

Author:

Suud Sarim Karimullah

Affiliation:

Gümüşhane University,
Türkiye

Corresponding author:

*suudsarimakramullah@gmail.com

DOI:

10.32332/milrev.v2i2.7847

Dates:

Received 04 September, 2023

Revised 19 Oktober, 2023

Accepted 05 November, 2023

Published 09 November, 2023

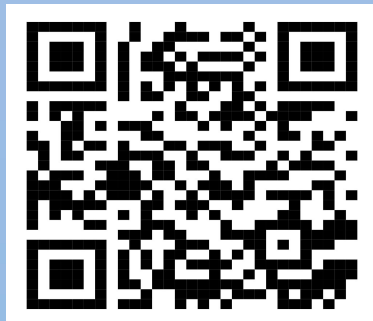
Copyright:

© 2023. Suud Sarim
Karimullah

This work is licensed
under [Attribution-ShareAlike
4.0 International](https://creativecommons.org/licenses/by-sa/4.0/)



Read Online:



Scan this QR code with your
mobile device or smart phone to
read online

THE IMPLICATIONS OF ISLAMIC LAW ON THE RIGHTS OF RELIGIOUS MINORITIES IN MUSLIM-MAJORITY COUNTRIES

Abstract: This study aimed to explore the complex implications of Islamic law on the rights of religious minorities in Muslim-majority countries. Through a comprehensive literature analysis, the study summarized information from various relevant text sources. The findings show the complex challenges faced by religious minorities when exercising the rights in Muslim-majority countries. Examining the impact of Islamic law on religious minorities' rights suggests that the legislation could provide a potential basis for protection. However, the interpretation and application of the law varies between countries. Introducing Islamic law into state policies often creates tensions between religious and universal human rights principles, requiring careful efforts to strike a delicate balance. In modern contexts, such as the impact of globalization and information technology, Muslim-majority countries are faced with challenges that prompt constant adaptation to ensure the effective protection of religious minorities' rights. Therefore, addressing these challenges requires a comprehensive method including legal reform, interreligious dialogue, and community education to ensure that the rights of religious minorities are respected and substantially protected.

Keywords: Islamic Law, Religious Minorities, Muslim-Majority Countries.

INTRODUCTION

Muslim-majority countries with rich historical, cultural, and societal backgrounds are facing complex challenges in managing religious diversity within the legal and social boundaries.¹ In this evolving reality, an increasingly acute problem is the rights of religious minorities in countries where Islam is the predominant religion. The implications of Islamic law on religious minorities' rights in Muslim-majority countries is a theme that has sparked deep debate and is gaining increasing global attention.

Freedom of religion and the protection of the rights of minorities are principles universally recognized by various countries worldwide. However, in countries with majority Muslim populations, the application and interpretation of Islamic law play a crucial role in safeguarding and protecting religious rights and freedoms for minorities. These impacts of Islamic law include significant aspects such as interfaith marriage, inheritance law, religious conversion, and political participation for religious minorities. The complexity of these conditions stimulates intense debates, both nationally and internationally, on how to achieve a fair balance between Islamic law principles and the rights of religious minorities in an increasingly interconnected and complex society.

The historical background of Muslim-majority countries significantly impacts the understanding and implementation of Islamic law on religious minorities' rights. For instance, some countries have a strong tradition of Islamic law that has developed over the centuries, while others aim to combine the principles with positive elements of modern policy.² This develops a diversity of approaches to addressing issues related to the rights of religious minorities.

¹ R Khari Brown dan Ronald E Brown, "The challenge of religious pluralism: The association between interfaith contact and religious pluralism," *Review of Religious Research* 53 (2011): 323-40, <https://doi.org/10.1007/s13644-011-0014-5>; Hilal Wani, Raihanah Abdullah, dan Lee Wei Chang, "An Islamic perspective in managing religious diversity," *Religions* 6, no. 2 (2015): 642-56, <https://doi.org/10.3390/rel6020642>.

² Ihsan Yilmaz, *Muslim laws, politics and society in modern nation states: Dynamic legal pluralisms in England, Turkey and Pakistan* (Routledge, 2016); Muhajir Muhajir dkk., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 86-103, <https://doi.org/10.30984/jis.v21i1.2321>; Suud Sarim Karimullah, "Pursuing Legal Harmony:

The implications of Islamic law on religious minorities' rights significantly impact not only in the legal sphere but also in broader societal contexts. Individually, Islamic law can influence personal decisions regarding religious beliefs, marriage, and family rights. At the societal level, policies and interpretations of Islamic law can also affect the relationships between religious communities, presenting both challenges and opportunities aiming for sustainable social harmony and integration.

Beyond the significant domestic impact, the rights of religious minorities in Muslim-majority countries also have important implications internationally.³ The global community, including human rights organizations and partner countries, often monitors and criticizes the implementation of Islamic law on religious minorities' rights. This creates political and diplomatic pressure on the countries to reassess the policies related to the protection of religious minorities. Therefore, this study aimed to explore further the implications of Islamic law on religious minorities' rights in Muslim-majority countries.

The study explores various aspects of the law impacting the rights of religious minorities while analyzing the diverse methods the countries adopt in addressing the issue. Furthermore, it also considers the social consequences and international ramifications of Islamic law's implications to provide a more comprehensive understanding of the complexity of the issue. This consideration will contribute positively to efforts aimed at promoting tolerance, justice, and the protection of religious minorities' rights worldwide. To understand the implications of Islamic law on the rights of religious minorities in Muslim-majority countries, previous studies have provided some crucial insights. Numerous studies have explored the framework of Islamic law and how this perspective affects religious minorities' rights. For instance, Carolyn's investigation emphasizes how

Indonesianization of Islamic Law Concept and Its Impact on National Law," *Mazahib* 21, no. 2 (27 Desember 2022): 213-44, <https://doi.org/10.21093/mj.v21i2.4800>.

