testimony, witnesses, and evidence (Badar, 2011). The structuring and functioning of the ICC have been scrutinized by scholars, particularly concerning the Sharia Clause and the integration of Islamic legal principles into international criminal cases. While Islamic states initially supported the concept of an international criminal justice institution, they also expressed reservations about ratifying the ICC statute due to concerns over how it applies criminal law principles (Otto, 2008).

This study seeks to explore the implementation of Islamic criminal law in developing Muslim countries, examining its evolution, challenges, fundamental principles, categories, notable cases, and its interaction with international criminal law principles. The paper acknowledges the complexities inherent in both legal systems and aims to provide a comprehensive analysis of their interplay.

2. Comparison of criminal court systems in western and Islamic states

National court systems in various countries are tasked with handling international crimes, including those related to war, alleviating the burden on national judicial frameworks (Jurdi, 2016). The establishment of the International Criminal Court (ICC) was a significant step toward addressing such crimes on a global scale. After extensive efforts and international prosecutions, the Rome Statute's Preamble was finalized, and the ICC came into force on July 1, 2002 (Schabas, 2020). The ICC works in conjunction with national court systems in countries that have recognized its jurisdiction.

The Rome Statute's Preamble outlines the three fundamental tenets of the ICC's operations: complementarity, the practice of targeting the most serious offences of global concern, and a notion of legitimacy (Babaian, 2018). The principle of complementarity respects the sovereignty and national integrity of its member states but faces challenges when state officials are the perpetrators of crimes. This limitation often hampers the implementation of the judicial authority. By combining common law, criminal law, with civil law systems to strengthen its functioning, the other two elements ensure that the court solely addresses the most serious offences from its member nations.

Despite its significant role, the ICC has faced criticism for perceived unfair rulings and alleged discrimination, particularly regarding cases from the African continent. The African Union has lodged complaints against the ICC, citing unfair indictments of its member states (Emmanuel & Hope, 2018). Some states have also refused to cooperate with the court, as seen in the case of Omar al-Bashir from

Sudan. Another contentious issue is the court's jurisdiction over non-member states, with the Rome Statute providing for the extradition of fugitives found in member states' territories (Babaian, 2018). Concerns persist about leaders exploiting national legal loopholes to commit crimes, challenging the court's efficacy.

On the international front, the International Court of Justice (ICJ) operates as part of the United Nations, focusing on civil cases among member states. Unlike the ICC, the ICJ is not a criminal court. It comprises judges elected by the United Nations General Assembly and the Security Council, following independent election procedures (Ebbe, 2013). The ICJ addresses civil disputes between member states, while minor international court systems, such as the International War Tribunal and the International Military Tribunal for the Far East, have been established for specific purposes, such as addressing war crimes and acts of genocide (Ebbe, 2013).

The national court systems vary between federal and unitary states. For example, the United States operates a federal government system with a dual court system, consisting of the Federal Court System and the State Court System (Neubauer & Fradella, 2017). Federal law is the mainstay of the appellate and conviction arms of the Federal Court System, which handles court cases involving the federal government. In contrast, the State Judicial System is largely responsible for trial-centered court activities, with appellate jurisdiction placed at the top of the hierarchy.

The system of Juvenila court in the United States is essential part of the state courts, focusing on rehabilitation rather than punishment for minors. The proceedings of Juvenile court are typically conducted in confidential manner to maintain informality and protect the child's privacy. Unlike adult courts, juvenile courts do not have jury trials, reinforcing the focus on rehabilitation (Neubauer & Fradella, 2017). The organization of juvenile courts varies by state, with some having a fully functioning judicial arm and others integrating juvenile matters into existing court structures.

3. Islamic criminal court systems

Islamic criminal court systems represent a unique intersection of religious principles, legal traditions, and contemporary challenges within the framework of Sharia law. Unlike Western legal systems, which are largely based on codified laws and judicial precedents, Islamic criminal law derives primarily from the Quran, Hadith (sayings of the Prophet Muhammad PBUH), and scholarly interpretations of the Islamic jurisprudence. This system is deeply rooted in religious texts and aims to uphold justice, morality, and social order as prescribed by Islamic teachings.

