



Sharia in Moroccan Law: A Perpetual Source and Guiding Reference

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Article	Abstract
<p>Keywords: Sharia; Religion; Constitution; Source; Reference.</p> <p>Article History Received: Oct 7, 2024; Reviewed: Oct 28, 2024; Accepted: Nov 24, 2024; Published: Dec 2, 2024.</p>	<p><i>This study examines the role of Sharia in the Moroccan legal system, assessing whether it serves as a fundamental source of legislation or merely a reference. Morocco's legal framework uniquely combines Islamic principles with secular laws, reflecting its colonial history and modern reforms to preserve Islamic heritage while advancing legal modernisation. This distinctive blend positions Morocco as a model for balancing tradition and contemporary legal requirements. The research adopts a critical analytical approach, analysing constitutional and legal texts, judicial precedents, and practical applications. It also conducts a comparative analysis with Indonesia to explore different approaches to integrating Sharia. Morocco applies Sharia centrally, especially in personal status laws, while Indonesia uses it regionally, such as in Aceh, within a predominantly secular national framework. The study highlights how historical, social, and political contexts influence the role of Islamic law in both countries. Findings show that Sharia serves as a key source for personal status matters in Morocco and a supplementary reference in other legal areas, with the Commander of the Faithful (Amir al-Mu'minin) maintaining this balance. In contrast, Indonesia emphasises the regional application of Sharia alongside national secular laws. The study provides insights into balancing religious identity with legal modernisation, offering a framework for legal pluralism that can inform researchers and policymakers in diverse socio-political contexts.</i></p>



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INTRODUCTION

The Moroccan Constitution of 2011 invoked Islam as a founding element alongside democracy, the law, and international conventions to confirm historical, identity, and religious continuity. In this context, Sharia acts as a reference rather than

a precise content. According to Azziman (Azziman & Musulmans, n.d.), it refers to the idea of an authentic tradition that society holds as legitimate. The evolution of the legal system in Morocco is marked by politicisation (i.e., the integration of positive law) and the secularisation of the normative through the establishment of the legal system as the foundation of the State and society (Le Tourneau, 1992). This dynamic has been consolidated due to the Commandery of the Faithful, an embodied religious symbolism (Tozy, 1999).

In contrast, Indonesia's legal system is influenced by three sources: Customary law, Islamic law, and Western law. Being a Muslim-majority country, Indonesia embraces legal pluralism, incorporating societal, constitutional, and federal elements to shape its Islamic legal framework (Ramadhan, 2020; Suwarti et al., 2022). Unlike the Moroccan legislator, Indonesia's 1945 Constitution recognises the influence of Islam while maintaining a commitment to religious pluralism and secularism. The country's legal system is primarily secular but allows for the application of Islamic principles in regions with significant Muslim populations, like Aceh. Pancasila, Indonesia's foundational philosophy, is key in balancing secular governance with religious diversity (Lufaei, 2019). It upholds the belief in one God and guarantees freedom of religion, permitting Islamic law at a regional level without making it a core part of the national legal system (Hoesein, 2012). This decentralised approach allows for Sharia's application in specific regions, like Aceh, while maintaining a secular national framework.

The positioning of Sharia in both constitutions reflects the balance between religious identity and legal modernisation. In Morocco, Sharia's central role is emphasised, particularly in personal status law, as enshrined in the Constitution and through the authority of the Commander of the Faithful. This makes Sharia a reference point at the national level, influencing laws and public policy. In contrast, Indonesia's Pancasila permits the application of Islamic law at the regional level, particularly in Aceh, reflecting regional autonomy. This localised application of Sharia is aligned with the broader principle of religious pluralism upheld by the Indonesian Constitution.

Thus, while both countries recognise the role of Islam in shaping their legal systems, Morocco integrates Sharia at the national level through the figure of the Commander of the Faithful, making it a more centralised part of the legal framework. Meanwhile, Indonesia adopts a decentralised approach, with Pancasila allowing for the regional application of Sharia, particularly in Aceh, without making it a core component of the national legal system. Both legal systems illustrate the balance between Islamic principles and secular laws, but they do so in ways that reflect their distinct constitutional frameworks and political contexts (Muhtar et al., 2023).

Previous studies, such as those by Marranci (Marranci, 2010), highlight that secularisation is an aspect of the modernisation of Muslim societies. The evolution of Morocco's legal system is a reflection of this trend, with monarchical power reinforcing

normativity to counter the secularism of positive legislation and political currents favouring it. In the context of political Islamism, the Commandery intervenes against the ideological-cultural normativity of Sharia carried by the Islamist movement. Moreover, international normativity evolves within the Moroccan internal order to benefit from a liberal and modern image abroad (Rights, 2016). International Human Rights Law has significantly influenced Morocco's legal integration into international law.

Indonesia's legal system, while secular, integrates Islamic principles at a regional level through the Pancasila framework, maintaining a balance between religious diversity and secular governance. While Morocco's legal system uses its monarchy to mediate between secularism and Islamism on a national level, Indonesia's approach relies on decentralisation, permitting the application of Sharia in specific regions, such as Aceh (Din & Abubakar, 2021) while adhering to the broader secular constitutional framework. Aceh has long sought to implement Sharia law as the basis for its governance. After Indonesia's independence, the region established Sharia courts and integrated Islamic teachings into its education system. However, the central government initially resisted formal recognition of Sharia, leading to the 1953 Aceh rebellion. This changed in 1999 when Indonesia granted Aceh special privileges through the Law on Regional Autonomy, further strengthened by the 2001 and 2006 laws, allowing Aceh to implement Sharia in family, civil, and criminal law through regional regulations (qanun) and a dedicated Syar'iyah Court. This system exists as a unique sub-system within Indonesia's national legal framework (Din & Abubakar, 2021). Both countries navigate the complex intersection of Islamic law, secularism, and international influences but with different methods of integration and political strategies.

Despite the supposed absence of religiously inspired conflicts in Morocco, the country is seen as an exception compared to its Muslim and Arab neighbours (Banane & Ezzerouali, 2024). The series of far-reaching reforms implemented by the state in the religious sphere post-2003 attacks have helped Morocco regain its image as a potential model for European Islam. Otto concluded in his study that Sharia is not applied in isolation from other legal systems; rather, it forms part of multi-dimensional legal frameworks where Sharia coexists with national, customary, and even international laws in some cases (Otto, 2008). Features of Moroccan Islam and its history are often cited to explain Morocco's distinctiveness.

In the same direction, and as part of the legal and political reforms implemented by the Indonesian government, efforts were made to avoid the potential risks of applying Sharia in a way that could raise local and international concerns, as well as to prevent the association of Islam with terrorism. It indicates that democracy in Indonesia has a special experience regarding the new formula of peaceful religion-state relations (Ahyar, 2017). The government emphasised that Sharia could be applied in a

manner consistent with values of tolerance, rights, and freedoms within a democratic framework. There was a focus on strengthening religious tolerance and cultural pluralism. Laws were developed to promote religious freedom and beliefs within the framework of Pancasila, which guarantees that no particular religion is imposed on everyone while at the same time allowing Muslim-majority regions, such as Aceh, to apply Sharia in line with their local conditions (Menchik, 2016).

Since the French Protectorate, Morocco has adopted numerous codes and laws, reducing the direct application of Sharia to specific areas. After independence, Morocco maintained and extended Protectorate legislation to all citizens, codifying rules of Muslim law relating to personal status and inheritance. Morocco (Cubertafond, 2000), as a country with a Muslim culture and predominant monarchy, structured around allegiance to the king, with growing popular participation and moving towards a state governed by the rule of law. The enthronement of King Mohamed VI marked profound changes, combining a new approach to power with reformist societal demand. Since 2011, a new societal demand has put forward a secular frame of reference through political liberalisation.

