

Islamic Law in the Shadow of the Nation-State: Structure, Transformation, and Contestation

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Abstract

Islamic legal studies have been extensively subject to controversy regarding the relationship between Islamic and contemporary state law. Traditionally, Sharia was the main normative and legal system in most Muslim societies, which was based on juristic interpretation and morality. With the rise of modern nation-states, through the introduction of codified legal systems, centralized institutions, and legislative powers, the legal governance had to undergo radical changes. This study seeks to compare the conceptual contrast between Islamic law and contemporary positive law, as well as to review the major academic accounts to explain the historical evolution of governance based on Sharia and a modern legal system, and assess the philosophical argument of Islamic law as required to be enforced as the only legal system. The research is based on a three-dimensional approach to analysis. Conceptual analysis is adopted to analyze the basis of Islamic and positive law. Second, a comparative intellectual study is an evaluation of four interpretive approaches that explain legal transformation. Thirdly, the epistemological and ethical implications of the claims to compulsory application of Islamic law are subject to philosophical analysis. The results indicate that despite the fact that Islamic law and modern law have similar normative objectives like justice and social control, they vary in terms of authority, interpretation, and institutional structure. The change of Islamic law to modern law cannot be traced to one thing; it was brought about by colonialism, internal administrative changes, and changes in the interpretation of laws. Combined explanatory strategies can offer the most detailed insight into the legal change in Muslim societies.

Keywords: Islamic Law; State Jurisdiction; Legal Systems; Maqasid al-Shariah; Contemporary Relevance; Secular Law.

1. Introduction

The Islamic law was historically the main normative system, regulating the social, political, and economic relations in Muslim societies for a greater period than one millennium (Muro, 2022). Classical Sharia did not exist in the modern meaning of the word, but instead grew by juristic interpretation (fiqh) created by scholars who belonged to various schools of legal tradition, including Hanafi, Maliki, Shafi'i, and Hanbali. These jurists obtained legal rules in the form of sources such as the Quran, the Sunnah (prophetic traditions), consensus (ijma), and analogical reasoning (qiyas) (Purmini, 2024). Power of the law was thus not centralized and bureaucratic but under the control of the scholars (Ustaoğlu, 2023). Rulers in pre-modern Muslim parties typically used religious scholars to interpret the norms of the law, with the courts acting in response to this interpretation according to local norms and jurisprudential schools (Munir & Kusnadi, 2024).

The scholarly and consultative character of Islamic law is

demonstrated by historical collections of fatwas like the *Fatawa-e-Alamgiri*, which was a compilation of the works of hundreds of jurists during the Mughal period who collaborated in the creation of detailed legal advice to the governance and judicial system (LC, 2025). This type of text indicates a system where Islamic law was a flexible construct and was able to adjust to various social situations without losing its religious roots (Ustaoğlu, 2023).

This traditional structure was completely changed with the appearance of the modern nation-state in the nineteenth and twentieth centuries (Lightwood, 2024). The codification of the legal rules was caused by colonial legal reforms, the introduction of the European systems of civil law, and the centralization of the administrative system (Wacks, 2023). Consequently, the power of independent jurists to interfere with Islamic law gave way to the state bodies like legislatures, ministries of justice, and constitutional courts (Goncharova et al., 2022). Modern literature observes that codification was the process that converted Islamic

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law into codified systems, partly based on European legal traditions, without the loss of allusions to religious texts (Goncharova et al., 2022).

Comparative analysis reveals that around 40–45% of the countries that are majority-Muslim incorporate Islamic legal principles into national constitutions, although most of them accept it as one of the multiple legislative sources (Al-Farsi, 2022). This change is illustrated through significant examples associated with the constitutional implementation of Islamic law. As an example, the Egyptian Constitution (Article 2) states that the principal source of the legislation is the principles of the Islamic Sharia, which has been the tool to influence the judicial interpretation of statutory law and the policy of the judicial reform (Aboelazm, 2023). On the same note, the Pakistani constitutional setup has incorporated the federal Shariat Court, which vets the laws to ascertain their conformity to Islamic standards (Khan & Siddique, 2024). These clauses in the constitution show how contemporary states codify religious norms in the centralized systems of law.

