



THE RELATIONSHIP BETWEEN SHARIA AND HUMAN RIGHTS IN THE CONSTITUTIONS OF MUSLIM-MAJORITY STATES: COMPARATIVE STUDY OF INDONESIA, MALAYSIA, AND EGYPT

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Abstract

This research examines the legal issue concerning the constitutional relationship between Sharia law and human rights in Muslim-majority states. The study aims to analyze how Indonesia, Malaysia, and Egypt integrate Sharia principles into their constitutional frameworks while balancing them with the protection of individual human rights. This research employs normative legal research using a comparative approach. The findings reveal that each country adopts a distinct constitutional model that significantly influences the degree of human rights protection. Indonesia applies a moderate constitutional approach by positioning Sharia as a moral and cultural reference rather than as a formally supreme legal source, thereby allowing broader accommodation of international human rights norms. Malaysia institutionalizes Sharia within a dual legal system alongside civil law, which generates structural and normative tensions, particularly in legal disputes related to gender equality, freedom of religion, and personal status law. In contrast, Egypt constitutionally recognizes Sharia as a principal source of legislation, resulting in a stronger influence of religious norms on constitutional interpretation and a higher potential for normative conflict with international human rights standards. The study demonstrates that the constitutional positioning of Sharia plays a decisive role in shaping the scope and effectiveness of human rights protection. It further emphasizes the importance of continuous constitutional interpretation and legal reform to ensure coherence between Sharia-based norms and universally recognized human rights principles.

Keywords: *Sharia, Human Rights, Constitution, Comparative Law*

I. INTRODUCTION

The relationship between Sharia principles and human rights (HR) within the constitutional frameworks of Muslim-majority countries constitutes a constitutional law issue that is not merely normative in nature but also carries significant practical implications for the protection of individual rights. The placement of Sharia within the constitutional structure whether as a source of values, a source of law, or the primary basis of legislation directly shapes the scope of human rights guarantees as well as the mechanisms through which such rights may be restricted. Within the context of international law, Muslim-majority states are confronted with increasing demands to harmonize their domestic legal systems with global human rights standards as articulated in international instruments such as the *Universal Declaration of Human Rights (UDHR)* and the *International*

Covenant on Civil and Political Rights (ICCPR) (Widiawan 2025). Tensions emerge when interpretations of Sharia are perceived to diverge from, or even conflict with, international human rights norms, particularly in areas such as freedom of religion, gender equality, and civil and political rights.

A growing body of academic literature has sought to explain the relationship between Islam, Sharia, and human rights from diverse perspectives, including theological analysis, legal philosophy, and international law (Hamdani 2019). Some scholars emphasize the inherent compatibility between Sharia and human rights, while others highlight potential normative conflicts arising from differing sources of legal legitimacy. Nevertheless, much of the existing scholarship remains largely conceptual and tends to generalize the experiences of Muslim-majority states without sufficient attention to the diversity of constitutional arrangements and legal systems across different national contexts (Anto 2025). Comparative studies that specifically examine the constitutional positioning of Sharia and its concrete impact on human rights protection remain relatively limited.

Indonesia, Malaysia, and Egypt present particularly compelling cases for comparative analysis, as all three are Muslim-majority countries yet adopt distinct constitutional models for integrating Sharia. In Indonesia, the Constitution guarantees freedom of religion and human rights; however, the implementation of Sharia-based norms at the subnational level most notably in Aceh Province has generated complex dynamics in balancing religious values with individual rights (Hasibuan, MA, and Priyana 2023). Malaysia employs a dual legal system that institutionally separates Sharia law from civil law, but in practice this arrangement often produces jurisdictional disputes and normative tensions, especially in matters concerning personal status, religious freedom, and women's rights. Egypt, by contrast, constitutionally designates Sharia as the principal source of legislation, thereby granting religious norms a more dominant influence over legal interpretation and public policy. This constitutional positioning has frequently provoked debate regarding Egypt's compliance with international human rights standards, particularly in the aftermath of political transformations following the 2011 Revolution (Darmawan 2016).

