

THE CHALLENGE OF INTEGRATING SHARIA CRIMINAL LAW IN THE NATIONAL LEGAL SYSTEM

Gunawan Widjaja

Faculty of Law Universitas 17 Agustus 1945 Jakarta

widjaja_gunawan@yahoo.com

Adrian Bima Putra

Faculty of Law Universitas 17 Agustus 1945 Jakarta

Abstract

The integration of Sharia criminal law into the national legal system presents significant challenges. Firstly, there are fundamental differences between the principles and values espoused by Sharia criminal law and national criminal law, which may hinder their alignment. Secondly, the juridical and institutional challenges require the revision of laws and regulations, as well as the development of new mechanisms to implement the law, which requires inter-agency coordination and a significant amount of time. Thirdly, the socio-cultural aspect is also a major obstacle, given that the application of Sharia criminal law must be adapted to a society that is diverse in terms of religion, culture and social values. Thus, a thoughtful and inclusive approach, as well as effective communication and education strategies are needed to achieve harmonious integration.

Keywords: Challenges, Integration, Sharia Criminal Law, National Legal System.

Introduction

The integration of sharia criminal law into the national legal system is a complex and sensitive issue in many Muslim-majority countries, including Indonesia. As the country with the largest Muslim population in the world, Indonesia recognises the application of sharia in certain aspects of its life, while still maintaining a national legal system rooted in colonial and modern legal systems (Jamilah, 2024).

A national legal system is a framework of rules and principles that govern the behaviour of individuals and relationships between entities within a country. It aims to create order, justice and security through the fair and consistent application of the law. The national legal system encompasses various areas of law, including criminal law, civil law, administrative law, and constitutional law, all of which are structured with the aim of protecting the rights and obligations of citizens and maintaining the stability and well-being of the Society (Rahman, 2024).

The development of national legal systems is often the result of each country's unique history, culture and socio-economic needs. In Indonesia, for example, the national legal system has evolved from customary law rooted in local culture, influenced by Dutch colonial law during colonisation, and now continues to evolve in the context of an independent and democratic state. Along with globalisation and social dynamics,

the national legal system also continues to adapt and integrate international legal principles and global standards to answer the challenges of modern times. These adaptations reflect efforts to support inclusive socio-economic development, maintain political stability, and fulfil commitments to the protection of human rights (Rahmatillah ., 2021)

Furthermore, one of the main challenges in the integration of sharia criminal law into the national legal system is the difference in principles and principles between these two legal systems. The national legal system, which is more secular and human rights orientated, sometimes clashes with the fundamental principles of sharia criminal law which in some cases are considered more conservative or restrictive. In addition, the diversity of interpretations of sharia law can add to the complexity of applying it consistently and appropriately in the context of state law. Differences of opinion among scholars and legal experts regarding the implementation of sharia law often spark debates that can hinder the harmonisation of the two legal systems (Yusuf, 2021) .

Another challenge that arises is the potential conflict between the application of sharia law and the constitution and basic laws that uphold pluralism and diversity. This requires an effort to balance the application of sharia law with national interests and individual rights that are protected in the context of a diverse country (Ramadhan & Wibowo, 2024) .

Therefore, an in-depth understanding of the challenges of sharia criminal law integration in the national legal system is needed. This research aims to identify these challenges and propose suitable solutions in order to create harmonious integration without ignoring the principles of justice and diversity upheld in the national legal system.

Research Methods

The study in this research uses the literature method. The literature research method is a research approach that collects, reviews and analyses previously published information in order to develop an in-depth understanding of a particular topic. This research involves identifying various sources, including books, journals, scientific articles, reports, and official documents, to assess and synthesise existing findings (Rizkykawasati, 2019); (Heriyanto, 2018) . The main objectives are to identify knowledge gaps, assess the diversity of perspectives, and develop a strong theoretical foundation for further research. This method is also useful in comparing research results from various studies and enriching theoretical or practical understanding of a particular theme with the support of evidence that has been validated by experts in related fields (Caglayan, 2021) .

Results and Discussion

The Challenge of Integrating Sharia Criminal Law

One of the main challenges in the integration of sharia criminal law into the national legal system is to ensure that it is in line with the constitution and applicable national laws. This involves reconciling the principles of sharia with established legal norms, such as the generally applicable criminal law. Sometimes, there are fundamental differences in sentencing arrangements and interpretation of case law that need to be harmonised so as not to cause conflict between the various legal institutions in the country (Hasan, 2022).