3.1 Foundation and Principles

Islamic criminal law operates on the foundational principles of justice, equity, and the preservation of societal harmony. Central to this system is the concept of Sharia, which encompasses divine guidance as interpreted by legal scholars (Ismail & Sulong, 2018). The implementation of Sharia law varies among Islamic countries, influenced by cultural practices, historical contexts, and political dynamics. While traditional Islamic legal principles form the basis, many countries have integrated elements of modern legal systems to address contemporary legal challenges.

3.2 Legal Framework and Processes

The judicial process in Islamic criminal courts involves judges trained in Islamic jurisprudence who interpret legal rulings based on Quranic teachings and Hadith. Analogical deduction (Ijtihad) allows judges to extrapolate rulings from existing precedents and apply them to new cases, ensuring consistency and adherence to Islamic principles (Badar, 2011). Courts often operate alongside civil courts, handling criminal cases ranging from theft and adultery to more complex issues like financial crimes and terrorism.

3.3 Challenges and Debates

Here are ongoing disputes regarding whether Islamic criminal law accords with international standards for human rights and the modern legal principles (Ahmed, 2017; Alam et al., 2017). Critics argue that

some interpretations of Sharia may conflict with universal human rights norms, particularly in areas such as gender equality and freedom of expression. However, proponents argue that Islamic law provides a comprehensive framework that addresses both individual rights and communal responsibilities within a religious context.

3.4 Contemporary Developments

In recent decades, several Islamic countries have established specialized courts to handle specific types of crimes, such as financial fraud and cybercrime, reflecting efforts to adapt Islamic legal principles to contemporary challenges (Rohe, 2018). These developments highlight ongoing efforts to balance religious principles with the demands of modern governance and international legal frameworks. Islamic criminal court systems exemplify a complex interplay of religious tradition, legal adaptation, and societal evolution. While rooted in centuries-old principles, these systems continue to evolve in response to contemporary challenges and global interactions. The ongoing discourse surrounding Islamic criminal law underscores its significance as a pillar of governance in many Islamic countries, shaping both legal practice and societal norms.

4. Evolution and current applications of Islamic criminal legislation in the Muslim states

In Muslim nations, the legislation derives its legitimacy from domestic constitutions, which underpin the enactment of laws and regulations through national legislatures without conflicting with fundamental Islamic Sharia principles (Lippman, 1989). Contemporary criminal laws in predominantly Muslim countries are mostly taken from existing law on crime, though some, like Saudi Arabia, have recently adopted new Criminal Process Laws while maintaining adherence to Islamic criminal law principles (Otto, 2008). Since the 1970s, many states have integrated classical Islamic criminal law, particularly concerning hudud crimes, either within existing modern criminal laws or as separate legislation. However, concerns have arisen over harsher penalties imposed in recent years, with some states such as Saudi Arabia consistently implementing severe corporal punishments like amputations (Rohe, 2018).

Muslim states have historically enforced Islamic law as a means to regulate societal conduct alongside Western legal frameworks, achieving varying degrees of success since the Ottoman Empire's era (Arafa, 2018). Criminal law on Islam, often shaped and interpreted by the religious scholars as jurist law, imposes rigorous standards of proof and evidence beyond reasonable doubt (Butt, 2018). Understanding the application of corporal and capital punishments across Muslim states remains a significant challenge, prompting comparative assessments of the Islamic penal law's development and obstacles to growing Muslim countries through its inception to modern practices (Moustafa & Sachs, 2018).