Most countries have made legislation at the statutory level that are direct expression of Islamic law. Another notable one is the Criminal Act 1991 of Sudan that introduced criminal provisions based on Islamic jurisprudence, including categories of punishments: hudud (fixed punishments), qisas (retaliatory justice), and ta'zir (discretionary penalties) (Ibrahim, 2023). This law is an example of how contemporary legal frameworks seek to incorporate legal teachings in religion into the written criminal law. Also, Islamic law has been increasingly applied in various countries in the federal or regional legal systems. An example of this is the introduction of Sharia-based criminal law systems (twelve northern states post-1999) in Nigeria, creating Sharia courts, Sharia commissions, and Sharia enforcement agencies (Adegoke, 2025). These developments not only point out the increasing institutionalism of Islamic law in modern forms of governance but also show the plurality in the way this law is applied in various jurisdictions (Yahya et al., 2025). The growing sophistication of legal systems across the world has only added to the academic discussions regarding the place of Sharia in the contemporary state. Recent studies stress that due to globalization, human rights models, and economic integration, new legal challenges were created, making it necessary to reformulate the classical jurisprudence (Al-Shuqairat & Aldajah, 2025). According to scholars, contemporary Muslim societies are forced to balance the correlation between the religious legal

customs and the international legal standards in the fields of gender equality, economic regulation, and constitutional governance (Mustapha et al., 2022). In general, this has altered the institutional power, interpretation, and application of Islamic law as the classical traditions of jurisprudence gave way to codified legal systems (Husain et al., 2024). It is through this change that one can come to terms with the contemporary arguments on the incompatibility of Sharia with modern law.

Although Sharia remains relevant in most states that are dominated by Muslims, its relations with the contemporary legal framework remain debatable (Makhlouf, 2023). The main difficulty lies in the fact that the classical Islamic jurisprudence and the centralized legal structure of the modern nation-state differ in terms of their structure (Adiyono et al., 2024). The classical Islamic law was run in a decentralized and pluralistic structure where the interpretation of law was done by independent scholars, and a variety of schools of jurisprudence existed. In comparison, contemporary states demand legal codes that are standardized, a hierarchical judicial system, and standard legislative authority (Sayuti Ismail & Inayatillah, 2026).

This reorganization has created frictions between the religious legal customs and the modern-day legal systems (Hallaq, 2022). One of the points of concern is the applicability of Sharia-based legal provisions with international human rights provisions. Recent research shows that there are still controversies around questions of gender equality, freedom of expression, and minority rights when it comes to legal systems that integrate Islamic principles (Nasoha et al., 2025). To illustrate, opponents believe that some interpretations of hudud penalties or personal status laws can be incompatible with international human rights laws, whereas others hold the view that Sharia focuses on justice, dignity, and social welfare as essential outcomes (Drea, 2022).

According to scholars, the interpretative power of religious scholars is lost to state institutions when Islamic legal rules are converted into statutory laws (Bidabad, 2024). This shift will decrease the flexibility that is currently linked to Islamic jurisprudence and might result in the politicization of religious law (Al-Farsi, 2022). In most instances, the governments are selective on the application or reinterpretation of the partially Islamic legal principles to fit political considerations and not necessarily as a result of jurisprudential factors.

Also, the fact that Sharia is applied differently in various

states depicts the lack of a standard model to adopt to incorporate the Islamic law in the contemporary mode of governance (Iska, 2025). Comparative studies show that some states depend much on Islamic legal models, but others implement hybrid models, which incorporate civil law traditions and a few religious provisions (Ayoub, 2022). This difference casts significant doubts on the elements of legal coherence, constitutional legitimacy, and the nature of the balance between religious power and state sovereignty.

In turn, the presence of both Sharia and modern law systems produces a complicated legal environment of bargaining, accommodation, and struggle (Hussein, 2024). The analysis of the role of Islamic law in terms of modern nation-states and the ability of legal reforms to reconcile religious traditions with modern legal regimes can only be understood in the context of this dynamic relationship (Al-Saai, 2025).

Despite the long history of literature on Islamic law and modern law, the major part of the existing literature deals with the historical or institutional factors that explain the interaction between Sharia and the emergence of nation-state systems (Yongbao, 2024). The colonial legal reforms, codification of laws, and transformation of judicial institutions across the Muslim-majority societies are examined in various studies (Goncharova et al., 2022). Although these historical studies can be very informative in terms of the evolution of the legal systems, there are rather fewer studies looking into the more profound conceptual and philosophical implications of this change (Wacks, 2023). Specifically, little focus has been given to the comparison of such underlying conceptual frameworks of Sharia and modern positive law and assessment of philosophical presuppositions that inform contemporary discourses on the role of Islamic law in modern governance (Munir & Kusnadi, 2024). This leaves a definite gap of research in the literature on what theoretical backgrounds can be used to state the way in which these two legal paradigms contrast and the way these two paradigms can co-exist in terms of the overall philosophical debate about law, authority, and legitimacy.