Countries with diverse populations, such as Indonesia, face challenges related to legal pluralism when trying to adopt sharia criminal law. Different legal systems, including customary law and laws based on other religions, can conflict with the principles of sharia law. This challenge requires an accommodative and inclusive approach to ensure that all groups of society feel respected and protected by the applicable legal system (Abdullah, 2013).

The integration of sharia criminal law also faces challenges regarding commitments to internationally recognised human rights. Some aspects of sharia criminal law, such as corporal punishment or gender-based discrimination, may become controversial if they are deemed to be in conflict with global human rights standards. Therefore, it is important for regulators to strike a balance between the application of sharia law and international obligations in the area of protecting the fundamental rights of individuals (Husna, 2020).

Public perception and acceptance of sharia criminal law is also a significant challenge. In some communities, there may be a lack of understanding or resistance to the principles of sharia law, especially if it is perceived as deviating from prevailing social norms or causing injustice. Education and open dialogue are needed to improve understanding and foster awareness of the importance of harmonious integration. To effectively implement sharia criminal law, capacity building of the judiciary and law enforcement agencies is required. This includes training for judges, prosecutors and police to understand the application of sharia law in a fair and proportionate manner. Without adequate institutional support, the implementation of sharia law can be inconsistent and lead to legal uncertainty (Faiz, 2025).

Finally, political dynamics can affect the integration process of sharia criminal law. Legal policies are often influenced by changes in the political landscape, including pressure from interest groups that can accelerate or hinder the implementation of sharia law. It is important to ensure that these integration measures are based on a strong political consensus and driven by the goal of improving justice and the well-being of the people (Qasim, 2023).

As such, the integration of sharia criminal law into the national legal system faces a number of complex challenges. Among these are adjusting regulations to the

constitution and existing laws, as well as addressing legal pluralism in a diverse society. There are also important considerations related to human rights that must be taken into account so as not to contradict international standards. In addition, public perception and acceptance needs to be managed through education and dialogue. Capacity building of the judiciary as well as training for law enforcers are key to effective implementation. Finally, domestic political dynamics can affect the process, so a strong political consensus is needed to ensure fair and sustainable integration.

Compatibility of Sharia Criminal Law with National Legal Principles

The integration of sharia criminal law into the national legal system is an important issue that requires a comprehensive study, considering the existing historical and social context. In the context of Indonesia, which is known for its cultural plurality, the biggest challenge is to create harmony between the principles of sharia law with the state foundation Pancasila and the prevailing national laws (Mahfud, 2021).

Sharia criminal law is drawn from the primary sources of Islam such as the Quran, Hadith, Ijma', and Qiyas. These principles regulate matters that are deemed to violate religious norms and stipulate specific forms of punishment. In contrast, national criminal law is based on the ideology of Pancasila and the constitution which upholds the principles of equality before the law, social justice, and respect for human rights. Both have different frameworks, but finding common ground is key to continuing this dialogue of integration (Al-Farisi, 2020).

The process of regulatory harmonisation is necessary to bridge the differences between sharia and national criminal law. This does not mean replacing one with the other, but rather harmonising so that they can complement each other. The government and legal experts can identify aspects of sharia that can be adopted without contradicting the constitution. This process includes a review of the legality and social acceptability of implementing such laws (Rahmatillah ., 2021)

One of the critical aspects of combining sharia criminal law with national legal principles is safeguarding human rights. International standards emphasise humane and fair treatment, often highlighted in some provisions of sharia criminal law. It is important for policymakers to ensure that provisions such as extreme corporal punishment should be reviewed and adjusted to be in line with the universal declaration of human rights as well as safeguarding Indonesia's reputation in international eyes (Idris, 2022).

The principles of equality and fairness are the foundation of national law that must be maintained in every legislative process. Within this framework of compatibility, despite differences, the ultimate goal should be to bring society to a just and non-discriminatory legal system. This is where it is important to ensure that the application of sharia does not lead to discrimination of gender or certain groups, and still maintain a balance with Indonesia's democratic values (Mutmainah ., 2025)

The successful implementation of any law depends largely on community acceptance. Given Indonesia's ethnic and religious diversity, any attempt to integrate sharia criminal law must be supported by a process of education and open dialogue. Misunderstanding or lack of understanding can lead to resistance, by therefore, the active role of community leaders and religious leaders is indispensable to create a clear and proper understanding (Malik, 2024) .