These differing constitutional models demonstrate that the relationship between Sharia and human rights is neither uniform nor monolithic, but rather deeply shaped by each country's legal and political construction. Although all three states formally acknowledge the importance of human rights protection, there are significant variations in how such rights are accommodated and limited within their constitutional frameworks. Existing studies, however, have yet to comprehensively compare how the constitutional status of Sharia in Indonesia, Malaysia, and Egypt affects the level of human rights protection and generates potential normative conflicts. Accordingly, a clear *research gap* exists in the form of a lack of systematic normative-comparative legal analysis addressing the interaction between Sharia and human rights within the constitutional frameworks of these three countries. This study therefore aims to examine and compare the models of Sharia human rights relations in the constitutions of Indonesia, Malaysia, and Egypt, with the objective of assessing their constitutional implications for the protection of individual rights and evaluating the urgency of aligning domestic legal systems with international human rights standards amid evolving social and political dynamics (Rahman 2023).

II. PROBLEM FORMULATION

Based on the above introduction, the problem formulation is as follows:

1. What is the position and model of the relationship between Sharia principles and human rights in the constitutions of Indonesia, Malaysia, and Egypt, and what are the implications for the protection of individual rights?
2. What is the role of judicial institutions through constitutional interpretation in balancing the application of Sharia principles with the protection of individual rights in Indonesia, Malaysia, and Egypt?

III. RESEARCH METHODS

This study employs a comparative legal approach aimed at analyzing and contrasting the constitutional frameworks of Indonesia, Malaysia, and Egypt. The research primarily relies on document analysis, focusing on constitutional texts and relevant legal regulations, including judicial interpretations and doctrinal developments related to the application of Sharia principles and human rights norms in each jurisdiction, this study incorporates case studies to provide concrete illustrations of how Sharia is implemented in practice and to examine its implications for the protection and limitation of human rights in the respective countries. By integrating comparative legal analysis with constitutional studies, this research seeks to assess the extent to which Sharia values are compatible with, or in tension with, internationally recognized human rights principles.

The primary sources utilized in this research include the constitutions of Indonesia, Malaysia, and Egypt, along with relevant statutory regulations and judicial decisions. These are complemented by secondary sources, such as scholarly literature examining the relationship between Sharia and human rights. Furthermore, international human rights instruments particularly the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) are employed as normative benchmarks to evaluate the alignment of domestic legal frameworks within the context of Muslim-majority countries.

IV. RESULTS AND DISCUSSIONS

The Position of Sharia and Human Rights in the Constitutions of Indonesia, Malaysia, and Egypt

In Muslim countries, the relationship between Sharia principles and human rights in their respective constitutions is often a subject of debate. This is because Sharia, which is based on Islamic teachings, is often considered to be in conflict with international human rights principles recognized by many countries, such as freedom of religion, the right to justice, and gender equality. Therefore, understanding how Indonesia, Malaysia, and Egypt regulate the relationship between Sharia and human rights in their constitutions is very important, both to provide an overview of the application of Islamic law in modern legal systems and to identify potential tensions between the two (Herman 2018). In Indonesia, the relationship between Sharia law and human rights is reflected in the articles of the 1945 Constitution that regulate the state based on belief in One God. Article 29 paragraph (1) of the 1945 Constitution recognizes that the Indonesian state is based

on belief in One God, which is the basis for the application of Sharia law in the Indonesian legal system, especially in regions that apply Sharia law locally, such as Aceh. However, human rights principles, such as freedom of religion and the protection of individual rights, are still guaranteed in the 1945 Constitution, which often creates tension with the implementation of Sharia law, especially in terms of freedom of religion and gender equality (Sofiana and Meiningtias 2023). In this case, despite efforts to maintain a balance between Sharia and human rights, the local implementation of Sharia, especially in family law and Islamic criminal law in Aceh, often presents challenges to more universal human rights principles.

The Malaysian Constitution affirms that Islam is the official religion of the state, but at the same time recognizes freedom of religion for its citizens. However, Sharia law is applied at the state level, particularly in matters of family and inheritance law. In this regard, tensions between Sharia law and human rights arise in several areas, particularly in the application of Sharia law to women and minorities. For example, the Sharia court system in certain states can limit women's rights in matters of divorce and inheritance, which contradicts the principles of gender equality enshrined in international human rights (Shuaib 2018). Although Malaysia is bound by international human rights commitments, the application of Sharia law is often seen as an obstacle to achieving gender equality and freedom of religion, especially for non-Muslims.