³ Amalia Lathifah, "Interpretation Of Verses On Women In Islamic Law Politics," *MILRev : Metro Islamic Law Review* 2, no. 1 (30 Juni 2023): 10-26, <https://doi.org/10.32332/milrev.v2i1.6872>.

the concept of human rights in Islam correlates with international standards.⁴ This investigation examines Islamic law's interpretation of religious freedom and the potential to protect the rights of religious minorities. Additionally, Anver Emon in the article titled "Religious Pluralism and Islamic Law," emphasizes how Islamic law faces challenges of religious pluralism in an increasingly multicultural society.⁵ Emon analyzes the concept of "dhimmi" in the Islamic legal tradition, which governs the status of religious minorities within Muslim-majority countries. The study identifies the challenges and opportunities in confronting religious minorities' rights in the context of Islamic law.

Related studies have explored diverse dynamics in the interaction between Islamic law, national constitutions, and the rights of religious minorities in various Muslim countries.⁶ In disclosure, the case study presented shows how conflict and compromise are navigated to reconcile the values of Islamic law with freedom of religion. However, this study also identifies variations in views and practices among different countries. The results vary significantly depending on the complexity of the social, cultural, and political context of each country. Therefore, this study adopts an inclusive method by combining findings from previous investigations with primary data and comparative analysis. With this method, the study not only serves to provide a deep understanding of the implications of Islamic law on religious minorities' rights in Muslim-majority countries but also

⁴ Carolyn Evans, "Religious freedom in European human rights law: The search for a guiding conception," dalam *Religion and International law* (Brill Nijhoff, 2004), 385-400, https://doi.org/10.1163/9789047413400_024.

⁵ Anver M Emon, *Religious pluralism and Islamic law: Dhimmis and others in the Empire of Law* (Oxford University Press, 2012).

⁶ Melissa A Crouch, "Law and religion in Indonesia: The constitutional court and the blasphemy law," *Asian Journal of Comparative Law* 7 (2011): 1-46, <https://doi.org/10.1017/S2194607800000582>; Roger Finke dan Robert R Martin, "Ensuring liberties: Understanding state restrictions on religious freedoms," *Journal for the Scientific Study of Religion* 53, no. 4 (2014): 687-705, <https://doi.org/10.1111/jssr.12148>; Abdullahi Ahmed An-Nacim, "The compatibility dialectic: Mediating the legitimate coexistence of Islamic law and state law," *The Modern Law Review* 73, no. 1 (2010): 1-29, <https://doi.org/10.1111/j.1468-2230.2009.00782.x>; Samia Bano, "In pursuit of religious and legal diversity: A response to the Archbishop of Canterbury and the 'Sharia debate' in Britain," *Ecclesiastical Law Journal* 10, no. 3 (2008): 283-309, <https://doi.org/10.1017/S0956618X08001415>; Jørgen S Nielsen, "Contemporary discussions on religious minorities in Muslim countries," *Islam and Christian-Muslim Relations* 14, no. 3 (2003): 325-35, <https://doi.org/10.1080/09596410305269>; Musferah Mehfooz, "Religious freedom in Pakistan: A case study of religious minorities," *Religions* 12, no. 1 (2021): 51, <https://doi.org/10.3390/rel12010051>; Moamen Gouda dan Jerg Gutmann, "Islamic constitutions and religious minorities," *Public Choice* 186, no. 3-4 (2021): 243-65, <https://doi.org/10.1007/s11127-019-00748-7>.

contributes to the existing literature. The selected method also helps to foster a more comprehensive perspective of issues with profound global ramifications.

RESEARCH METHODOLOGY

The study used a literature method with integrative and comprehensive analysis which allowed the author to obtain information from relevant text sources, such as books, journal articles, reports, and legal documents. Careful examination of the literature aided in summarizing previous findings, key concepts, and diverse views on the implications of Islamic law on religious minorities' rights within Muslim-majority countries. Through the method, the study detailed the development of theories and thoughts related to this issue as well as identified points of convergence and divergence in academic perspectives and legal practices across different countries. The literature also assisted in formulating more in-depth research questions and developed a solid theoretical framework.

RESULT AND DISCUSSION

The Rights of Religious Minorities within the Framework of Islamic Law

Islam, a major religion followed by over 1.9 billion individuals worldwide, had diverse views and interpretations on religious minorities' rights. However, basic principles in Islamic law were used as a foundation for understanding the rights of religious minorities.⁷ The main principle was the concept of justice and equality before the law. In the Qur'an, Allah stated that all human beings were equal, regardless of tribe, religion, or ethnicity.

Historically in Islam, there were instances where the Prophet Muhammad protected religious minorities in the society. In Surat Al-Kafirun, the Prophet Muhammad taught tolerance for other religious beliefs and asserted that each individual had personal faith to be respected. This was a clear example of how the rights of religious minorities should be respected within the framework of Islamic law. However, in practice, the implementation of religious minorities' rights in countries enacting Islamic law varied. Some countries

⁷ Heiner Bielefeldt, "'Western' versus 'Islamic' human rights conceptions? A critique of cultural essentialism in the discussion on human rights," *Political theory* 28, no. 1 (2000): 90-121, <https://doi.org/10.1177/0090591700028001005>.

recognized the rights more broadly and granted the minorities the freedom to practice worship, manage places of worship, and conduct spiritual life without discrimination.⁸ In contrast, there were also countries where the rights were limited or even ignored entirely.

The central challenge in ensuring the protection of the rights of religious minorities within the framework of Islamic law existed in the intricate endeavor of harmonizing spiritual principles with contemporary values concerning human privileges and religious freedom. This complex task demanded a profound comprehension of the teachings of Islam and the applicability in an increasingly intricate and sophisticated society. A comprehensive method to understanding and upholding the rights of religious minorities under Islamic law was essential for embodying the core values of justice, equality, and tolerance inherent in this faith, ensuring the genuine manifestation daily. Consequently, Muslim communities and religious leaders should continually reevaluate and enhance the comprehension of how Islam advocated for religious minorities' rights and how these principles could be effectively transposed into the diverse and multifaceted modern world.

Examining the specific issues frequently surfacing within the rights of religious minorities under Islamic law became crucial as a prevalent topic of debate about the legal status of non-Muslims in Muslim-majority countries. While many countries officially acknowledged the rights of non-Muslims within the constitutional frameworks, disparities were often observed in practice. For instance, in certain Muslim-majority countries, family and marital laws were typically governed by Islamic law, posing challenges for non-Muslims aiming to marry a Muslim or convert to another religion.

