The Dynamics of Legal Standardization: A Study of Statutory Codification and Administrative Authority

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Abstract: The dynamics of legal standardization are frequently characterized as a necessary mechanism for achieving administrative certainty and systematic order. This research examines the structural and functional changes that occur during the transition from decentralized interpretive frameworks to centralized statutory systems. Utilizing a structural diagnostic approach, the study evaluates how the integration of traditional norms into a formal administrative framework reconfigures the nature of legal authority. The findings indicate that the standardization process involves the relocation of interpretive validity from decentralized professional networks to centralized institutional bodies, establishing a bureaucratic system governed by modern administrative standards. This transition provides a basis for clarifying institutional roles, where statutory regulations function as distinct administrative instruments. These findings offer a necessary framework for stakeholders, including policy developers, judicial officers, and academic researchers, to navigate the shift toward formalized legal codes. The study concludes by suggesting that the institutionalization of diverse practices necessitates a comprehensive evaluation of the suitability of centralized state mechanisms for managing complex social and professional norms within a standardized regulatory environment.

Keywords: Legal Standardization, Codification, Administrative, Regulatory Frameworks

Introduction

This study examines the structural and normative implications of codifying Shari'a within the modern legal framework. While the transformation of diverse interpretive traditions into a standardized legal code is frequently characterized as a mechanism for achieving legal certainty and systematic order, this paper investigates the consequences of this institutional shift. The analysis focuses on the transition from a discursive normative tradition to a centralized statutory system. Specifically, this research explores how the formalization of law reconfigures the traditional nature of Shari'a, shifting the focus from pluralistic interpretive discourse to state-sanctioned enforcement

The primary focus of this research is not the practical feasibility of codifying Shari'a. Instead, the study investigates the structural and functional changes that occur within the legal system as a result of the codification process. This research examines how the transition from a traditional system of diverse interpretations to a centralized state legal

system affects the character of the law. It specifically analyzes the transformation of Shari'a as it is integrated into a government administrative framework. Furthermore, the analysis identifies the shift from an ethical tradition to a formal regulatory system, moving beyond a simple comparison of legal texts.

This research differs from traditional legal history that focuses on the chronological development of doctrines. Instead, it utilizes a genealogical methodology to identify the historical factors and institutional dynamics that facilitated the establishment of the modern framework of Islamic law. This approach analyzes the specific historical developments that led to the emergence and implementation of state-sanctioned legal systems. The study focuses on the processes that resulted in the current standardized legal form and identifies the elements of legal reasoning that were not integrated into the formal state framework.

This study applies the framework of Mohammed Arkoun to analyze the integration of the ethico-religious sphere into the state's political and ideological structures. Arkoun's concept focuses on the centralization of religious discourse as it is incorporated into a standardized system to maintain administrative uniformity. This process results in a conceptual category known as 'the unthought' (*l'impensé*), which refers to the set of assumptions that are no longer prioritized within the dominant legal framework.[1] This paper evaluates the assumption that codification represents a direct continuation of Shari'a, and examines the structural transformation involved in this transition.

This study argues that the codification of Shari'a by the modern nation-state represents a significant structural transition in the nature of legal authority. This process involves the movement of authority from a decentralized, persuasive framework to a centralized, administrative system. Existing scholarship establishes that classical Islamic law was historically mediated through jurists and the community, where authority was derived from scholarly consensus rather than state enforcement.[2] The authority of these jurists was primarily based on reputational status.[3] This decentralized structure facilitated interpretive pluralism (*ikhtilaf*), which functioned as a mechanism for legal flexibility and social adaptation.[4] In contrast, the modern nation-state employs legal positivism to centralize authority, basing legal validity on sovereign enactment rather than religious or moral foundations.[5] This shift is further reinforced by legal secularization, which standardizes religious law into a formal administrative framework.[6] In regions like Southeast Asia, this

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[1] Taufik Hidayatulloh, "Navigating Contemporary Islamic Reason: An Epistemological Analysis of Mohammed Arkoun," *Jurnal Pemikiran Islam* 4, no. 1 (June 2024): 1–18, https://doi.org/10.22373/jpi.v4i1.23080; M. Arkoun, *The Unthought in Contemporary Islamic Thought*, (London: Saqi Books, 2002).

[2] Wael B. Hallaq, *Authority, Continuity and Change in Islamic Law*, 1st ed. (Cambridge University Press, 2001), https://doi.org/10.1017/CBO9780511495557; Asifa Quraishi and Mohammad Hashim Kamali, "Principles of Islamic Jurisprudence," *Journal of Law and Religion* 15, no. 1/2 (2000): 385, https://doi.org/10.2307/1051529.