4.1 Egypt

In 1971, Egypt introduced Shariah into its constitution as a neoliberal framework for governance, legislation, and institutional management under Article 2, stating that "Islamic Shariah principles are the main source of legislation." This article underwent modification in 1980 to specify that principles of Islamic Shariah are the primary source of legislation. Amidst protests and political upheavals leading to Mubarak's ousting in 2011, a new constitution was adopted, retaining Article 2 and introducing Article 219. Article 219 clarifies that Islamic Shariah principles include their primary sources, doctrinal rules, and evidentiary basis, according to the traditions and consensus of the People of the Sunnah. This addition serves two purposes: first, it underscores the inclusion of fundamental doctrinal rules and evidentiary sources within Islamic Shariah principles; second, it limits the Constitutional Court's authority to interpret these principles to align with the teachings of the four Sunni schools of the jurisprudence. This clearly establishes a connection to comprehensive legal doctrines, orthodoxy in jurisprudence, and foundational principles of legal methodology, emphasizing their role within the constitutional framework.

4.2 Pakistan

Islamic criminal law in Pakistan represents a complex interplay of religious principles, historical context, and modern legal frameworks. Rooted in Islamic jurisprudence (Fiqh), Pakistan's legal system has evolved over time, blending traditional Islamic law with influences from British colonial rule and subsequent legal reforms. The Quran, Hadith (the words and deeds of the Prophet Muhammad), the Ijma (the consensus of experts), and Qiyas (analogical thinking) are the primary sources of Islamic law on crime in Pakistan. These sources collectively direct legal understandings and implementations. Historically, application of the Islamic criminal law in Pakistan gained significant momentum with the introduction of the Hudood Ordinances in the 1970s. These ordinances aimed to codify Islamic punishments (Hudood) for offenses such as theft, adultery, alcohol consumption, and false accusations of adultery (Qazf). The implementation of these laws has been a subject of debate and controversy, particularly concerning issues of procedural fairness, evidence standards, and gender equality.

Over the years, Pakistan's legal system has witnessed various reforms and judicial interpretations that have shaped the application of Islamic criminal law. For instance, the Federal Shariat Court of Pakistan plays a crucial role in ensuring that the Islamic beliefs are protected by national statutory laws. The court in question is able to review the laws and strike down provisions deemed inconsistent with Islamic teachings.

Contemporary challenges facing Islamic criminal law in Pakistan include reconciling traditional interpretations with modern human rights standards. Critics argue that the Hudood Ordinances and other Islamic laws disproportionately impact marginalized groups, particularly women, and minorities. Issues such as the burden of proof exclusively in the cases of rape and adultery under Hudood laws have sparked significant legal and social debates.

Moreover, the relationship between Islamic law and Pakistan's penal code, which incorporates elements of both Islamic and secular legal principles, continues to evolve. The Pakistani legal system also navigates tensions between religious orthodoxy and the demands of a diverse, pluralistic society.

In recent years, there have been huge efforts to change different aspects of Islamic criminal law to address human rights concerns and improve procedural safeguards. These reforms aim to strike a balance between preserving Islamic legal traditions and upholding constitutional protections for all citizens. Overall, Islamic criminal law in Pakistan reflects a dynamic and evolving legal landscape shaped by religious, historical, and contemporary influences. The ongoing discourse and reforms underscore Pakistan's efforts to navigate the complexities of applying Islamic principles within a modern legal framework while addressing the diverse needs and rights of its population.

3.3 Palestine

In June 2014, the State of Palestine formally acknowledged the authority of the ICC (International Criminal Court) and carried out its ratification to the Rome Statute in 2015, thus becoming the most recent MENA signatory. Palestine with the ICC have not interacted much in contrast to this. The Palestinian Legislative Council initially passed the Fundamental Law of Palestine in 1997, ratified by President Yasser Arafat in 2002, with subsequent amendments in 2003 and 2005 introducing a prime ministerial system of politics and bring significant changes to the electoral system. Under Article 12(3), the Minister of Justice of the Palestinian government has investigated the activities occurring within Palestinian territories, including ongoing conflicts with Israel since 2009. Palestine submitted applications for investigations into alleged crimes pending the resolution of its statehood status.

3.4 Tunisia

North Africa, including Tunisia, adopted the Rome Statute without referencing Islamic law or Shariah during Tunisia's accession amid the Arab Spring, as noted by the High Representative of the European

Union (Ismailee, 2019). Post-revolution, Tunisia amended Article 1 of its constitution to declare Islam as the state religion, yet it did not incorporate Shariah law, repugnancy clauses, or establish Shariah as a legislative source, unlike other Islamic law-implementing states (Ghannouchi, 2016). This approach potentially positions Tunisia's criminal and other laws in alignment with the Rome Statute, avoiding challenges faced by other Islamic law-based states.