Specific countries imposed restrictions on the construction of non-Muslim places of worship in other instances, obstructing religious practices. Additionally, issues related to

⁸ Donna J Sullivan, "Advancing the Freedom of Religion or Belief through the UN Declaration on the Elimination of Religious Intolerance and Discrimination," *American Journal of International Law* 82, no. 3 (1988): 487-520, <https://doi.org/10.2307/2202962>; Mariam Rawan Abdulla, "Culture, religion, and freedom of religion or belief," *The Review of Faith & International Affairs* 16, no. 4 (2018): 102-15, <https://doi.org/10.1080/15570274.2018.1535033>.

freedom of speech and the expression of religious opinions evolved as areas of concern.⁹ Criticizing Islam or other religions was perceived as a legal transgression or blasphemy, leading to judicial repercussions against the individual expressing the views. These multifaceted issues demanded comprehensive examination and dialogue to strike a balance that respects both the principles of Islamic law and the protection of the rights as well as freedoms of religious minorities in the evolving global landscape.

Another challenge was how to manage conflicts between the rights of religious minorities and provisions of Islamic law, which conflicted with universal human rights principles.¹⁰ In some cases, Islamic law considered certain actions or behaviors as violations of Sharia, while human rights recognized the right to perform the activities. This created complex ethical and legal dilemmas, often requiring a careful balance between religious values and individual rights.

The study duly acknowledged the significance of fostering interreligious and intercultural dialogue. Stimulating open and constructive dialogue between different religious communities assisted in addressing tensions and promoted a better understanding of the rights of religious minorities. These initiatives created an environment where interreligious tolerance and harmony flourished. Therefore, countries implementing Islamic law and Muslim communities worldwide were to collaborate during these challenges to ensure that the rights of religious minorities were respected and safeguarded by the fundamental principles of justice, equality, and tolerance embodied in Islam. This required cooperation between governments, clerics, and civil society to create a legal framework supporting the rights of religious minorities and the promotion of social inclusion.

⁹ Edy Sutrisno, Ahmad Fanani, dan Marsidi Marsidi, "A Female Leaders In The Perspective Of Islamic Law And Legal Regulations," *MILRev : Metro Islamic Law Review* 2, no. 1 (30 Juni 2023): 27-51, <https://doi.org/10.32332/milrev.v2i1.6879>.

¹⁰ Suud Sarim Karimullah, "For True Humanity: Harmonization of Islamic Law and Human Rights Towards Universal Justice," *Matan: Journal of Islam and Muslim Society* 5, no. 2 (2023): 40-56, <https://doi.org/10.20884/1.matan.2023.5.2.9125>; Katayoun Alidadi dan Marie-Claire Foblets, "Framing multicultural challenges in freedom of religion terms: Limitations of minimal human rights for managing religious diversity in Europe," *Netherlands Quarterly of Human Rights* 30, no. 4 (2012): 388-416, <https://doi.org/10.1177/016934411203000403>.

Each individual played a crucial role in safeguarding the rights of religious minorities and ensuring that Islamic values supporting tolerance and diversity were practiced daily. One method to achieve this was through education and awareness at the individual level. Education promoting a better understanding of human privilege, Islamic principles supporting tolerance, and respect for the rights of religious minorities could assist in changing attitudes and behavior within the Muslim community. This method also helped to overcome prejudices and fears that often acted as barriers to the rights of religious minorities. Additionally, every individual played an active role in advocating for the rights of religious minorities through participation in civil society institutions. The organizations played a critical role in overseeing the implementation of laws and ensuring that the government and society considerably respected the rights of religious minorities.

Governments played a critical role in protecting the rights of religious minorities by implementing laws that supported the rights of religious minorities, ensuring protection from discrimination, and providing security against threats or acts of violence. Additionally, the government should have promoted interreligious and intercultural dialogue to create an inclusive as well as tolerant environment. It was also essential to examine issues arising within the framework of Islamic law that needed updating or reinterpretation conforming to universal human rights values. This could have been a complex and sensitive debate, but it was essential to reach an agreement that allowed religious minorities to exercise the beliefs without unnecessary barriers. The development of positive role models within the Muslim community was vital in ensuring that Islamic religious values supporting religious minorities' rights were respected and practiced. Muslim religious mentors, clerics, and community leaders should have a special responsibility, due to the great influence on society's perspective and attitudes.

Interfaith Harmony was essential to maintaining peace and stability in a diverse society. Stimulating interreligious dialogue, collaboration, and understanding between different religious communities was an avenue to overcome possible tensions and conflicts. Countries implementing Islamic law could be essential in facilitating this dialogue and developing an environment supporting interreligious harmony. Additionally, addressing

inequalities that arose in the practice of Islamic law about religious minorities was necessary. In some cases, Islamic law provided different protections for non-Muslims regarding marriage, inheritance, or contract.¹¹ Reviewing and updating these provisions to ensure that the rights of religious minorities were recognized and respected was an essential step in developing a fair and inclusive society.

The issue of religious minorities' rights was observed not only in Muslim-majority countries but globally where Muslim communities were present as minorities. In this context, Muslim communities in minority countries needed to work closely with governments and societies to ensure the rights were respected and protected. Additionally, religious leaders and clerics should have an essential role as mediators and arbitrators in conflicts engaging religious minorities. The leaders could facilitate interreligious dialogue, ease tensions, and help find peaceful solutions in conflict situations.

The understanding and commitment to the values of peace and tolerance in Islam developed a climate conducive to protecting the rights of religious minorities. Consequently, addressing the issue of radicalization and religious extremism that threatened the rights of religious minorities was essential. States should work with religious institutions and leaders to identify and address the potential for societal radicalization. Efforts to understand the causes of radicalization and develop strategies to address these issues were essential steps in protecting the rights of religious minorities. Additionally, developing effective legal mechanisms to protect the rights of religious minorities was necessary. These included anti-discrimination solid laws, legal protections against attacks on places of worship, and court mechanisms that religious minorities could access when rights were violated.