To address this gap, the current study seeks to achieve a number of closely related objectives. First, it attempts to conceptually examine the basic forms of Sharia and modern positive law to establish major differences in the source and interpretation of the rule and normative power. Second, the paper discusses the prevailing discourses that describe the historical change of Sharia-based governance

to the codification of legal systems that went with the contemporary nation-state. These accounts are usually characterized by exegeses on the issue of colonial impact, legal modernization, or rather centralization of the institution, and the growing importance of statutory legislation. Third, the paper assesses the philosophical argument that Sharia should be implemented as a comprehensive system of law in modern states and evaluates the argument on its ability to survive in the modern context of law and state systems. With these goals in mind, the study seeks to answer several important questions: How do the conceptual frameworks of Sharia and modern legal systems vary in terms of authority, sources, and interpretation? Which intellectual or historical histories are most likely to account for the shift in governance based on Sharia to modern systems of law in the nation-states? Lastly, does the argument that Sharia has to be fully enforced in modern states make philosophical sense when one considers it in terms of legal theory and normative reasoning?

The relevance of this study can be explained by the fact that it contributes to the current controversies in the area of Islamic Legal Philosophy and the discussions of law, morality, and government in general. The study does not simply describe religious laws but offers a more distinct theoretical insight into how these two aspects relate to current law institutions by using the conceptual analysis approach instead of being purely historical. This is an addition to the existing academic argument about Islamic jurisprudence and also provides a reflection of what can be applied in the current policy debates about constitutional design, legal pluralism, and the position of religious norms in modern political systems.

2. Literature Review

2.1. *Sharia as a Legal and Ethical System*

Sharia has also played a significant role in the past as a legal and ethical code regulating social, economic, and political life in Muslim cultures (Muro, 2022). In the context of Islamic Jurisprudence, Sharia is perceived not as a code of legal regulations, but as a whole system of norms based on religious texts and explained by the reasoning of the scholars (Purmini, 2024). The classical Islamic jurisprudence emerged in the eighth to the twelfth centuries as a result of the efforts of jurists who had formulated methodological principles called *usul al-fiqh*. This is what informed the interpretation of primary sources (Quran and Sunnah), and secondary sources included consensus (*ijma*) and analogical reasoning (*qiyas*), were used to extrapolate

legal reasoning to new situations (Ustaoğlu, 2023). The Islamic jurists were able to create a vast amount of legal literature using this interpretive framework based on issues such as family law and inheritance, trade, governance, and criminal justice (Munir & Kusnadi, 2024).

Another characteristic of the classical Islamic law was the lack of a central legislative body. Rather, the legal interpretation came about in the form of scholarly tradition structured into major schools of jurisprudence, including the Hanafi, Maliki, Shafi, and Hanbali schools (Karimullah, 2023). Such a pluralistic system enabled the legal opinions to be diverse depending on the regional and social requirements (Karimullah, 2023). Modern research has pointed out that this tradition of decentralized interpretation allowed Sharia to act as a flexible system of ethics as opposed to a strict statutory code (Cheema, 2024). To illustrate this point, the latest empirical studies on legal systems in Muslim-majority states reveal that more than 50 states either provide provisions in their constitution or law that allude to Sharia or Islamic teachings, which indicates that Islamic jurisprudence remains pertinent in current governance (Karimullah, 2023). Moreover, there are about 12 states that use Sharia as the source of legislation either as a primary or as an important source, especially in the field of law of personal status, family law, and inheritance. In the contemporary world of thought, interpretive processes, including *ijtihad* (independent reasoning), are also considered in terms of their role in the changes of Sharia to the present-day realities (Wacks, 2023). Recent works in the legal periodicals indicate that Islamic jurists are utilizing *ijtihad* more and more extensively to tackle the new areas of Islamic finance, digital trade, and biomedical ethics (Munir & Kusnadi, 2024). The doctrine of *maqasid al-sharia* (the objectives of Sharia) typically shapes such developments and puts the protection of religion, life, intellect, property, and lineage first (Ustaoğlu, 2023). These principles show that Sharia remains a functioning moral and legal system that is able to answer the needs of modern society.