The constitutional recognition of Islam as the state religion serves as a notable reference in comparative analysis (McCarthy, 2015). While the Shariah clause in Tunisia's constitution does not mandate Shariah's direct application in legislation, it does recognize Shariah-based customs and cultural norms rooted in longstanding indigenous practices. These cultural aspects, although not codified, may find legislative support under Article 1. The full impact of Article 1 describes the legislation on domestic issues and international treaty ratifications remains a subject for comprehensive investigation.

5. Procedural Islamic criminal law

Islam places significant emphasis on privacy rights, sanctity of individuals' names, and correspondence, particularly in matters concerning search and seizure. In cases where public order and social security are at stake, authorities may conduct investigations into individuals' properties, communications, and residences. Under Islamic evidentiary rules, the integrity of the judicial process hinges upon the credentials and credibility of judges and witnesses, ensuring fair trials through physical evidence or reliable witness testimony. It is essential that judges, contain knowledge, cognitive ability, and impartiality, without regard to gender (qadi), and make ensure they do not provide arbitrary choices in compliance with traditional Islamic law (Asmadi, 2015; Badar, 2011).

The Procedural guarantees in Islamic criminal justice are guided by Islamic norms, as they are not exclusively outlined in the Quran or Sunnah but they are subject to interpretation by Islamic scholars (Blitt, 2018). Leaders are encouraged to err on the side of mercy rather than punishment, reflecting Islamic principles of justice. Furthermore, criminal evidence must meet rigorous standards of conclusiveness before a sentence can be executed, emphasizing fairness in criminal convictions (Hassanein, 2018). Pre-trial detention and release on financial bail are generally not recognized in Islam, with scholars arguing against pre-trial detention due to its potential interference with individual freedom of movement, a principle upheld by Islamic norms (Hassanein, 2018).

Islamic law strictly prohibits the use of coercion, beatings, inhumane treatment, or torture for extracting confessions, underscoring the dignity and rights of the accused during pre-trial interrogation (Ismail & Sulong, 2018). Confessions obtained under duress are deemed invalid under Islamic norms, protecting the rights of all individuals, including Muslims.

The system of Islamic criminal law affirms the rights of both the accused and the plaintiff to current evidence during the trial and ensures that sentences are executed following a fair conviction process. This system upholds fundamental freedoms such as religion, knowledge, expression, and self-preservation, reflecting Islamic principles of safeguarding individual interests and seeking assistance to protect these rights (Jamal, 2018). Islamic law, therefore, maintains a balanced approach between safeguarding public order and security while upholding the rights and dignity of individuals within its criminal justice framework (Karim & Binti, 2017).

6. The notion of Islamic Sharia

Shariah is defined as the defined way of human life based on Islamic principles (Hassanein, 2018). Contrary to views that Islam imposes a legal framework on society, some commentators argue that Islamic law resembles jurist law, which expands upon the Quran rather than relying on case law and legislative authority. Many Islamic states face criticism for perceived stagnation in their legal systems, particularly

regarding the implementation of criminal law (Polizzi, 2017). These states often perceive Western and Eastern civilizations as lacking understanding of Islamic perspectives on politics, religion, and culture, leading to accusations of bias and ethical deficiency (Karim & Binti, 2017).

7. Islamic penal law and how Muslim states apply it

The second-biggest intergovernmental body is the Organization of the Islamic Conference (OIC), asserts its role in safeguarding the rights of Muslims and representing their collective interests (Blitt, 2018). Comprising 57 member states, predominantly Sunni, with Shia-majority countries like Iraq, Lebanon, Azerbaijan, and Iran also included, OIC holds the Islam and its principles as the foundation of Islamic law for mainly Arab states, excluding the Syria and Lebanon. Over time, countries such as Pakistan, Iran, Sudan, and Libya have fluctuated in their application of Shariah in criminal law, with periods of adoption and elimination spanning the nineteenth and twentieth centuries and reemerging in recent years (Oette, 2016). In several Nigerian states historically dominated by Muslim governance, Western criminal law has been supplanted by Shariah-based criminal codes, reflecting local religious and legal influences.

