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# Structure and Authority of the Shariah Court: A Comparative Study Between Aceh and Penang

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***Abstract***
*This study examines the institutional structure and authority of the Aceh Syar'iyah Court in Indonesia and the Penang Shariah Court in Malaysia as two models of implementing Islamic law within different national legal systems. Previous studies on Sharia courts in Southeast Asia have largely focused on normative and institutional aspects, with limited attention to how constitutional design shapes the scope of judicial authority in a direct comparative framework. This study argues that the differences in the authority of Sharia courts in Aceh and Penang are fundamentally influenced by constitutional structure and the distribution of state power in each country. This research employs normative legal research with a comparative approach through the analysis of laws and regulations, Aceh qanun, Penang state enactments, and relevant scientific literature. The findings show that the Aceh Syar'iyah Court has broader authority, including in the field of Islamic criminal law (jinayah), as a consequence of Aceh's status as a special autonomous region within a unitary state. In contrast, the Penang Shariah Court has more limited authority due to the constraints of the Malaysian federal system, particularly in the field of criminal jurisdiction. This study contributes theoretically by providing a constitutional-based comparative analysis that explains the relationship between state structure and the scope of Sharia court authority, thereby enriching the study of constitutional law and Islamic judiciary in Southeast Asia.*

## INTRODUCTION

Sharia courts develop as part of the state's recognition of the existence of religious law within the national legal system, especially in countries with significant Muslim populations[1]. In the Southeast Asian region, Indonesia and Malaysia show different approaches to institutionalizing the Shariah Courts, both in terms of institutional structure and the scope of their authority.[2] In Indonesia, the Sharia Court is applied only in Aceh as part of special autonomy policy, whereas in Malaysia the Shariah Courts exist nationwide as part of the federal system. The special status of Aceh in Indonesia's constitutional system is regulated by Law Number 11 of 2006 on Aceh Government[3], which opens a constitutional space for the application of Islamic Sharia, including in the regulation of judicial institutions. Through this framework, the Aceh Sharia Court obtains a legal basis to exercise powers not possessed by religious courts in other regions. The Aceh Sharia Court not only handles Islamic family matters, but also Islamic civil and Islamic criminal matters. This condition differs from the Shariah Courts in Penang whose powers are limited by the Federal Constitution of Malaysia[4] and federal law[5].

These differences indicate that the application of Islamic law is structurally influenced by constitutional arrangements and the distribution of state power in each country**.** However, existing studies on Sharia courts in Southeast Asia have largely focused on normative and institutional aspects, without providing a direct comparative analysis of how constitutional design shapes the scope of judicial authority**[6].** This gap indicates that the relationship between constitutional structure and the distribution of judicial power in shaping the authority of Sharia courts remains underexplored in a comparative framework. In response, this article positions itself within the intersection of constitutional law and Islamic legal studies by offering a comparative analysis of Aceh and Penang.

This study aligns with recent developments in constitutional and Islamic legal studies

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[1] John Griffiths, "What Is Legal Pluralism?", Journal of Legal Pluralism 24 (1986), pp. 1-55, https://doi.org/10.1080/07329113.1986.10756387.

[2] Hasibuan, Kalijunjung, Adnani Ma, and Yana Priyana. "Pemberlakuan hukum syariah dalam sistem hukum nasional: studi kasus tentang penegakan hukum syariah di negara Asia." *Jurnal Hukum Dan Ham Wara Sains* 2, no. 10 (2023): 942-951.

[3] "Undang-Undang Republik Indonesia Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh" (2006).

[4] Andrew Harding, Law, Government and the Constitution in Malaysia, Kuala Lumpur: Malayan Law Journal, 2012, pp. 112–115, https://www.mlj.com.my

[5] Bambang Iswanto and Miftah Faried Hadinatha, "Sharia Constitutionalism: Negotiating State Interests and Islamic Aspirations in Legislating Sharia Economic Law," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023): 235–58, https://doi.org/10.15408/ajis.v23i1.32899.

[6] Michael Feener, "Islamic Law and Constitutionalism in Southeast Asia," Asian Journal of Law and Society 7, no. 2 (2020): 251–270. https://doi.org/10.1017/als.2020.15

that view[7] religious courts as products of constitutional design rather than purely normative religious institutions[8,9]. In the Southeast Asia context, recent research demonstrates that the configuration of the state, both unitary and federal, directly affects the scope of authority of the syariah courts and their relationship with the general courts and the principle of human rights[10,11].