However, the problem of the legal system in Morocco arises from the relationship between the normative and the sacred-religious. The complexity of the place accorded to Muslim law, among other sources of legal norms, adds another dimension to this particularity in Morocco. Despite its rather limited presence on the normative scene in some fields, a subtle dynamic uses Muslim law to confirm the important role of Sharia in the legal sphere as an indirect source forming part of Moroccan public policy.

In comparison, Indonesia's legal system is shaped by a complex blend of Dutch colonial law, Islamic law, local customary law, and the country's commitment to religious pluralism (Vickers, 2013). The Dutch colonial legacy introduced secular legal principles, particularly civil law, which formed the foundation of Indonesia's legal structure. Simultaneously, Islamic law has influenced areas such as family law and inheritance, though its application is decentralised, especially in regions like Aceh, which can implement Sharia law. Customary law remains important in local governance and dispute resolution, often operating in parallel with the formal legal system (Maulana et al., 2024). Indonesia's philosophy of Pancasila underpins the national commitment to religious pluralism, ensuring that Islam coexists with other religions and legal traditions within a secular state framework (Suryani, 2023).

This study employs a comparative critical analytical methodology to examine the role of Sharia in the Moroccan and Indonesian legal systems. The type of research is qualitative, with an approach that combines doctrinal analysis and case study methods. Data was obtained from a variety of sources, including:

1. *Constitutional and Legal Texts*: Examination of the Moroccan and the 1945 Indonesian Constitution (UUD 1945), legal codes, especially the 2006 UUPA concerning Special Autonomy for Aceh, and relevant legislative documents.

2. *Judicial Precedents:* Analysis of court cases and judicial decisions that illustrate the application of Sharia and positive law in Morocco and Indonesia.
3. *Practical Practices:* Review of the practical implementation of laws through interviews with legal practitioners and analysis of policy documents.

The data is analysed using thematic analysis to identify patterns and themes that illustrate the interaction between Islamic Sharia and positive laws in Morocco and Indonesia. This article aims to analyse the role of Sharia in the Moroccan legal system, determining whether it is considered a primary source of legislation or merely a reference compared with the Indonesian legal system. The research seeks to fill gaps in the existing literature by highlighting the complex interaction between Islamic Sharia and positive laws in Morocco, offering insights into balancing religious identity and legal modernisation in Morocco and Indonesia.

The study provides original value by examining how Morocco's unique legal system integrates Islamic Sharia and positive laws. It contributes to a deeper understanding of achieving a balance between religious identity and legal modernisation, offering a useful framework for researchers and policymakers. The role of the Commander of the Faithful acts as a safeguard to restore the balance of Sharia's position whenever necessary. This approach, where the monarchy is central in bridging religious and state law, contrasts with systems like Indonesia's, where Sharia is more localised and subject to regional autonomy.

The specific features of Moroccan Islam and its history are commonly cited to explain why Morocco stands out from other Muslim countries, either through a political process aimed at the constitutionalising of Sharia law, presented as a constant of the nation and a unifying element, given the characteristics of official Islam in Morocco and the institution of the Commandery of the Faithful as a means of balancing politics, power and religion. Indonesia has a decentralised approach, particularly with respect to Sharia in regions like Aceh. While Morocco's Sharia is a key component of national law, the application of Sharia in Aceh is granted regional autonomy under the framework of Pancasila, which allows for localised enforcement of Islamic law. Aceh's unique status and ability to implement Sharia law through regional regulations, such as the Qanun, contrasts with Morocco's centralisation of religious authority under the monarchy. In Aceh, Sharia is applied in family law, civil law, and criminal law, but the power to implement it remains distinct from the national legal system, creating a more localised legal landscape.

Moreover, the complexity of the place accorded to Muslim law, among the other sources of legal norms, gives another dimension to this particularity in Morocco. Despite its rather limited presence on the normative scene in some fields of application, a certain subtle dynamic uses Muslim law to confirm the important role of Sharia law in the legal sphere as an indirect source forming part of Moroccan public policy. In Aceh, Sharia law is similarly influential but applied to reflect the region's

autonomy within Indonesia's broader secular framework. The Acehese government has used the recognition of Sharia as a tool to reinforce local identity and governance, which differs from Morocco's approach, where Sharia is deeply embedded in national identity and governance, influenced by political and religious leadership.

METHOD

The nature of this study, which examines the role of Islamic Sharia in the Moroccan legal system and compares it with the application of Sharia in the Aceh region of Indonesia, necessitated the adoption of several scientific methodologies (Negara, 2023) to thoroughly analyze the topic and address all aspects of Sharia's position within the legal systems of both Morocco and Aceh. The following methodologies were employed in this study (Al-Fatih, 2023):

1. Descriptive Method:

To analyze and describe the role of Islamic Sharia in the legal systems of Morocco and Aceh, with a focus on constitutional and legal texts and their practical applications.

2. Historical Method:

To trace the historical developments that shaped the Moroccan legal system on one hand, and the Indonesian experience in Aceh on the other, aiming to understand the historical roots of the current applications of Sharia.

3. Comparative Method:

To conduct a comprehensive comparison between the Moroccan legal system, which incorporates Sharia centrally, particularly in personal status laws, and the Indonesian system, which applies Sharia regionally in Aceh within a secular national framework.

4. Analytical Method:

To analyze relevant constitutional and legal texts, review judicial precedents, and examine the practical applications of Islamic Sharia in both systems.

5. Critical Method:

To evaluate the effectiveness of both the Moroccan and Indonesian systems in achieving a balance between religious identity and the requirements of legal modernization, highlighting the strengths and weaknesses of each model.

The adoption of these integrated methodologies allows for an in-depth exploration of the study's subject and provides a balanced perspective on the interaction between Islamic Sharia and legal systems in different social and political contexts.

RESULTS AND DISCUSSION

Sharia: A Component of Identity and National Constants

Morocco has chosen to build a reference to a "national, territorial Islam" based on Malikism, unlike other countries where several rites coexist. This choice is intended to protect the country from international Salafism. As "Commander of the Faithful", the King is the guarantor of protecting Islam, religious diversity and peaceful coexistence. In Indonesia, there is no central religious authority equivalent to the role of the King as "Commander of the Faithful" in Morocco. Instead, Indonesia allows for regional autonomy, especially in Aceh, where Sharia law is implemented in specific legal areas such as family law and criminal law. This decentralization reflects Indonesia's commitment to preserving local customs and autonomy within a broader secular framework.

Indonesia's constitutional guarantee of freedom of religion, alongside Pancasila's principle of belief in one God, fosters religious harmony and protects the country's diverse religious landscape. While Indonesia supports Islamic values in public life, it does so within a pluralistic and secular context, ensuring that no single interpretation of Islam dominates the national identity, as in Morocco's case.

1. Official Islam and the Maliki Rite

Islam is the official religion of Morocco, profoundly shaping the country's political, social, and cultural landscape (Fadil, 2022). The Moroccan practice of Islam, rooted in Sunni doctrine and the Maliki school of thought, became institutionalised post-independence, with religious public policy grounded in Islamic values.

Historically, the Maliki rite was adopted to distinguish Moroccan Islam from the Baghdad caliphs, and it has remained the predominant religious framework, fostering a moderate approach to Islam in Morocco. This is evidenced by Morocco's commitment to religious tolerance and dialogue (Bouchikhi, 2011).

The Ash'arite creed, a second pillar of Moroccan Islam, emphasises the use of reason in theological discourse, further promoting moderation. Sufism, the third pillar, plays a strategic role in countering radical Islamist ideologies. It is actively promoted through international spiritual festivals, which convey messages of tolerance and interfaith dialogue.

Islam is also the predominant religion in Indonesia, but unlike Morocco, the country embraces a diverse and pluralistic Islamic identity. Indonesia is home to a variety of Islamic traditions, with Sunni Islam being the majority, but with a notable presence of local practices and interpretations. The official ideology of Indonesia, Pancasila, emphasises belief in one God, but it also guarantees religious freedom, ensuring that Islam coexists with other religions within a pluralistic framework (Suryadinata, 2014).