The Implementation of Islamic Law in State Policies

¹¹ Muhammad Lutfi Hakim dan Khoiruddin Nasution, "Accommodating Non-Muslim Rights: Legal Arguments and Legal Principles in the Islamic Jurisprudence of the Indonesian Supreme Court in the Post-New Order Era," *Oxford Journal of Law and Religion* 11, no. 2-3 (2022): 288-313, <https://doi.org/10.1093/ojlr/rwad004>; Rudi Rudi dan Yaman Suryaman, "The Rights of Non-Muslims in an Islamic State," *Istinbath | Jurnal Penelitian Hukum Islam* 15, no. 2 (2017): 213-26, <https://doi.org/10.36667/istinbath.v15i2.28>.

Implementing Islamic law in the policies of Muslim-majority countries was often a complex challenge that addressed the rights of religious minorities guaranteed by the Constitution. Although Islamic law was the primary source of law for most Muslim countries, efforts to create a balance between the regulations and the rights of religious minorities faced conflict and tension. The main challenge was the varied interpretation and application of Islamic law across countries and even within the same nation.

Most Muslim-majority countries adopted elements of Islamic law, such as family or marriage regulation, as part of the legal systems. However, these differing implementations led to inequalities in treating religious minorities. In situations where the constitution contradicted Islamic law, a lack of clarity persisted concerning which principle held primacy. Some countries prioritized Islamic principles, while others were more inclined to maintain the broader constitution.¹² This created ambiguity about how the rights of religious minorities should be guaranteed and protected.

The concept of freedom of religion and belief was another related challenge, which was often at odds with Islamic law in some countries. Adhering to a religion or personal opinions was recognized as a human right internationally. However, implementing Islamic law restricted the rights in some cases, specifically to religious minorities who did not follow the majority belief. This created tension between universal human rights and Islamic law adopted by Muslim-majority countries. Furthermore, examining the issues related to the social and economic status of religious minorities in societies that apply Islamic law was essential. Religious minorities often face discrimination in access to employment, education, and health services. Therefore, the Islamic law or prevailing social norms impeded the active participation of religious minorities in society.

The rights of religious minorities within the framework of Islamic law were issues with complex and diverse implications in Muslim-majority countries. When discussing the rights of religious minorities in Islamic law, it was crucial to understand that Sharia was

¹² Lisa Hajjar, "Religion, state power, and domestic violence in Muslim societies: A framework for comparative analysis," *Law & Social Inquiry* 29, no. 1 (2004): 1-38, <https://doi.org/10.1111/j.1747-4469.2004.tb00329.x>; Ran Hirschl, "Opting out of 'global constitutionalism,'" *The Law & Ethics of Human Rights* 12, no. 1 (2018): 1-36, <https://doi.org/10.1515/lehr-2018-0003>.

applied with diverse interpretations throughout the Muslim countries. Some countries, such as Saudi Arabia, Sudan, and Indonesia, had different methods to address the rights of religious minorities. As a country with a majority Muslim population and a holy place of Islam, Saudi Arabia strictly implemented Sharia,¹³ where religious minorities' rights were minimal. Although the government made some social reforms in recent years, such as allowing women to drive and attend entertainment shows, the rights of religious minorities were still severely restricted. In Saudi Arabia, non-Muslims were restricted from worshipping at Islamic shrines in Mecca and Medina. Additionally, the construction of non-Muslim places of worship within the country was prohibited.

Sudan, another country with a majority Muslim population, experienced significant political change.¹⁴ After the mass protests in 2019, the authoritarian government of Omar al-Bashir fell and a transitional authority was formed. Under this new government, some steps towards the protection of the rights of religious minorities evolved by lifting the caning penalties previously applied for violations of Sharia law, such as drinking and adultery. However, the process towards the protection of religious minorities' rights remained infancy. Indonesia, the country with the largest Muslim population in the world, had a more moderate and pluralistic Islamic tradition. The Constitution guaranteed freedom of religion to all citizens, ensuring that every individual practiced a selected faith without fear of persecution or discrimination.¹⁵ While there were numerous cases of religious tolerance in Indonesia, there was also conflict and discrimination against religious minorities, specifically in more conservative areas. This showed that even in moderate

¹³ Esther Van Eijk, "Sharia and national law in Saudi Arabia," *Sharia incorporated: A comparative overview of the legal systems of twelve Muslim countries in past and present*, 2010, 139–80.

¹⁴ Nurhaya Muchtar dkk., "Journalism and the Islamic worldview: Journalistic roles in Muslim-majority countries," *Journalism studies* 18, no. 5 (2017): 555–75, <https://doi.org/10.1080/1461670X.2017.1279029>.

¹⁵ Nicola Colbran, "Realities and challenges in realising freedom of religion or belief in Indonesia," *The International Journal of Human Rights* 14, no. 5 (2010): 678–704, <https://doi.org/10.1080/13642980903155166>; Mohammad Naefi, "Future Challenge of the Freedom of Religion Act: Comparing Indonesia and Malaysia," *Semarang State University Undergraduate Law and Society Review* 1, no. 2 (2021): 125–40, <https://doi.org/10.15294/lsr.v1i2.50551>.

Muslim-majority countries such as Indonesia, challenges in protecting the rights of religious minorities persisted.

The legal implications of the cases reflected the diverse interpretations of Islamic law in Muslim-majority countries. Most nations with a Muslim-majority adopted Sharia as a source of law but the degree of implementation and performance differ. This created variations in the protection of the rights of religious minorities throughout the Muslim world. Countries such as Saudi Arabia experienced international criticism over restrictions on the rights of religious minorities in the states, while Indonesia aimed to promote religious tolerance despite local concerns. In evaluating this problem, understanding that no single approach could be applied across Muslim-majority countries was essential. Some countries could be more restrictive, while others will be more inclusive. The implications of each case reflected the complex interplay between legal, cultural, political, and social factors in those societies.

Among the critical challenges in implementing Islamic law in the policies of Muslim-majority countries was reaching an agreement on which aspects would be integrated into the national legal system and the process. This included complex questions about the different interpretations of Islamic law, as the regulations could be interpreted in various manners by different religious authorities. Additionally, Muslim-majority countries considered the balance between the principles of Islamic law and the constitutions that recognized the rights of religious minorities. This was challenging due to the discrepancies between Islamic law and universal human rights principles, such as freedom of religion or non-discrimination.