Fair and consistent enforcement of the law requires the readiness of the judiciary. Training and capacity building should be prioritised to ensure that law enforcers understand the essence and limitations of the sharia criminal law being implemented. This aspect is crucial to avoid misuse or misapplication of sharia law in daily practice (Syafii ., 2021)

Thus, the harmony between sharia criminal law and national legal principles demands a careful balance between respecting religious traditions and protecting individual rights and freedoms. With an inclusive and dialogue-based approach, Indonesia has the opportunity to blend traditional values with modern principles, which not only improves the legal system but also enriches the diversity of laws in the country.

Factors Affecting the Successful Integration of Sharia Criminal Law with National Legal Principles

The integration of sharia criminal law with national legal principles is a complex process that involves various factors, including;

First, Supportive Legal Framework. The successful integration of sharia criminal law with national law is highly dependent on the existing legal framework. For successful integration, there must be harmony between sharia law and national legislation. National law needs to be flexible and accommodating to the principles of sharia, while still respecting the constitutional foundations of the prevailing state (Haris, 2020) .

Second, Political Commitment and Government Support. The role of the government and the political commitment of the leaders are crucial to the integration process. Strong support from the government can help overcome bureaucratic and administrative barriers that may arise. In addition, leadership committed to legal reform can mobilise consensus from various stakeholders (Sulaiman, 2023) .

Third, Public Support and Awareness. Public awareness and acceptance are also crucial for successful integration. Public education on the benefits and implications of integrating sharia law with national law can help reduce resistance and increase public support. Discussions and socialisation in various forums can be an effective way to provide better understanding to the public (Fitriani & Aziz, 2025) .

Fourth, the capacity of the judiciary. A competent judiciary with integrity is another important factor in successful integration. Judges and law enforcement officers need to have a good knowledge of both legal systems in order to apply them

appropriately and fairly. Training and professional development for legal personnel is an important element in this process (Hadi, 2024) .

Fifth, the Principles of Justice and Human Rights. Integration must take into account the universally recognised principles of justice and human rights. Sharia criminal law that is integrated into national law must remain in line with these principles. Ethical and moral considerations in accordance with international standards are important to ensure there are no human rights violations in the legal treatment process (Fatimah, 2014) .

Sixth, Connection with Local Values and Culture. Local values and culture also play a role in influencing the success of integration. Societies that have historical and cultural affinity with sharia law may be more receptive to this integration. However, the cultural diversity in a country must also be taken into account for the integration to be widely accepted by different groups of people (Anisah, 2023) .

Seventh, Alignment with the Education System. Education plays a key role in integrating sharia criminal law with national law. A curriculum that includes an understanding of both legal systems and the importance of integration can help build a strong knowledge base for future generations. Legal education that takes into account aspects of legal plurality can fundamentally support the integration process (Basyuni ., 2012)

Eighth, Multi-disciplinary Collaboration and Dialogue. Dialogue and collaboration between different disciplines such as law, sociology, and theology is essential. This multi-disciplinary approach allows various perspectives to be examined and ensures that integration is not only legally appropriate but also socially and culturally. This collaboration can enrich the legislative process and implementation of a more comprehensive and just criminal law (Anwar, 2011) .

Thus, the integration of sharia criminal law with national legal principles is a complex but achievable challenge if the above factors are seriously considered. With a holistic and inclusive approach, this integration process has the potential to create a fairer and more balanced legal system.

Conclusion

The challenge of integrating Sharia criminal law into the national legal system involves several important aspects. Firstly, there are fundamental differences between the principles and values promoted by Sharia criminal law and national criminal law. Sharia criminal law is based on the teachings of the Islamic religion which has distinctive rules and sanctions, while national law usually uses the basis of positive law which is applied in general regardless of religion. These differences pose challenges in achieving harmony and acceptance among diverse communities.

Secondly, juridical and institutional aspects also pose significant challenges. The integration of Sharia criminal law requires changes and adjustments in the national

institutional and legislative framework. This includes the revision of various existing legal regulations, the development of new legal implementation mechanisms, and the preparation of human resources who have competence in two different legal systems. This process will require time and intense coordination between various legal and government institutions.

Third, the socio-cultural aspect is no less important in this integration process. The implementation of Sharia criminal law in a heterogeneous society, in terms of religion, culture, and society, can lead to resistance and conflict. A thoughtful and inclusive approach is needed to increase people's understanding and acceptance of a legal system that may be new to them or even contrary to their personal beliefs. Therefore, effective communication strategies and comprehensive education programmes are necessary to reduce friction and promote harmony in implementation.

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