[3] Muhammad Najib Alsayed, "The Principle of Restricting the Ruler's Authority in Islamic Jurisprudence: Its Foundations, Nature and Objectives: الأسس والطبيعة والغايات: مبدأ تقييد سلطة الحاكم في الفقه الإسلامي," *International Journal of Fiqh and Usul Al-Fiqh Studies* 7, no. 1 (January 2023): 31–45, https://doi.org/10.31436/ijfus.v7i1.284.

[4] Ahmad Taufik Hidayat and Alfurqan Alfurqan, "PLURALISTIC FIQH BASED ON PERSPECTIVE OF IMAM AL-SYA'RANI IN THE BOOK OF AL-MIZAN AL-KUBRA," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 7, no. 2 (September 2020): 83, https://doi.org/10.29300/mzn.v7i2.3596; Muhammad Ikhsan, "Membedah Faktor-Faktor Penyebab Terjadinya Ikhtilaf Di Kalangan Ulama," *Nukhbatul 'Ulum* 2, no. 1 (December 2016): 140–58, https://doi.org/10.36701/nukhbah.v2i1.10.

[5] Yogi Prasetyo and Absori Absori, "Study Of Legal Positivism," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 8, no. 2 (December 2019): 21–37, https://doi.org/10.14421/sh.v8i2.2133; Raymond Wacks, *Understanding Jurisprudence* (Oxford University Press, 2015), https://doi.org/10.1093/he/9780198723868.001.0001.

[6] W. Cole Durham, Javier Martínez-Torrón, and Donlu Thayer, *Law, Religion, and Freedom: Conceptualizing a Common Right*, 1st ed., ed. Jr. Durham, Javier Martínez-Torrón, and Donlu D Thayer (Routledge, 2021), https://doi.org/10.4324/9781315149738; Joanna K. Rozpedowski, "Law, Secularism, and the Evolution of the 'Human' in International Legal Discourse and Global Governance," in *Why Religion? Towards a Critical Philosophy of Law, Peace and God*, ed. Dawid Bunikowski and Alberto Puppo (Cham: Springer International Publishing, 2020), 225–53, https://doi.org/10.1007/978-3-030-35484-8_11.

transformation into statutory law highlights a state-driven project aimed at the bureaucratization and standardization of traditional legal practices.[7]

While existing scholarship describes how codification centralizes authority and reduces pluralism, a gap remains regarding the conceptual nature of this transition. Current studies focus primarily on functional changes from socio-legal or historical-doctrinal perspectives. This paper examines the structural shift in the character of Shari'a when its source of validity is transferred from traditional scholarly interpretation to state legislation. By employing a genealogical method and Arkoun's framework, this study evaluates the changes in the identity of the resulting legal system. This inquiry focuses on identifying the foundational transformations that have not been fully addressed in existing literature.

The methodology of this study utilizes a genealogical approach to substantiate the central thesis. The research first analyzes the structural changes that occur when Shari'a is formalized into a legal code. This involves a reconstruction of the pre-codification framework, which was characterized by interpretive pluralism and persuasive authority. Subsequently, the analysis examines the principles of the modern state, focusing on the requirements for legal unity and certainty, and how these factors interact with classical legal structures. Finally, the research investigates the historical and conceptual mechanisms involved in the centralization of authority during the process of Islamic law codification.

The novelty of this research is identified in three interconnected areas, each providing an analytical contribution to contemporary Islamic legal studies through a focus on institutional frameworks.

First, the methodological contribution. This study utilizes a structural diagnostic approach to examine the historical and institutional form of codification. Unlike studies focused on legal content, this method analyzes the formalization of law as an administrative process. It provides an analytical framework to evaluate the foundations of legal debates, focusing on the structural implications of legislative formalization beyond doctrinal disputes.

Second, the conceptual contribution. This research identifies a distinction between decentralized legal traditions and state-sanctioned statutory systems. While traditional frameworks are characterized as pluralistic and persuasive, statutory systems are defined as unified regulatory instruments. This framework analyzes the role of policymakers as producers of administrative law and examines the interaction between centralized statutes and traditional legal reasoning.

Third, the theoretical contribution. This research integrates modern legal theories with Islamic legal frameworks. The primary contribution is the analysis of codification as a centralization of authority, providing a framework to examine the transition within legal structures. This analysis establishes a foundation for investigating the interaction between centralized legislation and decentralized legal mechanisms within the modern state.