Historically, Indonesia's Islamic practice is shaped by Sunni tradition and various local interpretations, without the same institutionalised framework as Morocco's Maliki school. The country has allowed for a broad range of Islamic practices, from

traditionalist to more modernist approaches. In Aceh, for example, Islamic law (Sharia) has been implemented at the regional level since the Special Autonomy Law of 2001, reflecting Indonesia's decentralisation approach to Islamic practice (Sukma, 2004).

Indonesia's commitment to religious tolerance and pluralism is enshrined in its Constitution and Pancasila, contrasting with Morocco's more centralised, state-driven Islamic governance. The Indonesian state does not designate a singular, national religious school of thought but rather fosters an environment where multiple interpretations of Islam can coexist with other religious communities, ensuring the protection of minority rights and fostering interfaith dialogue (Ihsani, 2021).

2. Control of the Ministry of Habous and Religious Affairs

The Ministry of Habous and Islamic Affairs, headed by Ahmed Taoufiq since July 2002, is one of Morocco's sovereign ministries, controlled directly by the King. The ministry supervises 51,854 mosques. The ministry unifies and controls Friday sermons and exercises rigorous supervision over its employees, particularly imams, ensuring they comply with official directives.

In 2004, a significant religious reform was initiated by King Mohammed VI aimed at decentralising and reorganising Moroccan Islam. This reform was motivated by several factors:

- a. *Response to Extremism*: The need to counter radical Islamist movements and prevent the spread of extremist ideologies.
- b. *Promoting Moderate Islam*: To reinforce the practice of a moderate Islam that reflects Morocco's historical and cultural identity.
- c. *Integration of Women*: Encouraging the involvement of women in religious affairs through the training of *morchidat* (religious counsellors) (Dirèche, 2010), promoting gender inclusion and empowerment within religious contexts.
- d. *Global Image*: Enhancing Morocco's image as a beacon of moderate and tolerant Islam, which fosters interfaith dialogue and counteracts the narrative of radicalism.

In Indonesia, the Ministry of Religious Affairs (Kementerian Agama) plays a central role in managing religious affairs, including Islam. However, unlike Morocco's centralised approach under the direct control of the King, Indonesia's ministry operates under a more decentralised, pluralistic framework. The Indonesian government oversees religious education, the Hajj pilgrimage, and the general regulation of Islamic practices while ensuring the protection of religious freedom for all citizens, as outlined in the Pancasila ideology.

Indonesia's efforts to manage religious affairs are rooted in fostering religious tolerance and inclusivity. Unlike Morocco's more rigid religious reforms, Indonesia has embraced a more varied and decentralised approach to Islam. The Islamic practices and interpretations across the country, from Sunni traditions in Java to Sharia

implementation in Aceh, highlight the diverse nature of Indonesian Islam (Vickers, 2013).

In Aceh, local laws allow for the implementation of Sharia, including establishing Sharia courts, with regulations specific to the region, a unique feature not found in other Indonesian provinces (Aspinall, 2009). The Indonesian Ministry of Religious Affairs encourages moderate Islam, focusing on maintaining harmony between the various religious groups, promoting interfaith dialogue, and ensuring religious diversity is respected throughout the archipelago.

In contrast to Morocco's top-down approach, which includes direct state control over religious practices, Indonesia's Ministry of Religious Affairs operates in a more collaborative manner, balancing Islamic values with the nation's secular governance system. The role of religious leaders in Indonesia is generally more diverse, with local imams and ulama having a degree of autonomy that differs from Morocco's state-regulated religious framework (Aspinall, 2009). This allows for a broader interpretation of Islam alongside the country's constitutional commitment to pluralism.

3. Position of Sharia in the Moroccan legal system

Since Moroccan independence in 1956, Sharia has been integrated into the country's legal order, mainly influencing personal status. However, national legislation has gradually incorporated positive colonial and post-colonial law elements, reducing Sharia's direct application in other areas of law (M Mouaqit, 2015). Sharia, in its ideological and cultural dimension, has evolved. The claims of Sharia were strengthened with the emergence of Islamism,

The Moroccan monarchy has historically maintained strict control over religious matters, particularly in its refusal to incorporate Islamist demands to make Sharia the main legislative reference (Belal, 2011). This control is rooted in the monarchy's desire to preserve its authority and prevent the rise of religious extremism that could challenge its rule. The monarchy's approach has been to balance the influence of Islam with the need to maintain a modern, progressive state (Yilmaz & Shukri, 2024).

The 2004 religious reform initiated by King Mohammed VI aimed to decentralise and reorganise Moroccan Islam, promoting a moderate and inclusive interpretation of Islam. This reform was part of a broader strategy to counter radical Islamist movements and enhance Morocco's image as a model of moderate Islam (Abouzzohour, 2020). The integration of women into religious affairs through the training of *morchidat* (religious counsellors) was a significant aspect of this reform, promoting gender inclusion and empowerment within religious contexts (Newman, 2013).

Sharia has a major influence on individual rights and freedoms, mainly in the area of personal status, but it is formally integrated into the Moroccan institutional system, with religious symbolism maintained by the King as Commander of the Faithful (Al Khamlichi, 2014). While perpetuating a certain normativity of Sharia, the Moroccan

legal and political system avoids giving it excessive centrality, preferring to promote a moderate version of Islam as a national reference point (Mohammed Mouaqit, 2012). This approach represents the characteristic of the Moroccan constitutional model, which emphasises tolerance, openness and freedom of worship while maintaining a certain influence of Sharia law.

In Indonesia, like Morocco, Islam plays a significant role in shaping the country's legal and political framework, but the approach to integrating Sharia into the national legal system is distinct. Indonesia's model is characterised by a balance between Islamic law and a broader constitutional framework that emphasises pluralism and secular governance.

Since its independence in 1945, Indonesia has adhered to Pancasila, a state ideology that ensures religious freedom and guarantees that Islam is not the sole foundation for legislation. This ideology fosters the coexistence of multiple religions, with Islam being the majority religion (Yani & Barthos, 2020). While the Indonesian state does not have an official state religion, it supports Islamic values embedded in national policies and laws. However, Sharia law is not uniformly applied nationwide and remains a more localised practice.

In Aceh, Sharia law is fully implemented, with its own judicial system, including the Syariah Court, which handles personal status, civil law, and criminal law related to Islamic principles (Abdillah et al., 2005). This stands in contrast to the rest of Indonesia, where Sharia's role is more limited, often confined to personal matters such as marriage and inheritance, and is generally implemented through regional regulations (qanun). This shows a form of decentralisation similar to Morocco's more moderate integration of Sharia but with a more local and flexible application.

4. The Commander of the Faithful

The accumulations of literature and jurisprudence and actual practices in reality have made the King of Morocco, on the one hand, the caliph of an Islamic state and the commander of believers (Crémadeills, 1976) because he is the Quarshie, descendant of the Prophet, to whom respect and consideration are due, as stipulated in Article 46 of the 2011 Constitution: "The person of the King is inviolable, and respect is due to Him".