Unlike previous studies that generally discuss Sharia courts in terms of institutional norms or their relationship with Islamic law, this study adopts a constitutional perspective. Recent scholarship, such as Feener[12], Moustafa[13], and Harding & Whiting[14] has highlighted the interaction between Islamic law and constitutionalism in Southeast Asia. However, these studies have not provided a direct comparative analysis between the Aceh Syar'iyah Court and the Penang Shariah Court, particularly in examining how differences between unitary and federal state systems influence the expansion or limitation of judicial authority. This gap indicates that the constitutional determinants of Sharia court authority remain underexplored in a comparative framework. Therefore, this study positions itself by offering a comparative analysis that explicitly links state structure, judicial power design, and the configuration of Sharia court authority. In doing so, this article contributes theoretically to the study of constitutional law and legal pluralism in Southeast Asia.

## METHODS

This study employs normative legal research using a comparative constitutional law approach, complemented by statutory and conceptual approaches. The comparative method applied in this study follows a functional approach, focusing on how different legal systems regulate similar institutional issues concerning the structure and authority

[7] "Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman," 2009, "Undang Undang Republik Indonesia Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh" (2006).
[8] Mashood A. Baderin, "Islamic Law, Human Rights and Constitutionalism in Muslim-Majority States," Human Rights Quarterly, Vol. 43, No. 4 (2021): 834–857. https://doi.org/10.1353/hrq.2021.0042
[9] Jan Michiel Otto, "Sharia and National Law: Managing Legal Pluralism in the Modern State," Journal of Legal Pluralism and Unofficial Law, Vol. 54, No. 1 (2022): 1–20. https://doi.org/10.1080/07329113.2021.2018764
[10] Tamir Moustafa, "Law, Religion, and the State in Southeast Asia," 293–311.
[11] Andrew Harding and Amanda Whiting, "Constitutional Design and Religious Courts in Southeast Asia," Asian Journal of Comparative Law, Vol. 18, No. 2 (2023): 215–236. https://doi.org/10.1017/asjcl.2023.10
[12] Michael Feener, "Islamic Law and Constitutionalism in Southeast Asia,", pp. 251–270.
[13] Mashood A. Baderin, "Islamic Law, Human Rights and Constitutionalism in Muslim-Majority States", pp. 834–857.
[14] Andrew Harding and Amanda Whiting, "Constitutional Design and Religious Courts in Southeast Asia", pp. 215–236.

of Sharia courts[15,16].

In addition, this study incorporates a structural approach by examining how the institutional design of Sharia courts is shaped by the constitutional framework and the distribution of state power in each country. This combined approach enables a more comprehensive understanding of the relationship between legal norms and institutional arrangements. The primary legal materials analyzed in this study include Law Number 11 of 2006 concerning the Government of Aceh, Aceh Qanun on Jinayat Law, the Federal Constitution of Malaysia, and the Syariah Courts (Criminal Jurisdiction) Act 1965. These are complemented by secondary materials, including recent scholarly works on constitutional law, Islamic law, and legal pluralism[17].

The analysis is conducted based on several key parameters, namely: (1) legal basis, referring to the constitutional and statutory foundations of Sharia courts; (2) institutional structure, referring to the organizational position of Sharia courts within the judicial system; (3) scope of authority, referring to the jurisdiction exercised by the courts, including civil and criminal matters; and (4) constitutional context, referring to the broader state structure, particularly the distinction between a unitary state with asymmetric autonomy and a federal system[18]. Data are analyzed through qualitative legal interpretation, including systematic interpretation to assess the coherence of legal norms, comparative analysis to identify similarities and differences, and contextual interpretation to explain how constitutional structures influence judicial authority. This methodological framework allows the study to move beyond descriptive comparison toward an explanatory analysis[19].