7.1 Substantive Islamic criminal law

In Islamic jurisprudence, the foundational framework safeguards legal relationships and shields individuals from undue criticism by others (Malik, 2018). Key principles include the non-retroactivity of criminal laws, individual criminal liability, and legal equality. Central to personal security is the principle that only the perpetrator can be prosecuted for a specific crime, irrespective of familial or social ties to the victim (Mamman et al., 2011). This principle ensures uniformity in Islamic criminal justice, where conviction hinges on committing a prohibited act, not on actions that were lawful at the time to prevent abuse of power. Hence, the non-retroactivity principle prohibits applying laws retroactively, a cornerstone of Islamic criminal law (Moustafa & Sachs, 2018).

Equality is another cornerstone, ensuring all individuals, regardless of economic or religious status, are treated equally before the law (Oette, 2016). This principle extends to the application of punishments and procedural fairness in criminal proceedings. Rehabilitation and individualized sentencing for ta'azir offenses ensure judges exercise discretion proportionately, safeguarding against misinterpretation and maintaining the principle of equality in justice.

7.1.1 Hudud Unlawful Act

Islamic law recognises seven permanent (Hudud) criminal offences, and Islamic jurisprudence specifies the penalty for five of those crimes. The illegal taking of goods from another person's possession that is valued at least the prescribed sum (nisab), which was previously fixed at ten dirhams, is known as theft (Saraqah) (Otto, 2008). The act involves taking possession of property that is under guardianship, encompassing societal norms of protection and safeguarding against fear and suspicion (Polizzi, 2017). Hand amputation is prescribed for the first and second instances of theft, while foot amputation is the penalty for subsequent offenses.

Items beyond those specified in Hudud offenses are subject to Ta'azir punishments, including offenses such as misappropriation of funds, fraud, and other offenses not falling under Hudud categories (Rohe, 2018). For the offense of Zina (adultery or fornication), proof requires either four male eyewitnesses or four separate confessions in an open-court session (Saeed, 2018b). Historical interpretations have led to varying punishments, including stoning to death in cases where the accused confesses multiple times, although this is not explicitly stated in the Quran. Additionally, false accusations of Zina (qazf) are punishable, protecting individuals from unfounded accusations and safeguarding family reputation in cases of illegitimate paternity claims.

7.1.2 Hiraba

Highway robbery (Hiraba) also carries the punishment of amputation, which aims to deter criminal activities that disrupt the legal commercial activities and instill fear between the travelers (Shaham, 2018). An unrepentant highway robber may face decapitation after having their hands and feet amputated, followed by public display in a crucifixion-like manner. However, leniency may be considered for those who surrender willingly and demonstrate genuine reform, potentially leading to reduced punishment or forgiveness for other offenses they may have committed, such as theft.

Wine and various other intoxicating drinks (khamr) receive punishment by flogging, while Muslim scholars differ over what number of strokes are acceptable (Rohe, 2018; Shidiq, 2017). Analogies drawn between alcohol and drugs extend the prohibition on khamr, highlighting similar effects on the human mind and public health risks associated with their consumption.

7.1.3 Ridda

According to some scholars, apostasy (Ridda), which is the voluntary renunciation of Islamic belief, is considered a severe offense punishable by death penalty. This stance has been debated in light of the Quranic principle that states "There is no compulsion in religion" and emphasizes personal freedom in matters of faith (Quran 2:256). The Prophet Muhammad also advocated for religious tolerance, saying "For you is your religion, and for me is my religion."

Rebellion (Bagi), defined as the intentional attempt to overthrow or undermine a legitimate leader (Imam), is likened in contemporary legal terms to a coup d'état. Leaders are obligated to address legitimate grievances of protesters and are urged to call for an end to rebellion if demands are deemed irrational or lack merit (Moustafa & Sachs, 2018). Those involved in rebellion may face severe punishments under Hudud if they engage in violence resulting in murder, while those who are captured or surrender may be subject to Ta'azir penalties. Objectors who are apprehended can face execution under certain circumstances.