Article 41 of the Constitution states, "The King, Amir Al Mouminine, shall ensure respect for Islam. He is the guarantor of the free exercise of worship. He presides over the Supreme Council of Ulemas. The Council is the only body authorised to issue officially approved religious consultations (Fatwas)", clearly defining the role of the Commander of the Faithful, his presidency of the Higher Council of Ulemas and his monopoly on the institution of the "fatwa". The fact that the King reserves for himself the title of Commander of the Faithful is a bright spot in Morocco's image abroad (BIHKAK, 2024). In fact, it was this that explained the content of the royal speech of 20 August 2016 in response to the terrorist acts that tarnished the image of Islam and

Muslims in Europe, particularly those whose perpetrators were of Moroccan origin. In this speech, the King, Amir Al Mouminine, called for a stand to be taken against "the proliferation of obscurantism spread in the name of religion" and recalled that "the call to Jihad is the responsibility of the Commandery of the Believers, and cannot emanate from any individual or group", inviting Muslims, Christians and Jews to "put up a common front to counter fanaticism, hatred and withdrawal in all its forms". Morocco has tried to promote its religious image through the institution of the Commandery of the Faithful, first through moderate Malekism, and then through the Ashaarite Middle Way, which firmly opposes extremism and hatred, by undertaking several initiatives such as the "Marrakech Declaration on the Rights of Religious Minorities in the Islamic World" in January 2016 (Karkbi, 2020).

The Indonesian government's approach to Islam has also been shaped by a desire to promote moderate and inclusive interpretations, as seen in policies encouraging interfaith dialogue and preventing extremism. The Ministry of Religious Affairs is key in managing religious affairs, promoting moderate Islam, and ensuring religious harmony across the archipelago (Vickers, 2013). Like Morocco's King, who is seen as the guardian of Islam and its proper practice, Indonesia's government oversees religious practices through the Ministry of Religious Affairs but does not centralise power in one religious' institution. This system protects the nation from sectarian violence and maintains stability in a highly diverse society.

Sharia: A Source of Law with A Complex Status

Moroccan law is a tapestry woven from a variety of legal sources, with Muslim law as a crucial thread. This influence is direct and nuanced, permeating Moroccan legislation and case law. The constitutionality of Islam as the state religion amplifies this position, reflecting the predominance of Islam in Moroccan society. Consequently, Sharia principles shape the country's laws and policies. What is unique in Morocco is this intricate blend of legal traditions, creating a distinctive legal landscape that is not solely driven by religious law but is also influenced by historical and civil traditions. (Hanafi, 2020). A blend of influences from various cultures and legal systems shapes these traditions in Moroccan law:

1. Historical Traditions
 - a. Amazigh Influence: The Amazighs, or Berbers, are the indigenous people of Morocco. Their informal justice system, based on Islamic and non-Islamic customary laws, has significantly influenced Moroccan law. Despite converting to Islam, the Amazighs maintained their unique cultural practices and legal traditions (Hoffman, 2010).
 - b. Arab-Islamic Influence: With the Arab conquests in the 7th century, Islamic law became a dominant force in Morocco (Dupret & Hounet, 2015).

- c. The Maliki school of Sunni Islam, in particular, has had a lasting impact on the legal system (Jidi, 1993).
2. Civil Traditions
 - a. French Colonial Influence: During the French protectorate (1912-1956), the French civil code, which coexisted with traditional Amazigh and Islamic laws, was introduced. This period left a lasting legacy on the formal legal system of Morocco (Hanafi, 2020).
 - b. Modern Reforms: In recent years, Morocco has undertaken significant legal reforms to modernise its legal system³, for example, the 2004 reforms to the Family Code (Moudawana) aimed to enhance women's rights and modernise family law (Chekrouni & Jaldi, 2024).
 - c. Recent proposals to amend the Code of Civil Procedure and the Penal Code also reflect ongoing efforts to align Moroccan law with international human rights standards (Azziman & Musulmans, n.d.).

The Indonesian legal system is similarly a complex blend of different traditions and influences but with a distinct focus on pluralism and decentralisation. Islamic law is an important component of the legal landscape, particularly in the Aceh region, where Sharia is fully implemented, as previously discussed. However, Indonesia's legal framework is also shaped by the national ideology of Pancasila, which ensures the state remains secular while accommodating its population's diverse religious and cultural backgrounds (Vickers, 2013).

Like Morocco, Indonesia's legal system is influenced by multiple sources, including traditional customs, colonial Dutch law, and Islamic law (Lukito, 1997). However, unlike Morocco's centralised model, Indonesia's application of Sharia law is decentralised, with regions like Aceh allowed to implement Sharia more fully, while other provinces only incorporate elements of Islamic law, mainly in family law and personal matters (Abdillah et al., 2005). The Indonesian constitution explicitly guarantees religious freedom and the recognition of Islam as the majority religion (Arifin et al., 2021), but the state does not establish any one religion as the official religion, allowing for religious pluralism (Vickers, 2013). The influence of Islam in Indonesia's laws and policies is significant, especially in the realm of personal status laws (marriage, inheritance), but it is balanced with the needs of a multi-religious society (Wahyuni, 2023).

In both countries, the blend of legal traditions has resulted in legal systems shaped by religious and cultural factors. Morocco, however, has a stronger central role of the monarchy in overseeing Islamic law, while Indonesia's decentralisation allows regions to adopt Sharia in a more localised manner, though still under the broader framework of national law.

1. Muslim Law as a Direct Source

a. Family Code (Law n° 03.70 /03.2.2004)

The area of personal status in Morocco is predominantly governed by the Maliki school of Sunni Islamic law. This school of thought, which traces back to Malik ibn Anas, has a long-standing influence on North African legal traditions, particularly in matters of personal status such as marriage, divorce, inheritance, and filiation. The Maliki school prioritises community customs and practices alongside traditional sources like the Quran and Hadith (El-Katiri, 2013).

The Moroccan Family Code, or Moudawana, reformed in 2004, directly incorporates Sharia principles while adapting certain provisions to contemporary realities (Aissaoui, 2024). The Moudawana stipulates conditions for the validity of marriage according to Sharia law, such as the consent of the parties and the presence of witnesses. Divorce procedures, including divorce by mutual consent and khul' (divorce initiated by the wife), are based on Islamic law (VANDERMEULEN, 2024). Inheritance rules are also strictly based on Koranic prescriptions, dictating the shares of the legal heirs. This stamp reflects Moroccan society's religious and social traditions and values (Benkirane, 2015). The Code aims to regulate family relations according to the principles of Islam, such as justice, equality and solidarity while taking into account modern developments and human rights (Chekrouni & Jaldi, 2024).

In Aceh, the application of Islamic law, specifically Sharia, has a significant presence, particularly in matters of personal status. Since the Special Autonomy Law was implemented in 2001 and further refined with the 2006 Law on Aceh's Special Autonomy, the region has been allowed to implement Islamic law in various spheres, including family law, civil law, and criminal law (Sharia criminal law is known as jinayat in Aceh) (Azra, 2006; Feener, 2013). The Acehnese legal system is deeply influenced by Islamic principles, particularly those derived from the broader Sunni tradition, though with local variations.

The specific legal practices in Aceh are shaped by both the Islamic framework and regional cultural norms. In the domain of personal status law, marriage, divorce, inheritance, and child custody issues are governed by Sharia as interpreted through Aceh's qanun (regional regulations). These regulations are based on Islamic principles but also take into account local customs and traditions, reflecting the strong influence of both religion and Acehnese culture in legal matters (Feener, 2013).

The Maliki school, which heavily influences Morocco's personal status law, does not have a direct equivalent in Aceh. However, the approach to Islamic jurisprudence in Aceh does share similarities, particularly in its community-based interpretations and local customs. Like the Maliki school, which emphasises local customs (urf) alongside traditional Islamic sources, Aceh's legal system integrates

both religious principles and local traditions into the application of Sharia in personal status matters (Azra, 2006).

In practice, the Aceh government has created a specialised court system, known as the Syari'ah Court, to handle cases related to Sharia law, which includes personal status issues like marriage and inheritance. This court operates in parallel with the national judicial system but is empowered to enforce Sharia in specific legal matters that fall under the jurisdiction of regional law (Feener, 2013).

b. The Wakfs Code (23/2/2011)

The Wakf (endowments) is synonymous with the word Habus, which is widely used in North African countries. In jurisprudence, Waqf consists in blocking a property to protect it from sale, donation, inheritance, etc., to devote the income derived from its use to a charitable purpose according to the will of the waqif (the grantor of the Waqf). Waqf can also be defined as the permanent allocation, by a person, of all or part of his property for charitable purposes. Property constituted as waqf is unavailable, non-transferable and inalienable (Idllalène, 2013).