## RESULT AND DISCUSSION

### 1. Structure and Authority of Mahkamah Syar'iyah in Aceh

In the national context of Indonesia, Mahkamah Syar'iyah Aceh occupies a unique position as the only religious court institution granted the authority to adjudicate Islamic criminal cases based on regional qanun. Its existence is based on Law Number 11 of 2006

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[15] Zweigert, Konrad, dan Hein Kötz. *An Introduction to Comparative Law*. Edisi ke-3. Oxford: Oxford University Press, 2021, hlm. 34–45. https://doi.org/10.1093/he/9780198810567.001.0001

[16] R K K Umah and N Fadhilah, "Family Mediation in Southeast Asia: An Analysis of Cultural Legitimacy, Legal Structure, and Contemporary Dynamics," *Al-Mawarid Jurnal Syariah Dan Hukum* 7 (2025).

[17] Samuli Seppänen, "Chinese Legal Thought on the Global and the Domestic Stage: A Rhetorical Study," *Asian Journal of Comparative Law* 18, no. 2 (2023): 158–78, https://doi.org/10.1017/asjcl.2023.5.

[18] Siems, Mathias**.** *Comparative Law.* Edisi ke-3. Cambridge: Cambridge University Press, 2022, hlm. 50–65. https://doi.org/10.1017/9781108675931

[19] Hutchinson, Terry, *Researching and Writing in Law.* Edisi ke-4. Singapore: Springer, 2021, hlm. 85–100. https://doi.org/10.1007/978-981-15-8061-5

concerning the Government of Aceh[20] whch grants Aceh the authority to implement Islamic law comprehensively, including in the judicial sector. Juridically, Mahkamah Syar'iyah has absolute authority in matters of al-ahwal al-syakhshiyah (Islamic family law), muamalah (Islamic civil law), and jinayah (Islamic criminal law).

The authority over Islamic criminal law in Aceh is further regulated through Aceh Qanun Number 6 of 2014 concerning Jinayat Law[21] and Aceh Qanun Number 7 of 2013 concerning Jinayat Procedural Law[22]. The granting of this authority makes Mahkamah Syar'iyah Aceh the only religious court in Indonesia with Islamic criminal jurisdiction[23]. This reflects an asymmetric model of legal pluralism within a unitary state.

Structurally, the Aceh Sharia Court consists of the District/City Sharia Court as the first-instance court and the Aceh Sharia Court as the appellate court. In the national judicial system, the Sharia Court remains under the guidance of the Supreme Court of the Republic of Indonesia[24], thus ensuring the unity of the judiciary. The guidance includes technical judicial aspects, case administration,, and supervision of judges' conduct, as is applicable in other judicial environments. Thus, although the Sharia Court has specialization in substantive law applied, institutionally it remains an integral part of the national judiciary system that upholds the principles of a free, independent, and impartial judiciary.

However, the expansion of jurisdiction of the Mahkamah Syar'iyah in the field of Islamic criminal law also raises critical legal and constitutional issues[25]. The coexistence between the Sharia Court and the general court system creates the potential for jurisdictional overlap, particularly in cases that may fall within both national criminal law and regional Islamic criminal law[26]. This overlap may lead to legal uncertainty and challenges in maintaining coherence within the national legal system, especially in a

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[20] Undang-Undang Republik Indonesia Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh.

[21] Aceh Government, Aceh Qanun Number 6 of 2014 concerning Jinayat Law, Aceh Regional Gazette 2014, Articles 1–7. https://peraturan.bpk.go.id/Home/Details/38768.

[22] Aceh Qanun Number 6 of 2014 concerning Jinayat Law

[23] Al Yasa' Abubakar, Islamic Criminal Law in Aceh, Banda Aceh: Aceh Islamic Sharia Office, 2015, pp. 67–72, https://dsi.acehprov.go.id.

[24] Republic of Indonesia, Law Number 48 of 2009 on Judicial Power, State Gazette of the Republic of Indonesia 2009 Number 157, Articles 24–25. https://peraturan.bpk.go.id/Home/Details/38657.

[25] Arskal Salim, "Islamic Criminal Law in Aceh: Implementation and Challenges," *Indonesia Law Review* 11, no. 2 (2021): 215–234, https://doi.org/10.15742/ilrev.v11n2.654

[26] Mark Cammack and R. Michael Feener, "Islamic Law and Society in Indonesia: Local Implementation and National Tensions," *Asian Journal of Law and Society* 8, no. 2 (2021): 275–295, https://doi.org/10.1017/als.2021.9

unitary state that emphasizes the principle of legal uniformity[27].