Egypt has a more complex relationship between Sharia law and human rights. The Egyptian constitution, which was amended after the 2011 revolution, states that Sharia law is the main source of state law, but also emphasizes the importance of protecting human rights in accordance with international standards. However, tensions between the application of Sharia law and human rights principles are still evident in several issues, such as women's rights and freedom of religion. Article 2 of the Egyptian constitution recognizes Sharia as the main source of law, which can cause tension in the implementation of women's rights, especially in the areas of inheritance, divorce, and the right to education. In addition, the implementation of Sharia also affects religious freedom, which mainly impacts religious minorities such as Coptic Christians. For a simpler understanding, the following table shows the relationship between Sharia principles and human rights in the constitutions of Indonesia, Malaysia, and Egypt:

Table 1 : Sharia principles and human rights in the constitutions of Indonesia, Malaysia, and Egypt

Country	Constitutional Basis	Application of Sharia	Human Rights Challenges	Commitment to International Human Rights
Indonesia	1945 Constitution, Article 29: The state is based on the belief in the One and Only God.	Sharia is applied locally in Aceh, particularly in family law and	Tensions arise between the local implementation of Sharia and religious freedom, as	Indonesia recognizes the importance of religious freedom and human rights in accordance with

		Islamic criminal law.	well as gender equality.	international standards.
Malaysia	Federal Constitution of Malaysia, Article 3: Islam is the official religion of the Federation.	Sharia is applied at the state level, primarily in matters of family law and inheritance.	Conflicts emerge between the application of Sharia and women's rights, as well as freedom of religion.	Malaysia is bound by international human rights commitments, although Sharia exerts significant influence on social and legal life.
Mesir	Constitution of Egypt, Article 2: The principles of Sharia are the main source of legislation.	Sharia is recognized as the primary source of national law, influencing various aspects of public and private life.	Tensions exist between the application of Sharia and women's rights, as well as religious freedom for minority groups.	Egypt acknowledges international human rights principles; however, the application of Sharia often conflicts with certain fundamental rights, particularly women's rights and freedom of religion.

The Relationship Between Sharia Law and Human Rights in the Constitutions of Indonesia, Malaysia, and Egypt

The relationship between Sharia principles and human rights within the constitutions of Muslim-majority countries is not uniform but rather may be classified into several distinct constitutional models. These models are shaped by the constitutional positioning of Sharia, the mechanisms of legal interpretation, and the institutional relationship between religious law and state law. In this context, Sharia may function as a source of moral and ethical values, as part of a plural legal system operating alongside civil law, or as the primary source of legislation. Each of these positions carries direct implications for the extent to which international human rights principles can be accommodated or restricted within domestic legal practice. Indonesia represents a model in which Sharia operates primarily as a source of moral and cultural values within the national legal system, without being accorded constitutional supremacy (El-Muhtaj 2017). The Indonesian Constitution does not explicitly designate Sharia as a source of state law; instead, it affirms belief in the One and Only God (*Ketuhanan Yang Maha Esa*) as the philosophical foundation of the state. Within this framework, Sharia influences law-making

through ethical values and social aspirations, while remaining subordinate to a constitutional order that guarantees human rights. This model allows a degree of interpretive flexibility and creates space for the harmonization of religious norms with international human rights standards, although the localized implementation of Sharia most notably in Aceh continues to generate specific constitutional challenges (Ropi n.d.).

Malaysia demonstrates a different model through the adoption of a dual legal system, in which Sharia law and civil law operate concurrently within a federal constitutional framework. In this arrangement, Sharia is formally institutionalized and vested with its own jurisdiction, particularly in matters of family law, inheritance, and the personal status of Muslims. However, the coexistence of two distinct legal systems frequently gives rise to normative tensions, especially when Sharia-based norms conflict with human rights guarantees recognized under civil law and Malaysia's international human rights commitments (Iqbal and Alwi 2025). This model illustrates that the institutionalization of Sharia does not necessarily ensure harmony with human rights norms, but may instead result in fragmented rights protection based on religious identity.