The endowments (wakf) in Morocco are regulated according to Islamic law because they are considered part of the Islamic financial system, which aims to achieve social solidarity and strengthen the bonds community members (Bennani, 2022). An endowment is a perpetual donation whose proceeds are dedicated to charitable and religious purposes, such as building mosques, schools, and hospitals and supporting the poor and needy (Bourkba, 2009).

In Morocco, endowments have a long history dating back to the Islamic conquest, where they were used to support religious, educational, and health institutions. This system reflects Islamic values encouraging benevolence, cooperation, and solidarity among Muslims. Article 169 of the Wakfs Code refers to the Malekite rite as the source of law and states, "Anything not provided for in this Code shall be subject to the provisions of the Malekite school of jurisprudence, taking into account the interests of the Wakfs".

Waqf in Aceh, as in other parts of the Muslim world, refers to the endowment of property for religious or charitable purposes. As per Islamic principles, the property is made inalienable, meaning it cannot be sold, inherited, or donated for personal gain. The income generated from the waqf is typically used for the benefit of the public, such as funding mosques, schools, and other community services.

Waqf is regulated in Aceh by the Sharia-based legal system and the Aceh provincial government's policies, which include specific provisions for managing and overseeing waqf properties. The implementation of waqf in Aceh aligns with Indonesia's broader adoption of Islamic law in specific regions, such as Aceh,

which has the authority to enact Sharia law under the Special Autonomy status granted by the Indonesian government (Feener, 2013).

The Badan Wakaf Indonesia (Indonesian Waqf Agency) plays a significant role in managing waqf properties across the country, including Aceh. This organisation ensures that waqf properties are used for the intended charitable and religious purposes and maintains the protection of these properties from misuse. As such, Aceh's practice of waqf closely mirrors other Muslim-majority areas in its goal of ensuring that resources are preserved for the benefit of the community and aligned with Islamic charitable values (N. S. Zain et al., 2023). In this way, Aceh's waqf system is like other regions in the Muslim world, like Morocco, where the role of waqf (or habus) serves as an important charitable institution within the broader legal and religious structure, securing assets for the public good while maintaining their religious and legal sanctity.

c. Reels Rights Code (Law n° 08.39 /24.11.2011)

The first Article of the Code states, "The provisions of the Royal Decree of 12 August 1913 will be applied as the law of obligations and contracts unless there is a text in this law. In the absence of a text, reference will be made to the most correct, well-known and applicable case law of the Maliki rite". The Article specifies the fallback reference for this law in case there is no applicable text, which is, first and foremost, the law of obligations and contracts, followed by Maliki jurisprudence in the second place. This shows that the legislator has leaned towards the legal trend advocating for the law of obligations and contracts to be the primary reference for property after the code, with Maliki jurisprudence coming in second (Mayad, 2015). Maliki jurisprudence occupies a significant space within the provisions of the Property Rights Code, as the Moroccan legislator drew most of the provisions of this code from the principles of Maliki jurisprudence (Laanab, 2016).

The Moroccan legislator worked in the Property Rights Code to establish rules governing a variety of facts and actions that lead to ownership, which were originally subject to the rules and provisions found in Islamic jurisprudence. This includes various non-contractual acts, such as donation contracts (الهبة) and lifetime donations (العمرى), due to their societal role in promoting the spirit of solidarity and cooperation among members of the Muslim community. Recognising this purpose, the legislator aimed to address the issues arising from the nature of these actions by organising them within the code based on Islamic legal principles. In this context, possession as a means of acquiring ownership of unregistered real estate is worth mentioning, reflecting the influence of Islamic legal provisions. Additionally, the right of pre-emption was organised in some of its provisions in the 1915 decree after its content was restructured and enhanced with new stipulations within the Property Rights Code (Al-Sabihi, 2013).

The legal framework governing property rights in Aceh also draws on Islamic legal principles, particularly possession, donation, and pre-emption. The application of Islamic law in Aceh, which has special autonomy to implement Sharia, allows the region to incorporate Islamic principles into property law in ways like Morocco, where Islamic jurisprudence influences the laws surrounding ownership and transactions.

Compared to Aceh, possession (right of ownership), like Morocco, is a means of acquiring land ownership, especially when the property is unregistered. This practice is influenced by Islamic principles related to property rights, such as those found in the Maliki school of thought in Morocco, which also emphasises possession and the role of *qabd* (taking possession). Aceh's application of these concepts is influenced by both Islamic jurisprudence and the regional Sharia regulations.

The principle of donation, akin to Morocco's *الهبة* (gift) and *العمري* (lifetime donation), plays a role in promoting social solidarity in Aceh as well. These practices have been integrated into Aceh's legal system, where donations or charitable endowments (*waqf*) are key to fostering community welfare.

Additionally, the right of pre-emption (*shuf'ah*) is a well-known Islamic legal principle practised in Aceh, similar to Morocco. Under Sharia law, the right of pre-emption allows a neighbour or close relative to have the first opportunity to purchase property before it is sold to an outsider. This right has been explicitly integrated into Aceh's legal system, with regulations ensuring these rights' protection and alignment with Islamic values.

Both Morocco and Aceh demonstrate the influence of Islamic legal principles on property rights, with a strong emphasis on societal cooperation, solidarity, and fairness. However, while Morocco has a civil law system influenced by both Islamic and French legal traditions, Aceh's legal framework is more directly shaped by Islamic law due to its special autonomy to implement Sharia, making the integration of Islamic property law more explicit.

2. Muslim Law as a Subtle Source

a. Judicial Interpretation

Family Courts apply Sharia principles in their rulings, particularly in personal status disputes. Often trained in Islamic law, judges directly interpret and apply laws based on Islamic sources. In a case concerning the validity of a celibacy clause in an employment contract, the judge (The Supreme Court September 14, 1977) did not hesitate to state that it was unlawful based on both modern and Islamic law while drawing the essence of his argument from Islamic legal tradition. However, from a technical point of view, it was not necessary to refer to tradition, as the infringement of individual freedom of public order (such as the freedom to marry) was sufficient to annul the disputed clause. Therefore, the judge likely

chose to rely on the Koran, the Sunna and the fiqh for his arguments and to give them pride of place, as he found the true basis for his decision. In Maliki jurisprudence, custody (or hadanah) traditionally favoured male guardianship as children grew older, with mothers usually losing custody of sons at age seven and daughters at age nine. However, Moroccan judges now often prioritise the best interests of the child over the Maliki rules. Also, While Maliki fiqh generally allows polygamy with few restrictions, the Moudawana requires that husbands obtain judicial permission to take additional wives, demonstrating financial and social capability and obtaining the consent of the first wife. This requirement is not explicitly from Maliki fiqh, which has fewer barriers to polygamy, but it reflects influences from other Islamic jurisprudential approaches and international norms advocating for women's rights. Moroccan judges now apply these standards to limit polygamy, supporting a move toward more equitable marital practices (Ezzerouali, 2023).

The Moudawana incorporates this concept, influenced by other schools of thought and international human rights standards, allowing judges to make custody decisions based on the child's welfare rather than strictly following age-based rules. This approach is closer to Hanafi flexibility, which allows for extending maternal custody.

The religious courts in Indonesia are entrusted with jurisdiction over personal status matters, including marriage, divorce, and inheritance among Muslims, according to Islamic law but within the framework of national civil law. In contrast, the Aceh province enjoys special powers that allow for a broader application of Islamic law through the Sharia courts (Mahkamah Syar'iyah), which have jurisdiction over Islamic criminal offences such as adultery and alcohol consumption, in addition to personal status matters. These courts are based on local laws known as "Qanun," granting them broader powers compared to other Indonesian regions, where Islamic law is applied as part of Aceh's cultural and religious identity (M. Cammack, 2016).