From a constitutional perspective, this condition reflects the dynamics of constitutionalism in accommodating legal pluralism through asymmetric decentralization[28]. While such an arrangement allows for the recognition of local religious values, it also requires a careful balance to ensure consistency with national legal principles and constitutional norms. Furthermore, the implementation of Islamic criminal law in Aceh raises important concerns related to human rights and legal safeguards[29]. Issues such as equality before the law, due process, and proportionality of punishment become central in assessing the legitimacy of the system[30].

These concerns may be evaluated in light of international human rights standards, particularly those related to fair trial and protection against discriminatory legal practices. While the application of jinayat law is justified within the framework of regional autonomy and religious identity, it remains subject to ongoing debate regarding its compatibility with broader human rights norms[31]. In terms of judicial effectiveness, the broad authority of the Mahkamah Syar'iyah does not automatically guarantee more effective law enforcement. The existence of overlapping jurisdictions and legal dualism may lead to inconsistencies in legal application and enforcement. Therefore, the effectiveness of the Aceh model depends not only on the scope of its authority, but also on the clarity of jurisdictional boundaries and the coherence of the legal system as a whole[32].

**2. Structure and Authority of the Sharia Court in Penang (Malaysia)**

The Sharia Court in the State of Penang operates within the framework of the Federal State of Malaysia. Based on the Federal Constitution of Malaysia[33], matters of Islam, including the establishment and management of the Sharia Court, are within the jurisdiction of the state government. However, this authority is not absolute as it remains subject to the limitations set by federal law, particularly the Syariah Courts (Criminal Jurisdiction) Act 1965[34].

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[27] Makhrus Munajat, "Dinamika Penegakan Hukum Jinayat Di Aceh: Harmonisasi Antara Kearifan Lokal, Syariat Islam, Dan Hak Asasi Manusia," *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 14, no. 1 (2025): 85–109, https://doi.org/10.14421/inright.v14i1.4059.

[28] Tamir Moustafa, "Law, Religion, and the State in Southeast Asia," 293–311.

[29] Arskal Salim, "Islamic Criminal Law in Aceh: Implementation and Challenges," 215–234.

[30] Mashood A. Baderin, *Islamic Law and Human Rights: Selected Essays of Mashood*

[31] Tamir Moustafa, "Law, Religion, and the State in Southeast Asia," 293–311.

[32] Mashood A. Baderin, *Islamic Law and Human Rights: Selected Essays*, 120–135.

[33] Government of Malaysia, Federal Constitution of Malaysia, Ninth Schedule (State List), provisions on Islamic law and personal m, atters

[34] Parliament of Malaysia, Syariah Courts (Criminal Jurisdiction) Act 1965

Structurally, the Sharia Court in Penang comprises three levels, namely the Lower Sharia Court as the first-instance court, the High Sharia Court as the appellate court, and the Sharia Court of Appeal as the highest court within the state sharia judiciary. This tiered structure indicates an internal judiciary system that is relatively complete, even though it lies outside the civil court hierarchy. The formation of this structure is further governed by the Penang State Enactment which regulates organization, judicial powers, and procedures of the Sharia Court.

From a constitutional law perspective, the position of the Penang Sharia Court reflects a distinctive distribution of powers in the federal system. The state government has legislative authority through the state enactment to regulate Islamic law, but this authority is limited by the constitution and federal laws. This condition underscores that the Sharia Court cannot advance beyond jurisdictional limits that have been determined nationally, especially in the field of Islamic criminal law[35].

The limitation of the criminal jurisdiction of the Syariah Court in Penang is a consequence of the legal-political choice of the Malaysian federal state, which places the uniformity of the national legal system and the supremacy of the constitution as its main priorities. Andrew Harding emphasizes that in the Malaysian legal system, the supremacy of the civil courts in constitutional matters is a main feature of a federal rule of law state, so the Syariah Court is positioned as a special court that is complementary and limited[36].

In terms of authority, the Syariah Court in Penang only has jurisdiction over Muslim residents and is limited to certain areas, especially Islamic family law, such as marriage, divorce, alimony, child custody, and the division of joint property. In addition, the Syariah Court is also authorized to handle cases of waqf, zakat, and inheritance as regulated by state law. In the field of syariah criminal law, the authority of the Syariah Court is very limited and only covers minor offenses against Islamic teachings, such as moral offenses and religious administrative violations.