Muslim-majority countries actively engaged religious minorities in the policy-making process relating to Islamic law to achieve this balance. By accommodating the views and needs of religious minorities, the state could ensure that the rights were protected in the context of applied Islamic law. Additionally, creating an effective legal mechanism to resolve disputes between Islamic law and religious minorities' rights was essential. Alternative methods for resolving disputes, such as mediation or arbitration, assisted in

achieving fair solutions without necessarily overriding the principles of Islamic law or religious minorities' rights.

Maintaining transparency and accountability in the policy-making process related to Islamic law was essential. This was achieved through civil society participation, publication of policy-related information, and strong oversight mechanisms. With this method, the public was able to understand and monitor how policies including Islamic law were implemented, as well as ensuring that the rights of religious minorities were respected. Additionally, courts played an essential role in maintaining a balance between Islamic law and the rights of religious minorities by serving as dispute breakers as well as performing testing functions against policies violating human rights principles. Fair and independent judicial decisions helped in ensuring that the rights of religious minorities remained protected in the implementation of Islamic law.

The historical implementation of Islamic law in policies that conflicted with constitutionally guaranteed rights of religious minorities identified the need for stronger legal protections and enforcement mechanisms.¹⁶ States should have effective mechanisms to protect the rights of religious minorities and address violations of those privileges. A crucial mechanism for safeguarding religious minorities' rights was the ombudsman or human rights commission. These independent bodies received reports of rights violations and investigated the findings independently. The commission had the authority to recommend legal and administrative action against the offender. The mechanism was essential to provide a sense of justice to religious minorities and prevent further violations of rights.

Legal protections for religious minorities included efforts to prevent systemic discrimination. This comprised drafting and implementing anti-discrimination solid laws

¹⁶ Moch Nur Ichwan, Arskal Salim, dan Eka Srimulyani, "Islam and dormant citizenship: soft religious ethno-nationalism and minorities in Aceh, Indonesia," *Islam and Christian-Muslim Relations* 31, no. 2 (2020): 215-40, <https://doi.org/10.1080/09596410.2020.1780407>; Siti Rohmah, "THE PATTERN OF ABSORPTION OF ISLAMIC LAW INTO NATIONAL LAW: Study of The Halal Product Guarantee Law in The Perspective of Maqashid Shari'ah," *Jurisdictie: Jurnal Hukum dan Syariah* 12, no. 1 (2021): 20-47, <https://doi.org/10.18860/j.v12i1.10521>.

to prohibit discrimination based on religion or belief. States should also take concrete steps to remove obstacles that hinder the full participation of religious minorities in public life. Law enforcement was an essential aspect of protecting the rights of religious minorities. The state should ensure that violations of the rights of religious minorities were carefully investigated, and the perpetrators were tried fairly. The presence of strong laws and effective enforcement provided safeguards to religious minorities and prevented rights violations.

More significant legal reform was needed to ensure that Islamic law and the rights of religious minorities could coexist harmoniously in most cases. This included changes in family or marriage laws, which often significantly impacted the rights of women and religious minorities. Furthermore, wise and consultative reform created a legal framework that was more inclusive and respected the rights of all citizens. Promoting interreligious and intercultural dialogue was essential to address conflicts between Islamic law and the rights of religious minorities. Constructive dialogue between different religious groups could also help reduce tensions and create a better understanding of differences in religious beliefs and practices.

The role of mass media and Information Technology in influencing public opinion was equally crucial. The Mass Media was responsible for reporting issues related to the rights of religious minorities fairly and objectively. Furthermore, social media and online platforms should also be used responsibly to avoid spreading intolerant or discriminatory messages. The findings emphasized that implementing Islamic law in the context of conflicts with the rights of religious minorities was not an impossible challenge. With human rights-based, inclusive, and dialogue-based methods, Muslim-majority countries could achieve a balance that enabled the implementation of Islamic law while preserving and respecting the rights of religious minorities. The joint efforts of various stakeholders, including governments, civil society, and international organizations, were critical to creating inclusive communities, respecting the rights of religious minorities, and promoting interfaith harmony worldwide.

Challenges and Changes in a Modern Context

Challenges and changes in the implications of Islamic law in Muslim-majority countries were complex issues that continued to evolve with the changing times. Across the Muslim world, there were vast differences in how Islamic law was applied and the influencing factors. A significant challenge experienced by Muslim-majority countries was the variation in Islamic law's interpretation. This often led to conflicts in determining the law and the punishment that should have been applied. For instance, in the case of sharia punishments such as flogging, amputation, or the death penalty, different interpretations of Islamic law resulted in significant differences in the implementation. Additionally, social, cultural, and political changes affected the performance of Islamic law in Muslim-majority countries. These changes were shifts in societal values, economic developments, or political changes that affected how the state perceived Islamic law. Along with modernization, numerous Muslim-majority countries consider it necessary to modernize Islamic law to suit rapidly evolving social and economic realities. This included the adaptation of Islamic law into more modern legal frameworks, such as Islamic banking, family, and economic laws.

Protecting human rights was a significant change in the implications of Islamic law in Muslim-majority countries. The nations were often faced with international demands to ensure that Islamic law did not violate religious minorities, women, and other individual's rights. In some countries, there was pressure to reduce or abolish severe punishments imposed by Sharia law, such as the death penalty or amputation. Additionally, demands to create a more inclusive legal framework and support religious tolerance were becoming increasingly important in some countries. This was a response to the need to promote harmony and diversity in societies with significant religious minorities. Countries such as Indonesia tried to preserve religious freedom and motivate interreligious tolerance, although challenges persisted in the consistent implementation across the nation.¹⁷

¹⁷ Jeniffer Pelupessy-Wowor, "The role of religious education in promoting religious freedom: A mutual enrichment between 'My Story,' 'Your Story,' and 'Our Stories,'" *The Review of Faith & International Affairs* 14, no. 4 (2016): 98-106, <https://doi.org/10.1080/15570274.2016.1248527>; Sri Widayati dan Eka Cahya Maulidiyah, "Religious tolerance in Indonesia," dalam *2nd International Conference on Education Innovation (ICEI 2018)* (Atlantis Press, 2018), 685-88, <https://doi.org/10.2991/icei-18.2018.155>.