In Morocco, the courts specialised in family matters are the Family Sections of the First Instance Courts, where rulings are based on Islamic principles, particularly the Maliki school of thought, but with greater flexibility to achieve social justice. Unlike Aceh, the application of Islamic law in Morocco is limited to personal status issues without addressing criminal offences or Hudud (Guessous, 2012).

Moroccan judges, particularly in family law, are sometimes guided by state-endorsed *ijtihad* principles to balance traditional Maliki interpretations with modern standards. For instance, while Maliki fiqh traditionally restricts women's rights in matters such as inheritance and divorce, Moroccan judges may draw on other schools or general principles to ensure decisions align with human rights

commitments and constitutional standards. Moreover, the judge could have confined himself to recognising his rightful place within public order, one of the responsibilities of which, in a society where Islam is the state religion, is to preserve Islamic values (Mohammed Mouaqit, 2012).

Many decisions handed down by competent courts do not refer to the applicable text but only to the rules of Malekite jurisprudence in general. The arguments drawn from modern law are about the violation of public order, and Article 109 Dahir of Obligations and Contracts appears to have been used only as a subsidiary means of corroborating a decision already based on Muslim law. The decision of the first instance court was upheld on appeal and subsequently on cassation. However, before the Court of Cassation, the discussion no longer concerned the illegality of the celibacy clause but the effects of annulment, and it was in the light of the provisions of the D.O.C. that the question was decided (Azziman & Musulmans, n.d.).

In Moroccan law, especially in personal status matters, gaps in legislative texts often lead judges to rely on Maliki jurisprudence as a framework. Even where modern legal provisions exist, they may not fully reflect Islamic values central to Moroccan norms. For example, in some cases, legal principles like public order and Article 109 of the Dahir of Obligations and Contracts (D.O.C.) are secondary, supporting decisions based primarily on Maliki fiqh. This judicial approach shows that while statutory provisions are important, Islamic jurisprudence remains the core foundation.

In Indonesia, the 1974 Marriage Law (Modified by Law No. 16 of 2019) balances Islamic principles with national policy goals, such as gender equality and regulating polygamy. For example, religious courts allow women to seek divorce without the husband's consent if harm can be proven, based on *maslahah* (public interest) (Alam et al., 2022). Similarly, in inheritance cases involving only daughters, courts have applied principles of justice and equality to ensure equal shares for daughters despite traditional Shafi'i jurisprudence. Indonesian courts also extend maternal child custody beyond the traditional limit of seven years if it aligns with the child's best interests.

In comparison, Morocco's family courts apply Maliki jurisprudence within the *Mudawana* (Family Code), with state-sanctioned *ijtihad* ensuring gender equality and human rights standards. Moroccan judges rely on diverse Islamic opinions to protect women's rights, reflecting a more global approach to human rights while limiting the scope of Islamic principles to family law.

While both countries apply Sharia in personal status cases, Morocco's approach is more restrictive, aligning closely with international human rights norms, whereas Indonesia's system, particularly in Aceh, reflects regional

autonomy and a broader application of Sharia, with challenges in human rights compliance.

b. Fatwas

Fatwas or legal opinions issued by Islamic scholars, are also a direct manifestation of the influence of Muslim law. Although they are not binding, judges may refer to them to resolve ambiguous or complex cases. The institution of fatwa is managed by the Supreme Scientific Council (المجلس العلمي الأعلى), which is the highest official religious authority in the country. This council includes a fatwa council that issues legal rulings on various points of Islamic law in response to questions posed by individuals, judges, or the government. The fatwas issued by this council are based on the Quran, Sunna, and principles of Islamic jurisprudence.

The Council has contributed on several occasions to clarifying its stance on contemporary or complex issues. For example:

- 1) *Sharia Governance in Participative Banks*: Moroccan banking law mandates a Sharia governance system for participative banks, ensuring compliance with Sharia principles. This governance framework includes institutional and organisational measures for independent monitoring, safeguarding the Sharia-compliant identity of participative banks (GHAZOU & AGOURRAM, 2022).
- 2) *Fatwa on COVID-19*: In response to a fatwa request during the COVID-19 pandemic, the Council allowed health authorities to take necessary preventive measures, such as not washing the deceased, to prevent infection spread. The fatwa emphasised human dignity and the collective obligation (fard kifaya /فرض كفاية/) of rites, which can be omitted for safety reasons (<https://www.pam.ma>, 2020).
- 3) *Women's Rights on Collective Lands*: A fatwa granted women equal rights to use and benefit from collective lands. Consequently, the Ministry of the Interior issued circulars ensuring women receive material compensation and inheritance shares from collective lands (Saadi, 2019).
- 4) *Organ Donation Fatwa*: The Scientific Council issued a fatwa permitting eye cornea donation during one's lifetime for transplantation after death, promoting health and vision restoration.
- 5) *Influence of Muslim Law on Moroccan Law*: Muslim law directly impacts the Family Code and family court decisions while subtly influencing general legal values and principles. This duality allows Moroccan law to preserve its Islamic identity and adapt to modern requirements, harmonising traditional and contemporary legal standards (Sambe & Hamdaoui, 2019).

- 6) *International Human Rights Conventions*: Morocco's commitment to international human rights conventions necessitates adherence to standards on gender equality and child protection, sometimes creating tension between Islamic law and international norms (Naciri, 2014).

In Morocco, Sharia serves as a source of law and a constitutional reference. Codified in personal status laws like the Family Code (Moudawana), it governs marriage, divorce, inheritance, and child custody. Judges apply these principles, using *ijtihad* to interpret and adapt them to contemporary issues. The Moroccan Constitution recognises Islam as the state religion and incorporates Sharia into the public order, guiding legal interpretations and legislative processes. Judges refer to Sharia principles to ensure rulings align with Islamic values, even in areas not explicitly covered by Sharia law.

In Indonesia, fatwas, issued by the Indonesian Ulema Council (MUI), play a significant role in shaping Islamic law, though they are not legally binding (Hidayat et al., 2022). Fatwas are advisory in nature and offer guidance on matters such as family law, marriage, inheritance, and religious practices, influencing both courts and public authorities. While MUI's fatwas apply to the whole country, they do not extend to criminal law or state legal issues (M. E. Cammack & Feener, 2012; Feener, 2013).

In contrast, with its special autonomy, Aceh applies a more localised approach to fatwas. The Aceh Ulema Council (MPU) issues fatwas that carry substantial legal and social weight, especially in areas like public morality, where Sharia punishments such as caning may be enforced. Fatwas in Aceh address not only personal matters (like marriage and inheritance) but also issues such as gambling and adultery. These rulings, although not strictly binding in all cases, are highly integrated into the legal system through the Sharia courts and are enforced by the Sharia police (*Wilayahul Hisbah*), reflecting a more direct influence of Islamic law on both the legal and societal framework in Aceh compared to the rest of Indonesia (Feener, 2013; Hosen, 2013).

In comparison, Morocco's Supreme Scientific Council, which also issues fatwas, has a more centralised and formal role, guiding Islamic legal thought within the national legal framework. While Morocco incorporates Sharia principles, particularly in family law, it does so within the broader context of modern human rights standards, and the fatwas are advisory rather than enforceable in criminal matters, unlike in Aceh, where fatwas influence a broader range of legal and social issues (Guessous, 2012).

CONCLUSION

Islam is central in the Moroccan legal system as both a source of legislation and a constitutional reference. The Moroccan Constitution recognises Islam as the state

religion while guaranteeing freedom of worship. This dual recognition means that many Moroccan laws and policies are influenced by Sharia principles, particularly in family law, inheritance, marriage, divorce, and religious foundations (Waqf or Habous). However, the Constitution also enshrines the equality of citizens before the law and protects individual rights and fundamental freedoms.