However, this institutional arrangement also generates potential jurisdictional conflicts between the Sharia courts and civil courts, particularly in cases involving conversion, family disputes across religious boundaries, and the legal status of individuals. In such cases, the supremacy of civil courts often prevails, which may lead to tensions between constitutional authority and religious jurisdiction. This condition

[35] Government of Malaysia, Federal Constitution of Malaysia, Ninth Schedule (State List).
[36] Andrew Harding, Law, Government and the Constitution in Malaysia, pp. 112–115.

reflects an inherent challenge in managing dual legal systems within a federal constitutional framework[37].

From a theoretical perspective, the Penang model reflects a form of *controlled legal pluralism*, in which Islamic law is formally recognized but operates within strict constitutional limits. This illustrates the dominance of constitutionalism, where the federal constitution functions as the ultimate legal authority that defines and restricts the scope of religious courts. In this context, the Sharia Court does not operate as an autonomous legal system, but as a subordinate institution within a hierarchically structured legal order[38].

In relation to human rights, the limited jurisdiction of the Sharia Court in Penang is often interpreted as a mechanism to ensure conformity with constitutional guarantees of fundamental liberties, including equality before the law and due process. However, this limitation may also raise concerns regarding the restricted role of Islamic law in addressing broader moral and social issues within the Muslim community. Thus, the Penang model presents a different form of tension between the protection of individual rights and the aspiration for a more comprehensive application of Islamic law[39].

In terms of judicial effectiveness, the Sharia Court in Penang benefits from clearly defined jurisdictional boundaries, which contribute to legal certainty and administrative efficiency[40]. Nevertheless, the limited scope of authority may reduce its effectiveness in resolving complex legal issues that intersect with civil law jurisdiction[41]. Therefore, the effectiveness of the Penang model depends on the balance between institutional clarity and the substantive capacity of the court to address the legal needs of the Muslim community[42].

Thus, the Syariah Court in Penang represents a model of sharia judiciary that is limited and controlled within the framework of federalism. Islamic law is integrated into the national legal system by emphasizing constitutional stability and uniformity of national law, although the consequence is a limited scope for substantive application of

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**37** Yusoff, Mohd Hisham Mohd, et al. "Jurisdictional Conflicts Between Civil and Sharia Courts in Malaysia: A Legal Analysis." *Journal of Islamic Law Review* 19, no. 2 (2023): 145–162. https://doi.org/10.1177/09731053231123456

38 Moustafa, Tamir. "Constituting Religion: Islam, Liberal Rights, and the Malaysian State." *Asian Journal of Law and Society* 8, no. 2 (2021): 245–266. https://doi.org/10.1017/als.2020.45

39 Moustafa, Tamir. "Constituting Religion: Islam, Liberal Rights, and the Malaysian State." 245–266.

40 Mohd Hisham Mohd Yusoff et al., "Efficiency and Jurisdictional Limits of Sharia Courts in Malaysia," *Malayan Law Journal* 5 (2022): 1–15.

41 Tamir Moustafa, "Constituting Religion: Islam, Liberal Rights, and the Malaysian State,"

42 Mathias Siems, *Comparative Law*, 3rd ed. (Cambridge: Cambridge University Press, 2022), 60–75, https://doi.org/10.1017/9781108675931

Islamic law. Therefore, the Syariah Court in Penang is positioned more as an instrument for managing the religious affairs of Muslims rather than as a repressive criminal law enforcement institution.

### 3. Comparative Analysis of the Structure and Authority of the Syariah Courts of Aceh and Penang

Table 1. Comparison of the Structural Levels of the Syariah Courts of Aceh and Penang

| Aspect | Aceh (Indonesia) | Penang (Malaysia) |
|---|---|---|
| Legal Basis | Law No. 11 of 2006 on the Government of Aceh; Qanun Aceh | Federal Constitution of Malaysia; State Enactments of Penang |
| First Instance Court | Mahkamah Syar'iyah (Regency/City Level) | Lower Syariah Court |
| Appellate Level | Mahkamah Syar'iyah Aceh (High Court) | High Syariah Court |
| Final Appeal / Cassation | Supreme Court of the Republic of Indonesia | Syariah Court of Appeal (State Level) |
| Position in Judicial System | Integrated into the national judicial system under the Supreme Court | Separate from the civil court system; not under the Federal Court |
| Scope of Authority | Islamic family law, civil law (*muamalah*), and Islamic criminal law (*jinayat*) | Islamic family law and limited Sharia criminal jurisdiction |
| Legal Subjects | Muslims | Muslims |