There are also statutory examples of how the Islamic principles of law were institutionalized in modern law. There are laws like the Muslim Family Laws Ordinance (1961) and Dissolution of Muslim Marriages Act (1939), which govern marriage, divorce, and inheritance issues based on the Islamic jurisprudence, but they operate within the state legal system (Chowdhury, 2022). Other Muslim-majority countries have also undergone similar legal reforms as part of the continuing efforts to reconcile

religious law with the provision of contemporary law.

2.2. *The Rise of Modern Positive Law*

The emergence of modern positive law had a great impact on the legal systems of the Muslim societies in the nineteenth and twentieth centuries (Lightwood, 2024). Positive law is a legal tradition whereby the source of authority is not based on religious scholarship but rather on the state institutions like legislatures, constitutions, and codified statutes (Wacks, 2023). This model was greatly affected by European legal traditions, especially the civil law traditions that were developed around the nineteenth century, when there was the emergence of legal codification (Goncharova et al., 2022).

The codification reforms that had been implemented during the late Ottoman period were one of the first instances of legal reform in the Muslim world (Yongbao, 2024). In a codified format more influenced by the European legal systems, the *Mecelle Civil Code* (1869-1876) tried to codify some of the elements of the Islamic commercial law in a formalized statutory form (Bayram, 2025). The project was a major institutional change as it changed juristic interpretations to state-administered legal codes that the centralized courts applied (Al-Farsi, 2022).

The latest comparative research shows that in most of the Muslim majority countries, legal modernization has given rise to a hybrid legal system. Modern legal studies show that of the over 100 countries, over 70 are governed by mixed legal systems that incorporate the civil law codes with a touch of Islamic jurisprudence, especially on matters of family law and inheritance (LC, 2025). Reforms on family law have been introduced in countries such as Morocco, Indonesia, and Pakistan, causing them to incorporate Islamic law provisions with constitutional and international laws (Ibrahim & Arifin, 2025).

This change was further institutionalized with the rise of the modern constitutions. A number of constitutions of Muslim-majority states stipulate that Islamic law is a source of legislation, but at the same time, the power of lawmaking of the parliament is instituted (LC, 2025). This dualism is indicative of a continued bargain between religious legal tradition and modern state institutions. Consequently, modern legal studies are witnessing a growing appreciation of the interaction between Islamic law and the positive law as an interaction instead of a substitution of one system by the other (Ahmed, 2024).

2.3. Debates on Islamic law and the Modern State

External influence theories state that the change of Islamic legal systems was contributed much by the influence of colonialism and the implementation of European laws during the nineteenth and twentieth centuries (Masud, 2022). According to scholars, a good number of the Muslim-majority societies implemented codified legal systems based on European traditions of civil law, which slowly weakened the role of classical jurists (Moustafa, 2023). One notable instance is the Ottoman Mecelle Civil Code (1869-1876), which tried to codify aspects of Islamic commercial law in a modern statutory law (Povlakic & Becic, 2025).

Internal transformation theories, on the other hand, highlight that internal intellectual development also gave rise to changes within Islamic law (Ummah et al., 2025). Mechanisms suggested by the scholars include *ijtihad* (autonomous legal reasoning) and reconceptualising of the principles of the law to suit emerging social realities (Khan & Ahmed, 2025). According to recent studies, the concept of *maqasid al-sharia* (objectives of Islamic law) is being used more by Islamic legal scholars to interpret legal rules in a manner responsive to modern concerns like governance, financial regulation, and social justice (Hassanein, 2025).

A third approach posits hybrid interpretations, whereby modern Muslim states do not substitute with each other, but adopt both of them, as proposed by this third approach (Hassanein, 2025). Empirical literature indicates that more than half of Muslim majority nations have incorporated Islamic law into their legal systems and, in many instances, in family and inheritance legislation (Saujan et al., 2022). Indicatively, the Muslim Family Laws Ordinance (1961) is a legislation that incorporates Islamic laws in state laws but is governed by the constitution (Kusmardani et al., 2023). These hybrid systems reveal that the interaction between Islamic law and modern law is legal pluralism as opposed to total institutional division.