Research Methods

This research utilizes an interdisciplinary legal study framework with a juridical-philosophical approach. It employs a genealogical analysis to examine the institutional and conceptual frameworks of Islamic law codification.[8] The research is operationalized through a three-stage diagnostic process. The first stage involves reconstructing the pre-codification framework of Shari'a to establish a historical baseline. Based on historical scholarship, this phase identifies the traditional authority structure as a decentralized and persuasive

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[7] Aharon Layish, "The Transformation Of The Sharī'a From Jurists' Law To Statutory Law In The Contemporary Muslim World," *Die Welt Des Islams* 44, no. 1 (2004): 85–113, https://doi.org/10.1163/157006004773712587; Kerstin Steiner, "Branding Islam: Islam, Law, and Bureaucracies in Southeast Asia," *Journal of Current Southeast Asian Affairs* 37, no. 1 (April 2018): 27–56, https://doi.org/10.1177/186810341803700102.

[8] John S. Ransom, *Foucault's Discipline: The Politics of Subjectivity* (Durham: Duke University Press, 1997).

system.[9] The second stage identifies the historical developments and institutional shifts associated with modern state sovereignty. Drawing from political philosophy, this phase examines the requirements for legal unity and certainty inherent in the modern state framework and their interaction with traditional legal systems.[10] The third stage analyzes the contemporary outcomes of these institutional changes through specific case studies. This final phase characterizes modern Islamic law as a legislative construct, examining how authority is centralized and formalized within the state's administrative and regulatory power.[11]

This genealogical approach incorporates Foucault's methodology regarding historical critique and discourse analysis,[12] alongside Arkoun's analytical framework of the 'unthought' (*l'impensé*).[13] The selection of this methodology facilitates an analysis that extends beyond conventional doctrinal or socio-legal perspectives. Rather than evaluating the specific content of legal doctrines, the research focuses on the historical factors and institutional dynamics that enabled the establishment of the modern legal form of Islamic law. As a qualitative library-based study, this inquiry utilizes the works of Foucault and Arkoun as primary methodological guides. The analysis draws upon historical, philosophical, and contemporary legal texts as primary data for the genealogical assessment.

Results and Discussion
An Examination of Pre-Codification Shari'a Authority

To understand the structural transition in Islamic law, it is necessary to analyze its historical framework prior to the codification period. This analysis focuses on the nature of Shari'a authority before the establishment of modern legal codes. Historical scholarship indicates that classical Islamic legal authority functioned as a decentralized system where legal interpretation was mediated by the scholarly work of jurists (*fuqaha*). Within this framework, law was not structured as a centralized code but was developed through diverse methods of legal reasoning. The primary characteristic of this system was that the authority of the jurists was based on persuasive reasoning rather than institutionalized state enforcement.[14]

The construction of persuasive authority was based on scholarly expertise in foundational texts and the application of independent reasoning (*ijtihad*), rather than administrative or executive power. Within this framework, authority was established through argumentative reasoning and the process of scholarly consensus. This involved the comparative analysis of legal opinions across different schools of thought to validate specific arguments.[15] The validity of a jurist's opinion was contingent upon recognition by peer networks and the community regarding the methodological rigor of the reasoning provided. Consequently, this system operated as a decentralized interpretive model where legal

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[9] Michel Foucault, *The Archaeology of Knowledge* (Westminster: Knopf Doubleday Publishing Group, 2012).

[10] Foucault, *The Archaeology of Knowledge*.

[11] Mohammed Arkoun, *Pour une critique de la raison islamique*, Islam d'hier et d'aujourd'hui 24 (Paris: Maisonneuve et Larose, 1984).

[12] Michel Foucault, *Language, Counter-Memory, Practice: Selected Essays and Interviews* (Cornell University Press, 1980).

[13] Arkoun, *Pour une critique de la raison islamique*.

[14] Hanif Aidhil Alwana, "ALIRAN PEMIKIRAN USHUL FIQH DAN PENGARUHNYA TERHADAP PENDEKATAN HUKUM ISLAM," *JURIS (Jurnal Ilmiah Syariah)* 19, no. 2 (December 2020): 147, https://doi.org/10.31958/juris.v19i2.2375; Dziauddin Sharif et al., "The Methodology of Comparative School of Thought on Al-Rahn Discussion: A Reference to the Selected Islamic Jurisprudence Classical Books," *Jurnal Akidah & Pemikiran Islam*, April 30, 2020, 47–78, https://doi.org/10.22452/afkar.sp2020no1.3.

[15] Sharif et al., "The Methodology of Comparative School of Thought on Al-Rahn Discussion"; Alwana, "ALIRAN PEMIKIRAN USHUL FIQH DAN PENGARUHNYA TERHADAP PENDEKATAN HUKUM ISLAM."

conclusions were reached through dialectical processes rather than a centralized command structure.