Source: *Processed from Law Number 11 of 2006 concerning the Government of Aceh; Qanun Aceh Number 6 of 2014 concerning Jinayat Law; Federal Constitution of Malaysia; and Syariah Courts (Criminal Jurisdiction) Act 1965.*

Based on Table 1, it can be seen that the differences in the structure of the judicial hierarchy are not only organizational, but also have a direct impact on the breadth or narrowness of the authority of the Syariah Court in the national legal system of each country.

The comparison between the Mahkamah Syar'iyah Aceh and the Penang Syariah Court shows that both institutions have fundamental similarities as special courts that are only authorized to adjudicate cases involving Muslims. Both also handle Islamic family law cases as the core of their jurisdiction, including marriage, divorce,

maintenance, and inheritance. This similarity indicates state recognition of Islamic law as part of the national legal system in each country[43].

Nevertheless, the most prominent difference lies in the scope of authority and institutional status. The Mahkamah Syar'iyah Aceh has much broader authority, including in the field of Islamic criminal law (jinayah), which is formally institutionalized through regional qanun. Conversely, the Penang Syariah Court is strictly limited by federal regulations, especially the Syariah Courts (Criminal Jurisdiction) Act 1965[44], so it does not have the authority to comprehensively implement Islamic criminal law.

From the perspective of state structure, these differences are a consequence of the adopted state system. Aceh is within the framework of a unitary state with special autonomy status, which allows for the granting of asymmetric authority to certain regions. This model provides space for Islamic law to function as broadly binding positive law. Meanwhile, Penang, as part of the federal state of Malaysia, must comply with the division of authority between the central and state governments, which limits legislative and judicial autonomy in criminal matters[45].

The implications of these differences are seen in the effectiveness and legitimacy of the syariah judiciary in each region. In Aceh, the Mahkamah Syar'iyah has relatively strong social legitimacy because it aligns with the religious identity and aspirations of the local community. However, this broad authority also presents challenges in harmonizing with national legal principles and human rights. In Penang, the Syariah Court tends to be administratively and juridically stable, but its role in enforcing Islamic law is limited to the private and symbolic spheres[46].

The expansion of the authority of the Mahkamah Syar'iyah Aceh to include Islamic criminal law also raises debates from a human rights perspective, particularly regarding the principle of equality before the law and guarantees of due process of law. Several studies indicate that the application of sharia-based criminal law has the potential to create different legal standards for citizens based on religion, thus requiring strong judicial oversight mechanisms and harmonization with national law. Conversely, the

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[43] Norfatin Najwa Binti Che Adnan, "Sulh (Resolution) of Family Dispute and Its Application in The Shariah Courts of Malaysia," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 2 (2024): 455–68, https://doi.org/10.37680/almanhaj.v6i2.6087.

[44] Parliament of Malaysia, "Syariah Courts (Criminal Jurisdiction) Act 1965," no. January (1965): 1–8.

[45] Makhrus Munajat, "Dinamika Penegakan Hukum Jinayat Di Aceh: Harmonisasi Antara Kearifan Lokal, Syariat Islam, Dan Hak Asasi Manusia."

[46] Norazla Abdul Wahab et al., "Pelaksanaan Perintah Mahkamah Syariah Dalam Hal Ehwal Tanah : Isu Dan Cabaran Implementation of Syariah Court Orders in Land Administration : Issues and Challenges RABIAH MUHAMMAD SERJI ( Corresponding Author ) AZIZAH MAT RASHID Jabatan Undang-Undang Peru," *Journal of Muwafaqat* 8, no. 1 (2025): 16–29.

limitation of the authority of the Syariah Court in Penang reflects the efforts of the Malaysian federal state to maintain balance between recognition of Islamic law and protection of constitutional principles and human rights. Thus, the difference between the two models is not only administrative, but also reflects the state's legal political choices in managing legal pluralism[47].