In contrast to Indonesia and Malaysia, Egypt adopts a constitutional model that designates Sharia as the principal source of legislation. This constitutional positioning grants Sharia a decisive influence over legislative processes and judicial interpretation, thereby placing religious norms in a dominant role in defining the limits of human rights protection. Under this model, the protection of human rights is heavily contingent upon the interpretation of Sharia adopted by state institutions, which in practice has often generated tensions with international human rights standards, particularly in relation to women's rights and freedom of religion (Kurniawan 2018). The Egyptian model demonstrates that when Sharia occupies the highest normative status within the constitutional order, the scope for compromise between religious law and international human rights norms becomes more constrained and is significantly shaped by the state's political and ideological dynamics.

Constitutional Mechanisms in Balancing Sharia Principles and Individual Rights

The application of Sharia principles in the constitutions of Muslim countries often raises questions about the balance between Sharia and individual rights, especially those protected by international law and the country's constitution. In the context of Indonesia, Malaysia, and Egypt, each country has a different way of harmonizing Sharia with the protection of human rights. In Indonesia, the 1945 Constitution explicitly recognizes the basis of the state as the One Almighty God, but still emphasizes the importance of religious freedom and individual rights (Mofun 2023). Although Indonesia has a mixed legal system, which combines customary law, positive law, and Sharia law (especially in Aceh), the protection of individual rights remains a priority. The implementation of Sharia law in Aceh, which is regulated in Law No. 44 of 1999 concerning the Implementation of Government in Aceh, demonstrates an effort to balance the application of Sharia principles with individual rights, although some of these regional policies often conflict with religious freedom and women's rights, for example in the case of stricter Sharia criminal law against moral violations.

In Malaysia, the Malaysian Constitution establishes Islam as the official religion of the state (Article 3) and allows for the application of Sharia law at the state level, particularly in the areas of family and inheritance law. However, although Sharia law is respected in the constitution, Malaysia also has protections for religious freedom and other civil rights. In practice, there are tensions between the application of Sharia law in Sharia courts and individual rights, particularly women's rights and freedom of religion (Abrar, Takdir, and Firdaus 2025). For example, issues regarding women's rights in marriage and divorce often spark debate between human rights activists and authorities. Meanwhile, Egypt adopted Sharia as the main source of law in its constitution (Article 2 of the Egyptian Constitution). However, the implementation of Sharia in Egypt often faces serious challenges related to individual rights, particularly women's rights and religious freedom. After the 2011 revolution, Egypt underwent major changes in its constitution that introduced international human rights principles, but their implementation sometimes conflicts with interpretations of Sharia law, such as in the case of women's rights to choose a spouse or religious freedom for minorities. This tension highlights the conflict between the religious values embodied in Sharia law and the commitment to a more universal protection of human rights (Rasyidin 2024).

In these three countries, despite similarities in recognizing Sharia as an important part of national identity, they face different challenges in balancing the application of Sharia with the protection of individual rights. In Indonesia, despite restrictions on certain rights based on religious norms, such as in criminal law in Aceh, the state continues to uphold the right to freedom of religion. In Malaysia, the application of Sharia law is more limited to family and inheritance matters, but it still causes tension between Sharia and individual rights, especially among women (Syuhud 2019). In Egypt, the more profound application of Sharia often conflicts with human rights, especially in terms of freedom of religion and gender equality, which requires further efforts to align these principles with international human rights standards. In essence, although these three countries have different approaches to regulating the application of Sharia law in their constitutions, the main challenge they face is finding a balance between religious principles and the protection of individual rights. These countries need to continue to pursue legal reforms that allow for the application of Sharia principles without sacrificing the fundamental rights guaranteed by international law, thereby creating a fair and harmonious legal system for all citizens, regardless of their religious or cultural background.