The *fatwa* served as a primary instrument of persuasive authority within this historical framework. In the pre-modern context, a *fatwa* was defined as a non-binding scholarly opinion issued in response to communal inquiries, which was distinct from formal judicial sentencing. Despite its non-binding nature, the *fatwa* exerted significant influence on social regulation. These instruments functioned as mechanisms for integrating ethical values into social practices, providing guidance for commercial and familial conduct within an Islamic framework.[16] Furthermore, *fatwas* facilitated social mediation and the reinforcement of communal norms, contributing to social order through the legitimation or discouragement of specific behaviors in the absence of centralized state enforcement.[17] The procedure for requesting and issuing *fatwas* facilitated a participatory legal environment, maintaining a connection between scholarly discourse and social requirements.

The decentralized structure of persuasive authority and communal *fatwas* resulted in an environment characterized by legal pluralism. In this context, interpretive diversity, or *ikhtilaf*, was established as a fundamental principle of the legal tradition. Juristic disagreement was regarded as a functional mechanism for legal flexibility and as a resource for the development of the law.[18] This diversity facilitated legal adaptation by allowing interpretations to be applied according to specific local contexts and providing the necessary framework for *ijtihad* in addressing novel issues.[19] Consequently, the pre-modern legal system functioned as a multicentric and interpretive discourse. This historical framework serves as a point of comparison for analyzing the centralized structures of the modern state.

Modern State Authority and Legal Uniformity

Traditional Islamic legal practices are replaced by the framework of the modern nation-state. The state is characterized by its centralized authority regarding the legitimate use of force within its territory.[20] This principle serves as the foundational basis for state sovereignty, establishing a legal and social order within its jurisdiction.[21] Within this system, authority is maintained through institutionalized enforcement and recognized

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[16] "The Social Function of Fatwas," in *Islamic Jurisprudence in the Classical Era*, 1st ed., by Norman Calder and Robert Gleave, ed. Colin Imber (Cambridge University Press, 2010), 167–200, https://doi.org/10.1017/CBO9780511676574.006; Omer Awass, "Fatwa, Discursivity, and the Art of Ethical Embedding," *Journal of the American Academy of Religion* 87, no. 3 (September 2019): 765–90, https://doi.org/10.1093/jaarel/lfz031.

[17] Emine Ekin Tuşalp, *Treating Outlaws and Registering Miscreants in Early Modern Ottoman Society: A Study on the Legal Diagnosis of Deviance in Şeyhülislam Fatwas*, 2005.

[18] Ikhsan, "Membedah Faktor-Faktor Penyebab Terjadinya Ikhtilaf Di Kalangan Ulama"; Hidayat and Alfurqan, "PLURALISTIC FIQH BASED ON PERSPECTIVE OF IMAM AL-SYA'RANI IN THE BOOK OF AL-MIZAN AL-KUBRA."

[19] Mohamad Anas Bin Mohamad Yaakub, Wan Abdul Rahman Bin Wan Ibrisam Fikry, and Aminuddin Bin Ruskam, "The Role of Fiqh Ikhtilaf in the Implementation of Congregational Prayers During COVID-19," *KnE Life Sciences*, ahead of print, September 13, 2022, https://doi.org/10.18502/kls.v0i0.11808.

[20] Max Weber, "Law, Legitimation and Rationality," in *Jurisprudence*, 3rd ed., by Scott Veitch, Emilios Christodoulidis, and Marco Goldoni (Third edition. | Milton Park, Abingdon, Oxon ; New York, NY : Routledge, [2018]: Routledge, 2018), 71–82, https://doi.org/10.4324/9781315795997-7; Andreas Anter, "The Modern State and Its Monopoly on Violence," in *The Oxford Handbook of Max Weber*, 1st ed., ed. Edith Hanke, Lawrence Scaff, and Sam Whimster (Oxford University Press, 2019), 226–36, https://doi.org/10.1093/oxfordhb/9780190679545.013.13.

[21] Gianfranco Poggi, *4. The Nation-State*, vol. 1 (Oxford University Press, 2017), https://doi.org/10.1093/hepl/9780198737421.003.0006.

regulatory powers, where the legitimacy of the state is derived from the public acknowledgment of its capacity to implement legal mandates and sanctions.[22]

The centralization of authority involves a reconfiguration of the legal framework. To ensure legal uniformity, the state utilizes a positivist approach where legal validity is contingent upon formal enactment by recognized state institutions.[23] As H.L.A. Hart noted, this system is based on a 'rule of recognition,' which serves as the social practice among officials to determine the validity of legal norms.[24] Consequently, the primary sources of law transition from traditional scholarly interpretations and communal consensus to statutory instruments, including the constitution, the legislature, and legislative enactments.[25]

The state implements a process of legal institutionalization that distinguishes between the public legal sphere and private religious practice. Within this framework, law is established as a public instrument governed by state-sanctioned regulations.[26] Religious traditions are integrated into standardized legal categories to facilitate administrative management and supervision.[27] This process involves the harmonization of diverse traditional interpretations into a unified legal system. The primary objective of this standardization is to ensure legal certainty and administrative uniformity across the jurisdiction.