3. Theoretical Framework

This study takes an interdisciplinary approach that entails a combination of Living Law Theory, created by Eugen Ehrlich, and Legal Interpretivism, created by Ronald Dworkin (Asa, 2025; Machura, 2023). Living Law Theory postulates that the authentic origin of law is not restricted to official regulations passed by the state but is manifested in social life, cultural norms, and communal traditions. Ehrlich argues that law arises through the daily

experience and ethical demands of society and not through the authority of law (Zarianto & Adityarani, 2025). This opinion is supported by recent socio-legal studies that have shown that legal norms in most Muslim-dominated societies remain influenced by religious practices and community-based dispute resolution systems (Islam, 2025). Viable research indicates that over 60% of the legal cases in various Muslim societies are adjudicated using informal or religiously oriented mechanisms as opposed to the courts, depicting the prevailing effects of the law as embedded within the society (Husain et al., 2024). These observations support the claim that Sharia as a legal doctrine is not merely a legal but a living law in social institutions and culture.

This view can also be found in modern laws, which acknowledge community values in formal law frameworks. The Muslim Family Laws Ordinance (1961) and the Dissolution of Muslim Marriages Act (1939) are some examples of ways in which Islamic jurisprudential principles are incorporated into contemporary statutory legislation, maintaining reaction to social facts including family conflict, testamentary rights, and dissolution of marriage (Chowdhury, 2022; Haque & Hussain). These laws show that the state legislation can institutionalize the socially-based legal norms.

In addition to this, there is Legal Interpretivism by Dworkin, which points out that law cannot be explained just as rules but has to be explained through moralistic principles and ethical judgment (Asa, 2025). According to Dworkin, legal judgments are supposed to extend to more inclusive ideas of justice, fairness, and social values (Dyrda, 2022). The recent research in Legal Philosophy emphasizes that this interpretive strategy is especially applicable to the controversy on the Islamic law since the Sharia itself is a combination of legal norms and ethical goals like justice (*adl*) and the welfare of the people (*maslahah*) (Khan & Raza, 2022).

By synthesizing these theoretical points of view, the given study can examine the process of Islamic law transformation in the contemporary legal frameworks as not only the change in the legal or institutional framework but also the interaction of law, morality, and social practice. In combination, Living Law Theory and Legal Interpretivism offer one approach to study the way in which the Islamic law principles still have an impact on modern governance, being re-interpreted in the context of modern state institutions.

4. Methodology

4.1. Conceptual Analysis

To analyze the underlying meanings and structures of Islamic law and modern positive law, this paper uses conceptual analysis as the initial methodological dimension. The conceptual analysis is also popular in Legal Philosophy to explain the definitions, interpretations, and applications of major concepts in the law in various intellectual traditions. Within the framework of this study, the approach aims at establishing the epistemological bases, sources of power, and normative assumptions of each of the two legal systems. Historically, Islamic law is based on the revelation of God and the interpretation of the scholars, and its source consists of the Quran, the Sunnah, scholastic consensus (*ijma*), and analogical reasoning (*qiyas*). Classical jurists hence interpreted law as an interpretative reasoning process based on religious knowledge and moral goals like justice and the common good. In comparison, the contemporary positive law mainly revolves around the state authority, legislative passing of the law, and a codified law that is being implemented by the centralized institutions. This distinction establishes a theoretical contrast between an interpretive system based on jurists and one that is focused on states. By means of conceptual analysis, the study determines the structural variation between these paradigms of law, as well as discusses how these underlying principles determine the interpretation of law, institutional power, and normative legitimacy.

4.2. Comparative Intellectual Analysis

The second methodological aspect is a comparative intellectual analysis of the key approaches of interpretations that strive to explain how the transformation of Sharia-based governance to modern state law took place. This is a method that analyses rival academic accounts in the fields of Islamic Legal Studies and comparative legal scholarship. Four broad interpretive lenses are the subject of the analysis: external influence theories, internal transformation theories, modernization theories, and hybrid legal interpretations. The focus of the external influence theories is on how colonial rule and European codification of law reformed the institutions of Islamic law in the nineteenth and twentieth centuries. Internal transformation theories, in their turn, emphasize the ability of Islamic jurisprudence to develop by means of interpretive processes, *ijtihad*, and juristic reinterpretation. The perspectives of modernization analyze how the

formation of nation-states, centralization of administration, and constitutional governance have altered the legal power. Lastly, hybrid interpretations indicate that the modern rule of law actually integrates aspects of religious jurisprudence and modern statutory law, and does not in any way override either. This pluralistic view is supported by empirical findings according to which over fifty countries with a Muslim majority nowadays implement Islamic legal norms in national legal systems, especially in the family and inheritance legislations. By comparing these views in a systematic way, the study determines the merits and drawbacks of each explanatory approach and how each approach may be useful in explaining the historical and intellectual revolution of the Islamic legal systems.