The Moroccan legal system uniquely blends Islamic principles and constitutional guarantees of equality and freedom. While Sharia heavily influences specific areas, such as family law, the overarching legal framework ensures that individual rights are upheld. Thus, the interaction between Islamic law and constitutional principles creates a dynamic legal environment that respects religious values and modern legal standards. Indonesia and Aceh have integrated Sharia principles into their legal systems, but with varying degrees of influence and enforcement. In Indonesia, Sharia is primarily applied in personal status laws for Muslims, and fatwas serve as advisory guides. In Aceh, however, Sharia law is more fully implemented, with fatwas playing a central role in shaping legal and social practices, reflecting a distinctive intersection of Islamic law and local governance.

REFERENCES

- Abdillah, M., Suherlan, I., & Zain, M. (2005). *Formalisasi Syariat Islam di Indonesia: sebuah pergulatan yang tak pernah tuntas. (No Title)*.
- Abouzzohour, Y. (2020). *Progress and missed opportunities: Morocco enters its third decade under King Mohammed VI*.
- Ahyar, M. (2017). Is Islam Compatible With Democracy? Islamist Movement's Trajectory on Democratization in Indonesia. *Walisongo: Jurnal Penelitian Sosial Keagamaan*, 25(1), 139. <https://doi.org/10.21580/ws.25.1.1335>
- Aissaoui, K. N. (2024). The Current Debate on the Moroccan Family Code "Mudawwanat Al-'Ussra." *Ijtihad Journal for Islamic and Arabic Studies*, 1(1 SE-Articles), 195–209.
- Al-Fatih, S. (2023). *Perkembangan Metode Penelitian Hukum di Indonesia* (1st ed., Vol. 1). UMM Press. https://books.google.co.id/books/about/Perkembangan_Metode_Penelitian_Hukum_di.html?id=EObiEAAAQBAJ&redir_esc=y
- Al-Sabihi, A. R. (2013). The law of rights in property: The necessity of unity and challenges of privacy. *Journal of Rights*, 7, 4–25.
- Al Khamlichi, A. (2014). The relationship between religion and the state: the institution of 'Commandment of the Faithful' in Morocco. *Contemporary Arab Affairs*, 7(1), 54–81. <https://doi.org/10.1080/17550912.2013.869991>
- Alam, S., Fajrin, Y. A., Al-Fatih, S., & Borsa, M. O. (2022). Islamic Criminal Law Study on The Seizure of Corruptor Assets as an Indonesian's Criminal Sanction in The Future. *Juris: Jurnal Ilmiah Syariah*, 21(2), 143–156. <https://doi.org/10.31958/juris.v21i2.6722>
- Arifin, R., Helmi, H., Nte, N. D., Waspiyah, W., & Latifiani, D. (2021). The adversity on establishing places of worship: has religious freedom failed in Indonesia? *Legality : Jurnal Ilmiah Hukum*, 29(1), 93–113.

- <https://doi.org/10.22219/ljih.v29i1.15317>
- Aspinall, E. (2009). Combatants to contractors: the political economy of peace in Aceh. *Indonesia*, 87, 1–34.
- Azra, A. (2006). *Indonesia, Islam, and democracy: Dynamics in a global context*. Equinox Publishing.
- Azziman, O., & Musulmans, I. D. (n.d.). Le Maroc actuel. *Aix-En-Provence: CNRS*, 251–272.
- Banane, M. C., & Ezzerouali, S. A. (2024). The Stereotypical Phenomenon in the Imaging of the Arab Marxists. *The International and Political Journal*, 58.
- Belal, Y. (2011). *Le cheikh et le calife: Sociologie religieuse de l'islam politique au Maroc*. Ecole Normale Supérieure.
- Benkirane, W. (2015). Le code de la famille, entre évolution des rôles sociaux de sexe et résistance au genre. In *Le Maroc au présent* (pp. 883–891). Centre Jacques-Berque. <https://doi.org/10.4000/books.cjb.1133>
- Bennani, A. (2022). *In preserving the purposes of Islamic law: An intentional reading of the conditions of endowment and the study of the interest dimensions under the new Moroccan endowments code*. Morocco: Muhammadiyah Association of Scholars (Arrabita).
- Bihkak, W. (2024). Le Systeme De Separation Des Pouvoirs Au Maroc, Entre Clarte Constitutionnelle Et Pratique Politique Fluctuante A L'ombre De La Constitution De 2011. *Majalat Monazaat Al-Aamal*, 84.
- Bouchikhi, M. (2011). *Le comportement politique des Oulémas du Maroc*. Paris, EHESS.
- Bourkba, A. S. (2009). The charitable Wakf in Islam and its developmental dimensions. *Sale: Dar Abu Regreg for Printing and Publishing*.
- Cammack, M. (2016). The Punishment of Islamic Sex Crimes in a Modern Legal System: The Islamic Qanun of Aceh, Indonesia. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2765884>
- Cammack, M. E., & Feener, R. M. (2012). The Islamic legal system in Indonesia. *Pac. Rim L. & Pol'y J.*, 21, 13.
- Chekrouni, N., & Jaldi, A. (2024). *Le code de la famille marocain (Moudawana): réalités et perspectives de réformes*. Policy Center for the New South.
- Crémadeills, J. (1976). Waterbury (John): Le Commandeur des croyants. La monarchie marocaine et son élite. Trad. de l'anglais par Catherine Aubin. *Outre-Mers. Revue d'histoire*, 63(230), 155–156.
- Cubertafond, B. (2000). Mohamed VI, quel changement? *Annuaire Français Des Relations Internationales. AFRI 2000*, 1.
- Din, M., & Abubakar, A. Y. (2021). The Position of the Qanun Jinayat as a Forum for the Implementation of Sharia in Aceh in the Indonesian Constitution. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5(2), 689. <https://doi.org/10.22373/sjkh.v5i2.10881>
- Dirèche, K. (2010). Les Murchidât au Maroc. Entre islam d'État et islam au féminin. *Revue Des Mondes Musulmans et de La Méditerranée*, 128, 99–111. <https://doi.org/10.4000/remmm.6857>
- Dupret, B., & Hounet, Y. Ben. (2015). Specificities and implementation of law in the Maghreb. *L'Année Du Maghreb*, 13, 9–15.
- El-Katiri, M. (2013). The institutionalisation of religious affairs: religious reform in Morocco. *The Journal of North African Studies*, 18(1), 53–69.