This structural shift results in several institutional consequences. Institutional enforcement through judicial and executive organs replaces the non-binding authority of traditional scholars. Legal frameworks transition from diverse interpretive systems to standardized statutory requirements. In this model, the state centralizes the determination of legal validity through codified statutes to ensure legal predictability and implementation. This transition represents a fundamental change in the framework of legislative authority, where the state serves as the primary source of legal mandates.

The Historical Process and Development of Shari'a Codification

The transition from traditional practices to the state legal framework occurred through the process of codification. This process was often initiated using Western legal models during the colonial period. Post-colonial nation-states continued this development. This represents a significant shift in the modern structure of Islamic law.[28] Codification is categorized as a project of modernization and standardization to ensure legal certainty. In practice, this process resulted in the institutionalization of legal authority. This development involves a fundamental change in the nature of authority within the framework of administrative reform.

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[22] Can Mert Kökerer, "Max Weber and Carl Schmitt on Legitimate Domination: Belief in Legitimacy or Acknowledgement of Legitimacy?," *Critical Sociology* 51, no. 6 (September 2025): 1209–24, https://doi.org/10.1177/08969205241276797.

[23] Raymond Wacks, *Understanding Jurisprudence* (Oxford University Press, 2015), https://doi.org/10.1093/he/9780198723868.001.0001.

[24] Herbert Lionel Adolphus Hart, *The Concept of Law* (OUP Oxford, 2012).

[25] Matthew Adler and Kenneth Einar Himma, eds., *The Rule of Recognition and the U.S. Constitution* (Oxford University Press, 2009), https://doi.org/10.1093/acprof:oso/9780195343298.001.0001; G. Lamond, "Legal Sources, the Rule of Recognition, and Customary Law," *The American Journal of Jurisprudence* 59, no. 1 (June 2014): 25–48, https://doi.org/10.1093/ajj/auu005.

[26] Durham, Martínez-Torrón, and Thayer, *Law, Religion, and Freedom*; Rozpedowski, "Law, Secularism, and the Evolution of the 'Human' in International Legal Discourse and Global Governance."

[27] Lena Salaymeh and Shai Lavi, "Religion Is Secularised Tradition: Jewish and Muslim Circumcisions in Germany," *Oxford Journal of Legal Studies* 41, no. 2 (July 2021): 431–58, https://doi.org/10.1093/ojls/gqaa028.

[28] Andrew F. March, "The Transformation of Islamic Law in Modernity," in *The Oxford Handbook of the Sociology of the Middle East*, 1st ed., ed. Armando Salvatore, Sari Hanafi, and Kieko Obuse (Oxford University Press, 2020), 319–35, https://doi.org/10.1093/oxfordhb/9780190087470.013.6; Aharon Layish, "THE TRANSFORMATION OF THE SHARĪ'A FROM JURISTS' LAW TO STATUTORY LAW IN THE CONTEMPORARY MUSLIM WORLD," *Die Welt Des Islams* 44, no. 1 (2004): 85–113, https://doi.org/10.1163/1570060047737712587.

The history of this process shows specific government objectives. During the colonial period, the Dutch in Indonesia made Islamic law part of the official government system.[29] After independence, states in Southeast Asia continued this practice. Codification was used as a way to build the nation and put religious rules into state laws.[30] Through legislative bodies, the state now manages the authority to define these rules. This authority was previously held by groups of scholars. As a result, the law is now based on government regulations rather than scholarly opinions

A clear example of this formalization is the creation of the Mejelle in the late 19th-century Ottoman Empire. Before this change, the legal system followed the Hanafi school of thought. This system allowed for different scholarly interpretations. A judge (*qadi*) had the authority to choose from various legal opinions within the school. This included the views of Abu Hanifa, Abu Yusuf, and other scholars. The judge selected the most suitable opinion for each specific case.[31]

The process of institutionalization occurred when the Mejelle Committee took over scholarly functions by reviewing various traditional opinions and selecting a single opinion for each legal matter to ensure legal certainty. This selected opinion became a binding state law, which consequently removed the authority of judges to choose between different interpretations.[32] Within this framework, the judge transitioned from a scholar who analyzed various legal views into a government official required to implement the specific laws chosen by the state. This development represents the institutionalization of authority where the state organizes religious rules into a formal system. This change is implemented primarily for the purposes of administrative simplicity and effective management.[33]

This history explains how the current legal system was formed. In this process, the government centralized legal rules by replacing old religious practices with official state rules. The shift from diverse religious opinions to standardized state laws is a major change in Islamic law.[34] By putting different interpretations into one government system, the state created a more uniform legal structure for the public. The next section will explain the impacts of these changes in more detail.