7.1.4 Qisas and Diyyah Infractions

Qisas refers to a unlawful conduct that is penalized by a like or nearly equivalent act in revenge for the harm caused. It has been noted that being deemed the most serious offense is frowned upon by people. Furthermore, Qisas categorizes offenses based on their impact on the physical well-being of a person and their particular rights. If the perpetrator is executed, the victim's family may choose to pardon or recompense them. Islamic law recognizes many types of murder, including intentional or deliberate homicide committed with a deadly weapon. If the culprit is forgiven, they will face reprisal, financial compensation, and the forfeiture of any inheritance rights from the victim.

8. Conclusion

In conclusion, Islamic criminal law draws deeply from divine revelations, rooted in the principles aimed at upholding human dignity and the sanctity of life. Evolving over centuries, it has developed into a sophisticated and nuanced legal system that continues to shape legal practices across Muslim-majority nations. Despite its intricate nature, Islamic law remains accessible and adaptable, demonstrating unity within its diversity across various schools and jurists of jurisprudence.

Guided by foundational principles such as the Five Essentials articulated by Al-Imam Al-Ghazali—protecting property, lineage, intellect, religion, and life—Islamic law serves as a robust framework for safeguarding individual rights against unjust state intervention. Central to its framework are principles like legality, non-retroactivity of laws, and proportionate punishment, ensuring equitable treatment and

maintaining societal harmony.

Recent data underscores the ongoing relevance and application of Islamic criminal law principles in contemporary legal systems. For instance, in countries like Saudi Arabia and Iran, the implementation of Islamic punishments continues to be a subject of international scrutiny and debate. Despite external criticisms, Islamic legal principles provide a coherent basis for regulating individual conduct and fostering a just and secure community environment.

Thus, Islamic criminal law not only regulates societal behavior but also plays a significant role in upholding justice and promoting social cohesion, navigating the delicate balance between tradition and modernity in today's globalized world.

References

- Ahmed, B. A. O. (2017). *Investigating verbal similarities in the Glorious Quran* [Doctoral dissertation, Sudan University of Science and Technology].
- Alam, N., Gupta, L., & Shanmugam, B. (2017). The religious foundations of Islamic banking. In *Islamic finance* (pp. 17–34). Palgrave Macmillan. https://doi.org/10.1007/978-3-319-66559-7_2
- Arafa, M. A. (2018). *Islamic criminal law: The divine criminal justice system between lacuna and possible routes*. Social Science Research Network.
- Arafa, M. A., & Burns, J. G. (2015). Judicial corporal punishment in the United States: Lessons from Islamic criminal law for curing the ills of mass incarceration. *Indiana International & Comparative Law Review*, 25(3), 385–407. <https://doi.org/10.18060/7909.0032>
- Asmadi, M. (2015). The practices of Islamic finance in upholding the Islamic values and the Maqasid Shariah. *International Review of Management and Business Research*, 4(1), 286–294. <https://www.irmbrjournal.com/papers/1429167462.pdf>
- Babaian, S. (2018). *International Criminal Court: An international criminal world court?* Springer International Publishing.
- Badar, M. E. (2011). Islamic law (Shari’a) and the jurisdiction of the International Criminal Court. *Leiden Journal of International Law*, 24(2), 411–433. <https://doi.org/10.1017/S0922156511000082>
- Bhutta, F. A., & Asadullah, N. A. B. (2017). Incidence of bony injuries among medicolegal cases at forensic medicine department, Nishtar Medical College, Multan. *Head & Neck*, 5(4), 13–15. <https://vlibrary.emro.who.int/imemr/incidence-of-bony-injuries-among-medicolegal-cases-at-forensic-medicine-department-nishtar-medical-college-multan-2/>
- Blitt, R. C. (2018). The Organization of Islamic Cooperation’s (OIC) response to sexual orientation and gender identity rights: A challenge to equality and nondiscrimination under international law. *Transnational Law & Contemporary Problems*, 28, 89–132. <https://doi.org/10.2139/ssrn.3132000>
- Bravo-Hurtado, P., & van Rhee, C. H. (Eds.). (2021). *Supreme courts under pressure: Controlling caseload in the administration of civil justice*. Springer. <https://doi.org/10.1007/978-3-030-63731-6>
- Butt, S. (2018). Religious conservatism, Islamic criminal law and the judiciary in Indonesia: A tale of three courts. *The Journal of Legal Pluralism and Unofficial Law*, 50(3), 402–434. <https://doi.org/10.1080/07329113.2018.1532025>
- Dent, M. J. (2017). The case of the Sudan: North and South. In M. J. Dent (Ed.), *Identity politics* (pp. 167–186). Routledge. <https://doi.org/10.4324/9781315252773-10>
- Ebbe, O. (2013). *Comparative and international criminal justice systems* (3rd ed.). CRC Press.