- <https://doi.org/10.1080/13629387.2012.712886>
- Ezzerouali, S. (2023). The Discretion Of The Court To Authorize Polygamy In Light Of The Moroccan Family Code. *The Journal of Shendi University for Legal and Sharia Studies*, 8, 66–88.
- Fadil, M. (2022). *Le Parrain et les héritiers*. Les Presses de l'Université de Montréal. <https://doi.org/10.1515/9782760645868>
- Feener, R. M. (2013). *Sharia and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia*. OUP Oxford.
- Ghazoui, H., & Agourram, B. (2022). Les obstacles au développement de la finance islamique au Maroc. *Revue Internationale Des Sciences de Gestion*, 5(2).
- Guessous, N. (2012). Women's rights in Muslim societies. *Philosophy & Social Criticism*, 38(4–5), 525–533. <https://doi.org/10.1177/0191453712448000>
- Hanafi, L. (2020). The legal system of Morocco. *Konrad Adenauer Stiftung*.
- Hidayat, A. S., Disemadi, H. S., Al-Fatih, S., Maggalatung, A. S., & Yunus, N. R. (2022). Legal Obligations of Corporate Social Responsibility as Efforts to Improve the Image of Islamic Banking in Indonesia. *Samarah*, 6(2), 775–797. <https://doi.org/10.22373/sjhk.v6i2.12455>
- Hoessein, Z. A. (2012). Transformation of Islamic Law on The National Legal System in Indonesian Constitutional Perspective. *UUM Journal of Legal Studies*, 3(0 SE-Articles), 77–109.
- Hoffman, K. E. (2010). Berber Law by French Means: Customary Courts in the Moroccan Hinterlands, 1930–1956. *Comparative Studies in Society and History*, 52(4), 851–880. <https://doi.org/10.1017/S0010417510000484>
- Hosen, N. (2013). *Religious Pluralism, Inclusive Secularism, and Democratic Constitutionalism BT - Muslim Secular Democracy: Voices from Within* (L. Z. Rahim (ed.); pp. 211–232). Palgrave Macmillan US. https://doi.org/10.1057/9781137282057_10
- <https://www.pam.ma>. (2020). <https://www.pam.ma>.
- Idllalène, S. (2013). Le habous, instrument de protection de la biodiversité ? Le cas du Maroc dans une approche de droit comparé. *Développement Durable et Territoires*, Vol. 4, n° 1. <https://doi.org/10.4000/developpementdurable.9732>
- Ihsani, M. H. (2021). Diskriminasi dalam Kehidupan Beragama di Indonesia. *Nomos : Jurnal Penelitian Ilmu Hukum*, 1(2), 33–43. <https://doi.org/10.56393/nomos.v1i2.567>
- Jidi, O. (1993). *Studies in the Maliki school of thought in Morocco*. New Publishing House, Rabat (in Arabic).
- Karkbi, B. (2020). La question laïque au Maroc : religion majoritaire, revendications minoritaires. *Confluences Méditerranée*, N° 114(3), 85–95. <https://doi.org/10.3917/come.114.0085>
- Laanab, R. (2016). References Maliki jurisprudence in light of the Property Rights Code and judicial practice. *Rabat: Al-Ma'arif Al-Jadida Printing*.
- Le Tourneau, R. (1992). *Histoire du Maroc moderne*. Presses de L'Université de Provence.
- Lufaefi, L. (2019). Celebrating Sharia Indonesia: Islamic Harmony and Pancasila in The Vision of Indonesian Nationality. *Jurnal Ilmiah Al-Syir'ah*, 17(2), 106. <https://doi.org/10.30984/jis.v17i2.951>
- Lukito, R. (1997). *Islamic Law and Adat Encounter: The Experience of Indonesia*.
- Marranci, G. (2010). Introduction. In *Muslim Societies and the Challenge of Secularization*:

- An Interdisciplinary Approach* (pp. 1–8). Springer Netherlands. https://doi.org/10.1007/978-90-481-3362-8_1
- Maulana, I., Fadli, M., Herlinda, H., & Nur, A. I. (2024). Justice for Indigenous People: Management Right Term to Third Parties. *Indonesia Law Reform Journal*, 4(1), 59–74. <https://doi.org/10.22219/ilrej.v4i1.33058>
- Mayad, L. (2015). Reflections on the Code of Rights in Rem. Rabat: *Al-Omnia Press*.
- Menchik, J. (2016). *Islam and democracy in Indonesia: Tolerance without liberalism*. Cambridge University Press.
- Mouaqit, M. (2015). Droit et changement politique et social au Maroc. Z. Rhani, B. Dupret, A. Boutaleb, & J.-N. Ferrié (Eds.), *Le Maroc Au Present. D'une Époque à l'autre, Une Société En Mutation*. Centre Jacques-Berque.
- Mouaqit, Mohammed. (2012). Marginalité de la charia et centralité de la Commanderie des croyants: le cas paradoxal du Maroc. In *La charia aujourd'hui* (pp. 141–151). La Découverte.
- Muhtar, M. H., Kasim, N. M., & Suryani, I. (2023). Islamic Law in The Constitution of Indonesia (a Study of Characteristics Sharia Local Regulations). *TSAQAFAH*, 19(1), 236–263. <https://doi.org/10.21111/tsaqafah.v19i1.8717>
- Naciri, R. (2014). Le mouvement des femmes au Maroc. *Nouvelles Questions Féministes*, 33(2), 43–64.
- Negara, T. A. S. (2023). Normative Legal Research in Indonesia: Its Originis and Approaches. *Audito Comparative Law Journal (ACLJ)*, 4(1), 1–9. <https://doi.org/10.22219/aclj.v4i1.24855>
- Newman, J. (2013). Between Feminism and Islam: Human Rights and Sharia Law in Morocco by Zakia Salime. *Journal of Middle East Women's Studies*, 9(1), 130–133. <https://doi.org/10.2979/jmiddeastwomstud.9.1.130>
- Otto, J. M. (2008). *Sharia and National Law in Muslim Countries: Tensions and Opportunies for Dutch and EU Foreign Policy*. Leiden University Press.
- Ramadhan, S. (2020). Islamic Law, Politics and Legislation: Development of Islamic Law Reform in Political Legislation of Indonesia. *ADHKI: Journal of Islamic Family Law*, 2(1), 63–76. <https://doi.org/10.37876/adhki.v2i1.35>
- Rights, T. I. (2016). *Mechanisms, status of Morocco's convention practice and its interaction with UN human rights*. Rabat: The Interministerial Delegation in charge of Human Rights.
- Saadi, M. S. (2019). Empowering Women Through Land Policy Change: The “Soulaliyate” Movement in Morocco. In *Women, Civil Society and Policy Change in the Arab World* (pp. 87–109). Springer International Publishing. https://doi.org/10.1007/978-3-030-02089-7_5
- Sambe, B., & Hamdaoui, Y. (2019). Des usages du soft power religieux du Maroc sous le règne de Mohammed VI. *Afrique (s) En Mouvement*, 1, 19–29.
- Sukma, R. (2004). *Security Operations in Aceh: Goals, consequences, and lessons*.
- Suryadinata, L. (2014). Kebijakan Negara Indonesia terhadap Etnik Tionghoa: Dari Asimilasi ke Multikulturalisme? *Antropologi Indonesia*, 71. <https://doi.org/10.7454/ai.v0i71.3464>
- Suryani, I. (2023). *The role and impact of local sharia regulation in indonesia's constitutional law*.
- Suwarti, Khunmay, D., & Abannokovya, S. (2022). Conflicts Occurring Due to the Application of Different Legal Inheritance Systems in Indonesia. *Legality: Jurnal*

- Ilmiab Hukum*, 30(2), 214–227. <https://doi.org/10.22219/ljih.v30i2.21020>
- Tozy, M. (1999). *Monarchie et islam politique au Maroc*. Presses des Sciences Po.
- Vandermeulen, I. A. N. (2024). *The Opposition Effect: Islamism And Women's Rights In The Midst Of Morocco's Family Code Reform*.
- Vickers, A. (2013). *A history of modern Indonesia*. Cambridge University Press.
- Wahyuni, S. (2023). Islamic Law in Indonesia (History and Prospects). *Batulis Civil Law Review*, 4(1), 6. <https://doi.org/10.47268/ballrev.v4i1.1146>
- Yani, A., & Barthos, M. (2020). Transforming Islamic Law in Indonesia from a Legal Political Perspective. *Al-Ahkam*, 30(2), 159–178. <https://doi.org/10.21580/ahkam.2020.30.2.6333>
- Yilmaz, I., & Shukri, S. (2024). Islamist PJD and the Monarchy in Morocco. In *Islamist Parties and Power in Democratic Nation-States* (pp. 171–208). Springer Nature Singapore. https://doi.org/10.1007/978-981-97-4343-8_6
- Zain, N. S., Hassan, R., & Marwan, S. (2023). Social Impact Measurement as A Tool Of Governance and Accountability for Waqf Organisations. *International Journal of Islamic Economics and Finance Research*, 1, 132–148. <https://doi.org/10.53840/ijiefer122>