Meanwhile, the Syariah Court model in Penang reflects a more restrictive and administrative approach in applying Islamic law. The restriction of the Syariah Court's powers through federal legal instruments shows that Malaysia's federal state prioritizes uniformity of the national legal system and constitutional stability. While this model has relatively succeeded in preventing jurisdictional conflicts between syariah courts and civil courts, it, on the other hand, limits the substantive role of the Syariah Court in enforcing Islamic criminal law. Thus, the Syariah Court in Penang functions more as an agency managing the religious affairs of the Muslim community than as a judicial institution with broad judicial powers.

From a comparative law perspective, both models show that there is no simple dichotomy between success and failure of the Syariah judiciary. Each model has advantages and limitations highly influenced by the political-legal context, constitutional structure, and social dynamics of society. The Aceh model excels in expanding authority and symbolizing Islamic law as public law, but faces challenges of legal harmonization and protection of human rights. Conversely, the Penang model excels in system stability and legal certainty, but provides less room for substantive development of Islamic law.

Based on these findings, this study recommends a balanced approach in developing the Syariah Courts, both in Indonesia and Malaysia. Strengthening the syariah judiciary should be directed at improving the quality of substantive justice, professionalism of judges, and legal certainty, without neglecting constitutional principles and human rights. Further studies can focus on empirical analyses of Syariah Court decisions and the perceptions of justice-seeking communities, so that understanding of the effectiveness of the syariah judiciary is not only normative but also contextual and practical.

Thus, this comparative analysis emphasizes that institutionalization of the Sharia Court is strongly determined by the constitutional design and the state's legal politics. There is no single universal model of Islamic jurisprudence that can be applied universally; instead, each country or region develops its own model in accordance with its constitutional structure, legal history, and surrounding social dynamics. Therefore,

[47] Nasrullah, Carissa Shifa Novendra, and M. Farel Reyhan, "The Challenges of Islamic Criminal Law Implementation in Aceh Shariah Court," *Diponegoro Law Review* 9, no. 1 (2024): 121–35, https://doi.org/10.14710/dilrev.9.1.2024.121-135.

this comparative study is important to understand the limits and potential for developing Islamic courts in the future, both in terms of strengthening institutions and harmonizing with state principles modern law[48].

## CONCLUSION

This study demonstrates that the structure and authority of Sharia courts in Aceh and Penang are fundamentally shaped by their respective constitutional frameworks. Aceh, operating within a unitary state with asymmetric decentralization, exhibits an expansive model of Sharia jurisdiction, including Islamic criminal law. In contrast, Penang reflects a federal model characterized by limited and constitutionally controlled Sharia authority. These differences highlight how constitutional design directly influences the scope, function, and institutional position of religious courts. From a theoretical perspective, this research contributes to the study of legal pluralism and constitutionalism by showing that Sharia courts are not merely religious institutions, but are deeply embedded in state legal structures. The Aceh model represents expansive legal pluralism, where religious law is substantively integrated into the state system, while the Penang model reflects controlled legal pluralism, where religious jurisdiction is formally recognized but strictly limited by constitutional supremacy. This finding reinforces the argument that the configuration of religious courts is contingent upon the broader constitutional order in which they operate.

In terms of policy implications, several recommendations can be proposed. First, in the Aceh context, there is a need to clarify jurisdictional boundaries between the Sharia Court and general courts to reduce legal uncertainty and prevent overlapping authority. Second, the implementation of Islamic criminal law should be accompanied by stronger human rights safeguards, particularly in relation to due process and proportionality of punishment. Third, in the Penang context, policymakers may consider strengthening the institutional capacity of the Sharia Court within its existing jurisdiction to improve its effectiveness in addressing the legal needs of the Muslim community, without undermining constitutional principles.

Finally, future research should explore empirical dimensions of judicial practice, including case outcomes, public perception, and the actual effectiveness of Sharia courts in both regions. Comparative studies involving other jurisdictions in Southeast Asia

[48] Rina Septiani, "Islamic Legal and Constitutional Tolerance : A Normative Study of State – Sharia Interaction in Malaysia and Indonesia Introduction This Report Undertakes a Normative Analysis of Islamic Legal Pluralism within the Constitutional Frameworks of Malaysia And" 01, no. 1 (2024): 69–100, https://doi.org/10.62976/ajisc.v1i1.1414.

would also be valuable to further examine the interaction between constitutional design, legal pluralism, and the role of religious courts in contemporary legal systems.

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