The Role of Judicial Institutions and Constitutional Interpretation in Maintaining the Balance Between Sharia Law and Individual Rights

Judicial institutions play a central role in determining how Sharia principles and individual rights are harmonized in constitutional practice. Although the constitution constitutes the highest normative framework, the practical implementation of the balance between religious values and human rights protection depends largely on judicial interpretation. Through the exercise of constitutional review, the resolution of jurisdictional conflicts, and the interpretation of open-textured constitutional provisions, courts function as the primary arena in which tensions between Sharia and human rights are tested and

resolved. Consequently, the mode of constitutional interpretation adopted by judges becomes a decisive factor in determining whether the application of Sharia will be accommodating toward individual rights or, conversely, will narrow the scope of human rights protection (Rahmadani and Oktapani 2025).

In Indonesia, the Constitutional Court (*Mahkamah Konstitusi*) plays a significant role in maintaining the balance between religious values and human rights principles (Ilham 2024). Although the Constitution recognizes belief in the One and Only God (*Ketuhanan Yang Maha Esa*) as a foundational principle of the state, the Court has consistently affirmed that the human rights guarantees enshrined in the 1945 Constitution possess constitutional force and cannot be overridden by religious norms implemented through statutory legislation. In a number of its decisions, the Court has employed a progressive and contextual approach to constitutional interpretation, positioning individual rights as an integral component of a democratic state governed by the rule of law. Nevertheless, in the context of the implementation of Sharia in Aceh, the Court's capacity for intervention remains relatively limited due to the region's special autonomous status. As a result, the balance between Sharia and human rights often depends on the consistency of constitutional interpretation within the broader national judicial system (Ramadhan n.d.).

In contrast, Malaysia faces more complex challenges arising from the existence of a dual judicial system consisting of civil courts and Sharia courts. Jurisdictional conflicts between these institutions frequently generate legal uncertainty, particularly in cases involving freedom of religion, personal status, and women's rights. In practice, civil courts tend to limit their intervention in decisions of Sharia courts on the grounds of respect for the constitutional authority of the states. Consequently, the protection of individual rights in matters falling under the jurisdiction of Sharia courts remains relatively constrained. This situation demonstrates that, in the absence of an integrated framework of constitutional interpretation, judicial institutions may inadvertently reinforce the fragmentation of human rights protection along religious lines (Muda 2016).

In Egypt, meanwhile, the role of the judiciary particularly the Supreme Constitutional Court is strongly influenced by the constitutional designation of Sharia as the principal source of legislation. Constitutional interpretation in Egypt tends to place Sharia principles at the core normative framework for assessing the constitutionality of laws (Sabili and Winayanti 2026). Although the Court formally acknowledges the importance of human rights, the interpretive space afforded to individual rights is often circumscribed by dominant interpretations of Sharia. This pattern is evident in cases concerning women's rights and freedom of religion, where the scope of human rights protection largely depends on the extent to which Sharia interpretations can be reconciled with international human rights norms. Accordingly, the Egyptian experience illustrates that the dominance of a single normative source in constitutional interpretation may limit the judiciary's function as a guardian of equilibrium between religious values and individual rights (Tarigan 2024).

V. CONCLUSION

Based on the discussion of the relationship between Sharia law and human rights in the constitutions of Indonesia, Malaysia, and Egypt, it can be concluded

that these three countries have different approaches to regulating the application of Sharia law and the protection of individual rights. Indonesia, despite recognizing Sharia law at the regional level, such as in Aceh, continues to emphasize the importance of religious freedom and individual rights within the framework of the constitution. Malaysia, which has made Islam the official religion of the state, regulates the application of Sharia law within a certain scope, particularly in matters of family and inheritance, but faces tensions in the application of women's rights and freedom of religion. Meanwhile, Egypt shows that although Sharia law is the main source of law, its application often conflicts with international human rights standards, particularly with regard to women's rights and freedom of religion. In addition, these three countries face challenges in balancing Sharia principles with individual rights in their constitutions. Although there are similarities in the recognition of the role of Sharia in state law, they still have to find a middle ground to harmonize Sharia with more universal human rights principles. Therefore, it is important for these three countries to continue legal reforms that allow for the application of Sharia law that does not conflict with human rights, thereby creating a legal system that is fair and respects individual rights without neglecting religious values.

VI. REFERENCE

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