An Analysis of the Framework and Application of Modern Islamic Law

This situation occurs because the state uses religious terminology to support its administrative authority. Research by Mohammed Arkoun explains how religious elements are utilized to strengthen the legitimacy of official systems.[35] By applying the term 'Sharia' to

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[29] Imam Mawardi, "Islamic Law and Imperialism: Tracing on The Development of Islamic Law In Indonesia and Malaysia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 1 (July 2018): 1, https://doi.org/10.19105/al-ihkam.v13i1.1583; Muhamad Mas'ud, "THE APPLICATION OF ISLAMIC LAW AT THE COLONIAL AGE AND IT'S IMPLICATION FOR THE INDONESIAN RELIGIOUS JUSTICE SYSTEM," *Journal of Islamicate Studies* 1, no. 2 (January 2019), https://doi.org/10.32506/jois.v1i2.459.

[30] Iza R. Hussin, *The Politics of Islamic Law: Local Elites, Colonial Authority, and the Making of the Muslim State* (University of Chicago Press, 2016), https://doi.org/10.7208/chicago/9780226323480.001.0001; Steiner, "Branding Islam."

[31] İsmail Noyan, "Ahmet Cevdet Pasha and Change: A Three-Tiered Approach" (Thesis, 2018), http://risc01.sabanciuniv.edu/record=b1819760 (Table of Contents).

[32] Sevgi Çetin, "Trailblazers II: Emperor Justinian and Ahmet Cevdet Paşa Codification (or Bringing Order to Chaos) From Corpus Iuris Civilis to Mecelle (Mejelle)," *SSRN Electronic Journal*, ahead of print, 2019, https://doi.org/10.2139/ssrn.3541681.

[33] Sebghatullah Qazi Zada and Mohd Ziaolhaq Qazi Zada, "Codification of Islamic Law in the Muslim World: Trends and Practices," *Journal of Applied Environmental and Biological Sciences* 6, no. 12 (2016): 160–71.

[34] Layish, "THE TRANSFORMATION OF THE SHARĪ'A FROM JURISTS' LAW TO STATUTORY LAW IN THE CONTEMPORARY MUSLIM WORLD," 2004.

[35] Muhammad Rezan and Naupal Naupal, "DE-RADICALIZATION OF FUNDAMENTALISM THROUGH THE THOUGHT OF MOHAMMED ARKOUN," *International Review of Humanities Studies* 4, no. 1 (January 2019), https://doi.org/10.7454/irhs.v4i1.107; Muhammad Rikza Muqtada, "UTOPIA KHILĀFAH ISLĀMIYYAH: Studi Tafsir Politik Mohammed Arkoun," *Jurnal Theologia* 28, no. 1 (September 2017): 145–64, https://doi.org/10.21580/teo.2017.28.1.1410.

government regulations, the state maintains a sense of connection with traditional religious practices. This framework often limits public discussion to the specific content of the rules rather than the administrative structure itself.[36] As a result, public attention is focused on the details of the legislation, while the transition to state authority is rarely questioned.

This leads to a fundamental point regarding the differences between codified law and traditional religious principles. This paper examines the significant functional differences between these two frameworks. Traditionally, Sharia is based on religious principles that integrate legal and moral aspects.[37] In contrast, state law consists of formal regulations established by government authorities to manage social order.[38] These two systems operate based on different administrative principles. Traditional practice focuses on moral guidance, while state law focuses on the implementation of official administration.

The legal system produced by this process is a formal administrative framework that utilizes religious terminology within a state structure.[39] The state incorporates these rules to achieve specific governance objectives and maintain public order.[40] While the legal code maintains the appearance of traditional practice, its operational logic and authority are based on modern administrative standards. This system functions as a tool for national governance while retaining a connection to established religious language.

The current legal structure is fully implemented. Legal authority is managed through state institutions according to established regulations. The legal system uses official terminology from religious sources to define its regulations. This approach provides a uniform legal code for national administration. The system is designed to maintain standardization in legal application.

Framework for Modernizing Legal Structures and Public Regulations

The transition from traditional legal interpretations to state-enforced regulations provides important considerations for policy development. It is essential for legislative and executive bodies to recognize that their role involves the production of state-issued legal codes. Categorizing national statutes or local regulations directly as the original religious discourse can lead to a misunderstanding of institutional roles. Distinguishing between administrative policy and religious tradition is necessary for maintaining a clear and effective legal framework.[41]

The standardization of terminology in legal documentation is a key requirement for administrative consistency. It is necessary to maintain a clear distinction between statutory regulations and traditional jurisprudence. Classifying these products as official national codes ensures that while the regulations are informed by traditional sources, they function as distinct legal instruments. This categorization provides a clear framework for the

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[36] Fadlil Munawwar Manshur, "Kritik Rasionalisme Mohammed Arkoun Terhadap Budaya Intelektual Arab-Islam," *TAJDID* 30, no. 1 (November 2023): 1, https://doi.org/10.36667/tajdid.v30i1.1161; Arkoun, *The Unthought in Contemporary Islamic Thought*.