There was a growing demand to adhere to international human rights norms and standards. Muslim-majority countries were often in a challenging position, as global demands were considered while preserving cultural identities and values. The main challenge was how these countries could fulfill human rights obligations without compromising the religious principles and values underlying the societies. Internal dialogue and consultation in Muslim-majority countries were essential in addressing these challenges. This included the participation of religious mentors, clerics, and community leaders to discuss how to correlate Islamic law with human rights principles. The inclusive method helped to reach a consensus and ease tensions in society.

The discussion of the challenges and changes in the modern context of protecting religious minorities' rights in Muslim-majority countries considered the role of external actors, globalization, and regional dynamics affecting this issue. During globalization, the interaction between countries became increasingly complex. Muslim-majority countries were faced with external pressure from international parties, including human rights organizations, partner nations, and advocacy groups. The countries were usually required to comply with international human standards in the protection of religious minorities' rights. The challenge for Muslim-majority countries to preserve sovereignty while engaging with the international community became apparent.

The findings further showed the importance of regional cooperation as the issue of religious minorities' rights was a source of conflict between countries in the same region. Therefore, regional forums and collaborative efforts assisted to resolve disputes and promote the protection of the rights of religious minorities throughout the region. The development of information technology and social media also changed how information was disseminated, and society's perspective was affected. Muslim-majority countries needed to understand the impact of social media and the internet on public opinion as well as

attitudes towards religious minorities.¹⁸ Steps should be taken to prevent the spread of intolerant or discriminatory messages through online platforms.

Beyond the discussion of challenges and changes in the modern context of protecting religious minorities' rights in Muslim-majority countries, several other essential aspects such as the need to tackle religious extremism demanded attention. Some extremist groups used religion as a tool to justify violent and discriminatory acts against religious minorities. Muslim-majority countries should relentlessly tackle this extremism and separate religion from violence. This included better education about tolerance and inclusion in religion and increased cooperation between governments, religious leaders, and civil society in preventing radicalization.

Religious leaders' influence in Muslim societies necessitated the role of promoting minority rights education. The influence also helped ease tensions between different religious communities through interreligious dialogue. The role of mass media also remained relevant in the modern context influencing public opinion and creating awareness about the rights issues of religious minorities. Therefore, the press should be committed to providing fair and balanced coverage of topics as well as avoiding the spread of intolerant or discriminatory messages.

Strengthening the role of human rights institutions in Muslim-majority countries was considered necessary. These institutions had sufficient autonomy to investigate violations of religious minorities' rights, as well as recommend corrective measures to the government. It was essential that these institutions not only existed as cosmetic measures but also had a substantial role in monitoring and reporting violations of religious minorities' rights. Additionally, supporting the role of civil society and non-governmental organizations in advocating for the rights was essential. NGOs and advocacy groups could independently uncover rights violations and support religious minorities facing pressure.

¹⁸ Saifuddin Ahmed dan Jörg Matthes, "Media representation of Muslims and Islam from 2000 to 2015: A meta-analysis," *International communication gazette* 79, no. 3 (2017): 219-44, <https://doi.org/10.1177/1748048516656305>; Khaista Rahman, "Attitudes towards Religious minorities in Pakistan: Gaps in the literature and future directions," *Pakistan Languages and Humanities Review* 5, no. 2 (2021): 345-59, [https://doi.org/10.47205/plhr.2021\(5-II\)2.28](https://doi.org/10.47205/plhr.2021(5-II)2.28).

Muslim-majority countries should ensure that civil society operates freely and not hindered by legal or administrative barriers.

Addressing structural discrimination in state law and policy was important, as it undermined the fundamental principles of equality and justice. Numerous Muslim-majority countries had laws that discriminated against religious minorities, such as blasphemy or marriage regulations affecting minorities.¹⁹ Legal reforms supporting equality and non-discrimination should be an integral part of efforts to protect the rights of religious minorities. In addressing the challenge, it was essential to understand that the rights of religious minorities were not a threat to national identity or culture. The recognition of the rights was an underlying step in building an inclusive and stable society. Creating a positive narrative about the importance of religious pluralism in enriching a country's culture and values helped ease tensions and resistance to change.

The modern context of protecting religious minorities' rights in Muslim-majority countries presented new challenges and changes. Consequently, examining several additional relevant aspects became crucial. First, Muslim-majority countries needed to reassess the interpretation and implementation of Islamic law about the rights of religious minorities in the face of rapid social and cultural change. A critical step included recognizing the diverse interpretations and applications of Islamic law. This understanding facilitated the adaptation of certain aspects to correlate with universal human rights principles. Priority should be given to fostering a broader and more moderate comprehension of religion, which respects the rights of minorities and promotes tolerance.

Second, creating an effective mechanism for reporting and addressing violations of religious minorities' rights was essential. This included developing an independent agency that could receive reports of violations, investigate the cases objectively, and provide

¹⁹ Paul Marshall, "The Ambiguities of Religious Freedom in Indonesia," *The Review of Faith & International Affairs* 16, no. 1 (2 Januari 2018): 85-96, <https://doi.org/10.1080/15570274.2018.1433588>; Yüksel Sezgin, "A global and historical exploration: Legislative reform in Muslim family laws in Muslim-majority versus Muslim-minority countries," *Law & Policy* 45, no. 2 (2023): 110-36, <https://doi.org/10.1111/lapo.12210>; Ahmed Salisu Garba, "The Prospects and Problems of the Marrakesh Declaration on the Rights of Religious Minorities in Muslim Majority Communities," *The Review of Faith & International Affairs* 16, no. 4 (2018): 47-59, <https://doi.org/10.1080/15570274.2018.1535038>.

recommendations for remedial action to the government. Transparency and accessibility in this process were critical in ensuring justice for religious minorities. Third, the role of education in changing society's perceptions and attitudes was essential. Therefore, society required a better understanding of human rights, religious pluralism, and the importance of respecting the rights of religious minorities. This included changes in the school curriculum and a broader educational campaign in society to combat stereotypes and prejudices against religious minorities.

Fourth, interreligious cooperation and interreligious dialogue played a significant role in building interfaith understanding and collaboration. These initiatives could help ease tensions, promote tolerance, and build trust between religious communities. Fifth, the need for active participation of religious minorities in policy-making that impacted the communities was essential. This ensured religious minorities' perspectives were heard and considered in decision-making. The active participation of religious minorities also strengthened the right to participate in society. Sixth, Muslim-majority countries needed to consider adopting laws that protect the rights of religious minorities in particular. Although universal human rights were the basis, specific laws provided additional protection to religious minorities and clarified the state's obligations.