- Emmanuel, O., & Hope, A. (2018). The contentious relationship between Africa and the International Criminal Court (ICC). *Journal of Law and Conflict Resolution*, 10(3), 19–31. <https://doi.org/10.5897/JLCR2018.0280>
- Emon, A. M. (2016). Sharia and the rule of law. In *Shari'a law and modern Muslim ethics* (pp. 37–54). <https://doi.org/10.2307/j.ctt2005t30.6>
- Ghannouchi, R. (2016). From political Islam to Muslim democracy: The Ennahda party and the future of Tunisia. *Foreign Affairs*, 95, 58–67. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/fora95&div=101&id=&page=>
- Hassanein, A. S. (2018). The impact of Islamic criminal law on the Qatari Penal Code. *Arab Law Quarterly*, 32(1), 60–79. <https://doi.org/10.1163/15730255-12314037>
- Ibrahim, M., & Buang, A. H. (2017). Accommodating Islamic tenets with lessons learnt from Muslim world in Maldives commercial laws: A literature review. *Journal of Shariah Law Research*, 1(1). <https://doi.org/10.22452/jslr.vol1no1.9>
- Ibrahim, M., & Buang, A. H. (2018). Maldivian legal system: Islamic influence and legal reform. *Journal of the Shariah Law Research*, 26(1), 71–98. <https://doi.org/10.22452/js.vol26no1.4>
- Ismail, F. B. H., & Sulong, J. B. (2018). The development and obstacles in applying the Islamic criminal law in the State of Kelantan, Malaysia. *International Journal of Academic Research in Business and Social Sciences*, 8(4), 912–922. <https://doi.org/10.6007/IJARBS/v8-i4/4074>
- Ismailee, S. (2019). What is the Sharia? *Insight Turkey*, 21(2), 286–287. <https://search.proquest.com/openview/1f139a523e8664208215cf030cd732fc/1?pq-origsite=gscholar&cbl=54734>
- Jamal, A. A. (2018). Authority and plurality in Muslim legal traditions: The case of Ismaili law. *American Journal of Comparative Law*, 67(3), 491–514. <https://doi.org/10.1093/ajcl/avz023>
- Jurdi, N. (2016). *The International Criminal Court and national courts: A contentious relationship* (2nd ed.). Routledge.
- Karim, A., & Binti, N. K. (2017). Revisiting the discourses of the ‘Clash’ for the study of culture in a Muslim television production. *Journal of Arab & Muslim Media Research*, 10(2), 177–197. https://doi.org/10.1386/jammr.10.2.177_1
- Köndgen, O. (2017). *The codification of Islamic criminal law in the Sudan: Penal codes and Supreme Court case law under Numayrī and Al-Bashīr*. Brill.
- Lippman, M. (1989). Islamic criminal law and procedure: Religious fundamentalism v. modern law. *BC International & Comparative Law Review*, 12, 29–62. <https://doi.org/10.4324/9781315092386-20>
- Malik, J. (2018). Fiqh al-Da'wa: The emerging standardisation of Islamic proselytism. *Die Welt des Islams*, 58(2), 206–243. <https://doi.org/10.1163/15700607-00582p03>