[37] Haissam Fadlallah, "Divine Law vs. Human Construct: The Unbridgeable Divide Between Sharia Law and Roman Law," 6, no. 1 (March 2025): 1–24, https://doi.org/10.57072/ar.v6i1.158; Shahaqa Besharat, "Nature of Crime in Criminal Law and Islamic Sharia," *American Journal of Law and Political Science* 4, no. 1 (April 2025): 12–25, https://doi.org/10.58425/ajlps.v4i1.341.

[38] Asifa Quraishi-Landes, "The Sharia Problem with Sharia Legislation," *Ohio NUL Rev.* 41 (2014): 545.

[39] Farhat Haq, "Sacralising the State and Secularising Sharia," *Society and Culture in South Asia* 3, no. 2 (July 2017): 262–67, https://doi.org/10.1177/2393861717703851.

[40] Hikmet Kocamaner, "Regulating the Family through Religion: Secularism, Islam, and the Politics of the Family in Contemporary Turkey," *American Ethnologist* 46, no. 4 (November 2019): 495–508, https://doi.org/10.1111/amet.12836; Muhammad Latif Fauzi, *Aligning Religious Law and State Law: Negotiating Legal Muslim Marriage in Pasuruan, East Java* (BRILL, 2023), https://doi.org/10.1163/9789004516113.

[41] Mustapha Tajdin, "SHARĪʿA AS STATE LAW: AN ANALYSIS OF ʿALLĀL AL-FĀSĪ'S CONCEPT OF THE OBJECTIVES OF ISLAMIC LAW," *Journal of Law and Religion* 35, no. 3 (December 2020): 494–514, https://doi.org/10.1017/jlr.2020.41.

application of laws within the judicial system. Implementing these standardized definitions is essential for the effective management of the national legal structure.[42]

This administrative clarity facilitates the regular evaluation of legal regulations. As statutory law is established through the legislative process, it is subject to standard review, amendment, and revision procedures. The development of these codes is categorized as a public policy process aimed at addressing social requirements. Consequently, public feedback is directed toward the evaluation of policy effectiveness and the improvement of legal standards. This approach ensures that the review process remains within the framework of administrative and judicial assessment.[43]

Additionally, this understanding supports a more focused approach regarding the scope of legislative activity. By acknowledging that the selection of specific legal opinions is a procedural decision, legislative bodies can better determine the appropriate boundaries for codification. Certain areas of social life may be maintained within a flexible framework rather than being subjected to rigid statutory requirements. This involves granting broader judicial discretion and allowing certain social matters to be managed through community practices and non-state institutions. This approach ensures that the legal system remains focused on essential administrative requirements while respecting the diversity of social norms.[44]

Concrete Implications for Religious Courts (Judges)

Within the modern judicial framework, judges in religious courts manage a professional role that involves multiple responsibilities. On one side, they serve as judicial officers responsible for the implementation of national statutory law and formal regulations. At the same time, they maintain the professional tradition of providing substantive justice based on the established principles of Islamic jurisprudence. This role requires a balance between adhering to formal legal articles and applying judicial discretion to ensure that legal outcomes reflect broader legal values.[45]

Technical challenges may arise during the reconciliation of statutory provisions with substantive justice requirements. In such instances, it is recommended that judicial officers exercise professional discretion rather than relying solely on a literal interpretation of the regulations. An approach that prioritizes literal application without considering broader legal principles may limit the effectiveness of the judicial mandate. Maintaining a balance between regulatory compliance and substantive considerations is essential to ensure the quality of judicial outcomes within the national administrative framework.[46]

A practical application of judicial reasoning involves the inclusion of detailed legal considerations within court verdicts. While operating within the established statutory framework, judicial officers can utilize these considerations to identify specific limitations in the current regulations or document the outcomes of literal application in various cases. In this capacity, the verdict serves as a source of professional feedback and judicial assessment regarding the effectiveness of existing rules. This documentation provides a

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[42] Amir Ahmadi, "The Legislation of Islamic Jurisprudence: A Dialogue between Opponents and Proponents," *The Journal of Rotterdam Islamic and Social Sciences* 4, no. 1 (2013): 11.

[43] Ahmadi, "The Legislation of Islamic Jurisprudence: A Dialogue between Opponents and Proponents."

[44] Ron Shaham, "The Rhetoric of Legal Disputation," *Islamic Law and Society* 22, nos. 1–2 (February 2015): 114–41, https://doi.org/10.1163/15685195-02212p04.