The modern context presented challenges and changes, emphasizing the need for joint efforts from various stakeholders. Within this framework, Muslim-majority countries created more inclusive societies, respected the rights of religious minorities, and promoted interreligious peace and harmony. Furthermore, a shared commitment to ensuring universal recognition and appreciation of human rights for all individuals was considered critical to creating a more fair and harmonious world.

CONCLUSION

In conclusion, the implications of Islamic law on the rights of religious minorities in Muslim-majority countries were subjects of study that presented multidimensional complexities deserving careful exploration. Three main dimensions described the complexity of this study. First, the findings showed that Islamic law as a legal framework

and religious values provided a potential basis for protecting the rights of religious minorities. However, the interpretation of Islamic law in this regard varied significantly among Muslim countries. This created a landscape that included a diverse number of perspectives and methods to the manner Islamic law played a role in protecting the rights of religious minorities. Second, the implementation of Islamic law within the framework of state policy was a significant element in determining the extent to which the rights of religious minorities could be protected. Some countries succeeded in creating inclusive policy frameworks that recognized the principles of religious freedom and non-discrimination. However, the challenge of maintaining the right balance between the fundamental principles of Islamic law and internationally recognized universal human rights remained a significant hurdle. This obstacle set the stage for a heated debate about the extent to which Islamic law's influence on state policy should correlate with universal human rights norms. Third, challenges and dynamics in the modern context, such as the impact of globalization, social change, and advances in Information Technology, prompted the need for Muslim-majority countries to continually adapt to these external pressures.

Historically, managing public perceptions of religious minorities' rights presented an additional challenge. The rise in global communication and broader access to information significantly influenced the understanding of religious minorities' rights. In response to these complex dynamics, the study emphasized the need for a holistic and inclusive method in formulating policies and actions. This method included wise legal reform efforts, interfaith dialogue that builds mutual understanding, and informative community education. Therefore, society would experience a transformation that leads to greater inclusiveness and more substantial respect for the rights of religious minorities worldwide through this comprehensive method.

BIBLIOGRAPHY

Abdulla, Mariam Rawan. "Culture, religion, and freedom of religion or belief." *The Review of Faith & International Affairs* 16, no. 4 (2018): 102-15.
<https://doi.org/10.1080/15570274.2018.1535033>.

- Ahmed, Saifuddin, dan Jörg Matthes. "Media representation of Muslims and Islam from 2000 to 2015: A meta-analysis." *International Communication Gazette* 79, no. 3 (2017): 219-44. <https://doi.org/10.1177/1748048516656305>.
- Alidadi, Katayoun, dan Marie-Claire Foblets. "Framing multicultural challenges in freedom of religion terms: Limitations of minimal human rights for managing religious diversity in Europe." *Netherlands Quarterly of Human Rights* 30, no. 4 (2012): 388-416. <https://doi.org/10.1177/016934411203000403>.
- An-Nacim, Abdullahi Ahmed. "The compatibility dialectic: Mediating the legitimate coexistence of Islamic law and state law." *The Modern Law Review* 73, no. 1 (2010): 1-29. <https://doi.org/10.1111/j.1468-2230.2009.00782.x>.
- Bano, Samia. "In pursuit of religious and legal diversity: A response to the Archbishop of Canterbury and the 'Sharia debate in Britain.'" *Ecclesiastical Law Journal* 10, no. 3 (2008): 283-309. <https://doi.org/10.1017/S0956618X08001415>.
- Bielefeldt, Heiner. "'Western' versus 'Islamic' human rights conceptions? A critique of cultural essentialism in the discussion on human rights." *Political theory* 28, no. 1 (2000): 90-121. <https://doi.org/10.1177/0090591700028001005>.
- Brown, R Khari, dan Ronald E Brown. "The challenge of religious pluralism: The association between interfaith contact and religious pluralism." *Review of Religious Research* 53 (2011): 323-40. <https://doi.org/10.1007/s13644-011-0014-5>.
- Colbran, Nicola. "Realities and challenges in realizing freedom of religion or belief in Indonesia." *The International Journal of Human Rights* 14, no. 5 (2010): 678-704. <https://doi.org/10.1080/13642980903155166>.
- Crouch, Melissa A. "Law and religion in Indonesia: The constitutional court and the blasphemy law." *Asian Journal of Comparative Law* 7 (2011): 1-46. <https://doi.org/10.1017/S2194607800000582>.
- Eijk, Esther Van. "Sharia and national law in Saudi Arabia." *Sharia Incorporated: A comparative overview of the legal systems of twelve Muslim countries in past and present*, 2010, 139-80.

- Emon, Anver M. *Religious pluralism and Islamic law: Dhimmis and others in the Empire of Law*. Oxford University Press, 2012.
- Evans, Carolyn. "Religious freedom in European human rights law: The search for a guiding conception." Dalam *Religion and International Law*, 385-400. Brill Nijhoff, 2004. https://doi.org/10.1163/9789047413400_024.
- Finke, Roger, dan Robert R Martin. "Ensuring liberties: Understanding state restrictions on religious freedoms." *Journal for the Scientific Study of Religion* 53, no. 4 (2014): 687-705. <https://doi.org/10.1111/jssr.12148>.
- Garba, Ahmed Salisu. "The Prospects and Problems of the Marrakesh Declaration on the Rights of Religious Minorities in Muslim Majority Communities." *The Review of Faith & International Affairs* 16, no. 4 (2018): 47-59. <https://doi.org/10.1080/15570274.2018.1535038>.
- Gouda, Moamen, dan Jerg Gutmann. "Islamic constitutions and religious minorities." *Public Choice* 186, no. 3-4 (2021): 243-65. <https://doi.org/10.1007/s11127-019-00748-7>.
- Hajjar, Lisa. "Religion, state power, and domestic violence in Muslim societies: A framework for comparative analysis." *Law & Social Inquiry* 29, no. 1 (2004): 1-38. <https://doi.org/10.1111/j.1747-4469.2004.tb00329.x>.
- Hakim, Muhammad Lutfi, dan Khoiruddin Nasution. "Accommodating Non-Muslim Rights: Legal Arguments and Legal Principles in the Islamic Jurisprudence of the Indonesian Supreme Court in the Post-New Order Era." *Oxford Journal of Law and Religion* 11, no. 2-3 (2022): 288-313. <https://doi.org/10.1093/ojlr/rwad004>.
- Hirschl, Ran. "Opting out of 'global constitutionalism.'" *The Law & Ethics of Human Rights* 12, no. 1 (2018): 1-36. <https://doi.org/10.1515/lehr-2018-0003>.
- Ichwan, Moch Nur, Arskal Salim, dan Eka Srimulyani. "Islam and dormant citizenship: soft religious ethno-nationalism and minorities in Aceh, Indonesia." *Islam and Christian-Muslim Relations* 31, no. 2 (2020): 215-40. <https://doi.org/10.1080/09596410.2020.1780407>.