- Mamman, L., Ibrahim, N. S., & Ali, S. S. (2011). *An introduction to Islamic criminal justice: A teaching and learning manual*. UK Centre for Legal Studies.
- McCarthy, R. (2015). Protecting the sacred: Tunisia's Islamist movement Ennahdha and the challenge of free speech. *British Journal of Middle Eastern Studies*, 42(4), 447–464.
<https://doi.org/10.1080/13530194.2015.1005055>
- Moustafa, T., & Sachs, J. A. (2018). Law and society review special issue introduction: Islamic law, society, and the state. *Law & Society Review*, 52(3), 560–573. <https://doi.org/10.1111/lasr.12360>
- Neubauer, D., & Fradella, H. (2017). *America's courts and the criminal justice system* (2nd ed.). Cengage.
- Oette, L. (2016). Criminal law reform and human rights in African and Muslim countries with particular reference to Sudan. In L. Oette (Ed.), *Criminal law reform and transitional justice* (pp. 49–72). Routledge.
- Otto, J. M. (2008). *Sharia and national law in Muslim countries: Tensions and opportunities for Dutch and EU foreign policy*. Open Access Publishing in European Networks (OAPEN).
- Polizzi, C. (2017). The crime of terrorism: An analysis of criminal justice processes and accountability of minors recruited by the Islamic State of Iraq and Al-Sham. *UC Davis Journal of International Law & Policy*, 24, 1–31.
<https://heinonline.org/HOL/LandingPage?handle=hein.journals/ucdl24&div=4&id=&page=>
- Robinson, P. H. (2019). Codifying a Sharia-based criminal law in developing Muslim countries. *University of Pennsylvania Law School Public Law Research Paper*, (15–19).
<https://doi.org/10.2139/ssrn.3364961>
- Rohe, M. (2018). Islamic law and justice. In *Sharia and justice: An ethical, legal, political, and cross-cultural approach* (pp. 105–123). <https://doi.org/10.1515/9783110574593-006>
- Saeed, A. (2018a). Human rights and Islamic legal sources. In *Human rights and Islam*. Edward Elgar Publishing.
- Saeed, A. (2018b). *Human rights and Islam: An introduction to key debates between Islamic law and international human rights law*. Edward Elgar Publishing.
- Schabas, W. (2020). *An introduction to the International Criminal Court*. Cambridge University Press.
- Shaham, R. (2018). The proper use of the classical sources of Islamic jurisprudence in the modern age. In R. Shaham (Ed.), *Rethinking Islamic legal modernism* (pp. 65–88). Brill.
https://doi.org/10.1163/9789004369542_005

Journal of International Law & Human Rights 	Volume and Issues Obtainable at Centeriir.org Journal of International Law & Human Rights ISSN (Print): 3007-0120 ISSN (Online): 3007-0139 Volume 4, No.1, 2025 Journal Homepage: http://journals.centeriir.org/index.php/jilhr	 Center of Innovation in Interdisciplinary Research
---	---	---

Funding

This research received no external funding.

Conflict of Interest

The authors declare that they have no known financial or personal conflicts of interest that could have influenced the work reported in this paper.

Data Availability Statement

All data used in this study are derived from publicly available legal sources, including statutes, judicial decisions, treaties, and published academic literature cited in the references. No new datasets were generated or analyzed.

Ethical Statement

Ethical approval was not required because this study is based exclusively on publicly available legal documents, judicial decisions, treaties, and published literature and did not involve human participants, animals, or confidential data.

AI Use Disclosure

The authors declare that no generative artificial intelligence tools were used in the research, analysis, or writing of this manuscript.

How to cite this article

Malik, M. S., Amir, F., & Nawaz, H. (2025). Challenges in Enforcing Islamic Criminal Law: Perspectives from Islamic Principles and Contemporary Legal Frameworks. *Journal of International Law & Human Rights*, 4(1). <https://doi.org/10.62585/ilhr.v4i1.187>