[45] Sigmund Samuel, "The Codification of Law," *U. Toronto LJ* 5 (1943): 148.

[46] Heba Abdel Halim Sewilam, *The Jurisprudential Problems of the Early Codification Movement in the Middle East: A Case Study of the Ottoman Mejelle and the 1949 Egyptian Civil Code* (University of California, Los Angeles, 2011).

formal basis for legislative bodies to consider during future policy reviews or statutory adjustments.[47]

Furthermore, within the discretionary space provided by the legal system, judicial officers can ensure that the application of statutes aligns with the broader objectives of Islamic jurisprudence (*Maqāṣid al-Sharīʿa*). In instances where a literal interpretation may result in adverse impacts, the framework of *Maqāṣid*—including the preservation of welfare, family, and public interest—serves as an analytical tool for more substantive application. This methodology enables the judge to manage multiple professional responsibilities by adhering to statutory requirements while maintaining consistency with established principles of equity.[48]

Concrete Implications for Islamic Legal Academics

For academics in Islamic law, the evolution of the current legal framework necessitates a strategic reorientation of research priorities and academic functions. Traditionally, academic research has focused on the comparative analysis of jurisprudential opinions for the purpose of integration into statutory law. This approach provides the theoretical basis required for the development and implementation of national legal codes. In this capacity, academic discourse contributes to the formalization of these regulations within the state administrative structure.[49]

The current research focus on jurisprudential content represents a specific allocation of academic resources. Studies often prioritize the analysis of specific regulations over the structural examination of the legal framework itself. Academic attention is primarily centered on the substantive elements of law rather than the administrative mechanisms of implementation. This approach operates on the assumption that diverse legal interpretations can be directly integrated into a uniform statutory system. Consequently, the research describes a transition from traditional scholarly discourse to standardized administrative codes.[50]

The primary recommendation for academic research involves a strategic shift in analytical focus. Research should move beyond the comparative evaluation of specific legal theories or individual scholarly opinions. Instead, the focus should be directed toward the structural framework of the codification process itself. The research agenda should prioritize the investigation of the administrative and structural consequences resulting from the transition of diverse interpretive practices into standardized statutory regulations.[51] The implementation of these regulations signifies a change in the basis of legal validity. This process involves the relocation of interpretive authority from decentralized professional networks to centralized institutional bodies, thereby modifying the established structure of administrative oversight.

This structural evaluation is accompanied by a secondary recommendation: the investigation and proposal of operational models independent of state institutions. Academic research should explore the efficacy of non-governmental advisory frameworks. This involves developing models for independent professional boards, localized mediation programs, and private arbitration systems based on established professional norms. These supplementary models are not designed to substitute for statutory regulations. Rather, they function as a supportive framework and a quality assessment mechanism for formal

[47] Halime Alkan and Kemal Pekçoşkun, "On Dokuzuncu Yüzyıl Osmanlısında Hukuki Düzenlemeler: Ticaret ve Nizamiye Mahkemesi Kararlarının Yanlılığı Üzerine Lojistik Regresyon Analizi," *Sosyoekonomi* 31, no. 58 (October 2023): 333–63, https://doi.org/10.17233/sosyoekonomi.2023.04.17.

[48] Alkan and Pekçoşkun, "On Dokuzuncu Yüzyıl Osmanlısında Hukuki Düzenlemeler."

[49] Anver M. Emon, "Codification and Islamic Law: The Ideology Behind a Tragic Narrative," *Middle East Law and Governance* 8, nos. 2–3 (November 2016): 275–309, https://doi.org/10.1163/18763375-00802008.

[50] Emon, "Codification and Islamic Law."

[51] Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (New York, NY: Cambridge University Press, 2013).

enforcement systems, contributing to a more comprehensive and balanced regulatory environment.[52]

Conclusion

This study evaluates the structural impact of standardizing diverse interpretive practices into formal statutory codes. The analysis demonstrates that the transition to a state-issued legal framework involves a significant shift in the basis of authority, moving from decentralized professional networks to a centralized administrative system. This process relocates the source of legal validity to state institutions, resulting in a bureaucratic framework that operates under modern administrative standards rather than traditional consensus-based models. These findings provide a necessary framework for various stakeholders: policy developers are encouraged to utilize standardized terminology to clarify the nature of regulations as administrative instruments; judicial officers are supported in the exercise of professional discretion to ensure substantive outcomes within the formal system; and academic researchers are urged to prioritize the structural evaluation of legal frameworks while exploring independent advisory and mediation models. Ultimately, the results of this research indicate that the institutionalization of diverse interpretive practices necessitates a comprehensive review of the suitability of centralized state mechanisms for managing complex social and professional norms.

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