- Karimullah, Suud Sarim. "For True Humanity: Harmonization of Islamic Law and Human Rights Towards Universal Justice." *Matan: Journal of Islam and Muslim Society* 5, no. 2 (2023): 40-56. <https://doi.org/10.20884/1.matan.2023.5.2.9125>.
- . "Pursuing Legal Harmony: Indonesianization of Islamic Law Concept and Its Impact on National Law." *Mazahib* 21, no. 2 (27 Desember 2022): 213-44. <https://doi.org/10.21093/mj.v21i2.4800>.
- Lathifah, Amalia. "Interpretation Of Verses On Women In Islamic Law Politics." *MILRev : Metro Islamic Law Review* 2, no. 1 (30 Juni 2023): 10-26. <https://doi.org/10.32332/milrev.v2i1.6872>.
- Marshall, Paul. "The Ambiguities of Religious Freedom in Indonesia." *The Review of Faith & International Affairs* 16, no. 1 (2 January 2018): 85-96. <https://doi.org/10.1080/15570274.2018.1433588>.
- Mehfooz, Musferah. "Religious freedom in Pakistan: A case study of religious minorities." *Religions* 12, no. 1 (2021): 51. <https://doi.org/10.3390/rel12010051>.
- Muchtar, Nurhaya, Basyouni Ibrahim Hamada, Thomas Hanitzsch, Ashraf Galal, Masduki, dan Mohammad Sahid Ullah. "Journalism and the Islamic worldview: Journalistic roles in Muslim-majority countries." *Journalism Studies* 18, no. 5 (2017): 555-75. <https://doi.org/10.1080/1461670X.2017.1279029>.
- Muhajir, Muhajir, Ihda Shofiyatun Nisa, Akhmad Munawar, dan Suud Sarim Karimullah. "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law." *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 86-103. <https://doi.org/10.30984/jis.v21i1.2321>.
- Naefi, Mohammad. "Future Challenge of the Freedom of Religion Act: Comparing Indonesia and Malaysia." *Semarang State University Undergraduate Law and Society Review* 1, no. 2 (2021): 125-40. <https://doi.org/10.15294/lsr.v1i2.50551>.
- Nielsen, Jørgen S. "Contemporary discussions on religious minorities in Muslim countries." *Islam and Christian-Muslim Relations* 14, no. 3 (2003): 325-35. <https://doi.org/10.1080/09596410305269>.

- Pelupessy-Wowor, Jeniffer. "The role of religious education in promoting religious freedom: A mutual enrichment between 'My Story,' 'Your Story,' and 'Our Stories.'" *The Review of Faith & International Affairs* 14, no. 4 (2016): 98-106. <https://doi.org/10.1080/15570274.2016.1248527>.
- Rahman, Khaista. "Attitudes towards Religious minorities in Pakistan: Gaps in the literature and future directions." *Pakistan Languages and Humanities Review* 5, no. 2 (2021): 345-59. [https://doi.org/10.47205/plhr.2021\(5-II\)2.28](https://doi.org/10.47205/plhr.2021(5-II)2.28).
- Rohmah, Siti. "THE PATTERN OF ABSORPTION OF ISLAMIC LAW INTO NATIONAL LAW: Study of The Halal Product Guarantee Law in The Perspective of Maqashid Shari'ah." *Jurisdiction: Jurnal Hukum dan Syariah* 12, no. 1 (2021): 20-47. <https://doi.org/10.18860/j.v12i1.10521>.
- Rudi, Rudi, dan Yaman Suryaman. "The Rights of Non-Muslims in an Islamic State." *Istinbath | Jurnal Penelitian Hukum Islam* 15, no. 2 (2017): 213-26. <https://doi.org/10.36667/istinbath.v15i2.28>.
- Sezgin, Yüksel. "A global and historical exploration: Legislative reform in Muslim family laws in Muslim-majority versus Muslim-minority countries." *Law & Policy* 45, no. 2 (2023): 110-36. <https://doi.org/10.1111/lapo.12210>.
- Sullivan, Donna J. "Advancing the Freedom of Religion or Belief through the UN Declaration on the Elimination of Religious Intolerance and Discrimination." *American Journal of International Law* 82, no. 3 (1988): 487-520. <https://doi.org/10.2307/2202962>.
- Sutrisno, Edy, Ahmad Fanani, dan Marsidi Marsidi. "A Female Leaders In The Perspective Of Islamic Law And Legal Regulations." *MILRev : Metro Islamic Law Review* 2, no. 1 (30 Juni 2023): 27-51. <https://doi.org/10.32332/milrev.v2i1.6879>.
- Wani, Hilal, Raihanah Abdullah, dan Lee Wei Chang. "An Islamic perspective in managing religious diversity." *Religions* 6, no. 2 (2015): 642-56. <https://doi.org/10.3390/rel6020642>.

Widayati, Sri, dan Eka Cahya Maulidiyah. "Religious tolerance in Indonesia." Dalam *2nd International Conference on Education Innovation (ICEI 2018)*, 685–88. Atlantis Press, 2018. <https://doi.org/10.2991/icei-18.2018.155>.

Yilmaz, Ihsan. *Muslim laws, politics and society in modern nation states: Dynamic legal pluralisms in England, Turkey, and Pakistan*. Routledge, 2016.