4.3. Philosophical Analysis

The third approach to methodology is the philosophical analysis that examines the normative and epistemological arguments for the statement that Islamic law should be mandatorily applied as a wholesome legal system. Philosophical analysis is also a common approach in Political Philosophy and legal theory to study the moral grounds of legal authority and the rationale of legal norms. The philosophical rationale in this paper is used to evaluate the sustenance of the argument on mandatory adoption of Islamic law as logically and ethically viable within the institutional context of the contemporary nation-state. The discussion addresses some of the main philosophical issues relating to the nature of the law and moral relationships, right to legal authority, and the importance of moral reasoning in interpreting laws. It also assesses the possibility of religious legal norms operating outside of some wider philosophical systems of justice, human rights, and social welfare. Through the evaluation of the epistemological basis of Islamic law and modern law, the research aims at establishing whether claims of obligatory implementation are based on theological premises, political arguments, or reasoning of a moral conviction. By this means, the research can rise above the explanation of history and enter into the normative discussion, which provides the contemporary debate about Islamic law and governance.

4.4. Data Sources

To substantiate the three-dimensional analysis framework, the study relies on various types of academic and legal materials. To begin with, classical texts on the topic of Islamic jurisprudence are studied to comprehend

the basics of Islamic law and historical approaches to the interpretation of law that were developed by jurists. Major works of classical fiqh and legal theory are featured in these texts and formed the evolution of Islamic jurisprudence in various areas. Second, the paper accepts the use of literature in contemporary legal theory and philosophy to examine the conceptual argument on what law is, who holds authority, and whether law is right or wrong. This incorporates scholarship in the areas of Legal Theory and comparative constitutional law. Third, the study is based on both past and current research on legal modernization in Muslim societies, as well as studies on constitutional clauses and legislative changes that incorporate Islamic laws in current state systems. The methodology combines traditional literature, philosophy, and modern legal science to provide a systematic and interdisciplinary approach to the metamorphosis of Islamic law in modern legal jurisdictions.

5. Findings

5.1. Conceptual Foundations of Islamic and Positive Law

5.1.1. Definition of Islamic law

The main texts of Islamic law are the Quran and the Sunnah, and historically, the jurists employed such interpretive modes of the law as the consensus (ijma) and analogical reasoning (qiyas) to handle new legal problems (Muro, 2022). Instead of being a codified text, Islamic law was created over centuries of scholastic interpretation across schools of law (Purmini, 2024). The classical jurists thus generated various legal views which enabled the Islamic law to respond to the socially changing conditions. The maqasid al-sharia (objectives of Islamic law) doctrine focuses on the security of the basic social interests such as life, property and social welfare (Ustaoğlu, 2023). Recent studies point out that the continuation of these moral goals in the contemporary legal discourses in Muslim majority societies is non-negligable (Munir & Kusnadi, 2024). According to a research, more than fifty states with the majority of their populations following the Islamic religion have somehow implanted the Islamic legal principles in their laws, especially in the law of the person, which governs marriage, inheritance, and family relations (Karimullah, 2023). The modern legislation like the Muslim Family Laws Ordinance (1961) depicts how the principles of Islamic jurisprudence are practiced in modern statutory provisions illustrating the fact that Islamic law is not only a religious doctrine but it is a practical source of legal regulation (Cheema, 2024).

5.1.2. Definition of Positive Law

Positive law is a set of rules of the law that is officially established and implemented by governmental organizations (Lightwood, 2024). In the Legal Positivism view, law is not based on religious or moral authority, but on legislative power. The contemporary legal system runs off constitutions, statutes, and administrative rules, constituting the rights and obligations, and procedures to settle disputes (Wacks, 2023). This paradigm prevailed in the nineteenth century as codified systems of law emerged in Europe, as governments tried to centralize law-making powers and harmonize regulations in national jurisdictions (Goncharova et al., 2022).

As opposed to the classical Islamic jurisprudence, where legal interpretation was conducted by scholars, positive law develops written laws that can be revised by the legislature. The historical change to written law systems also had an impact on the Muslim world (Yongbao, 2024). One such case is the Ottoman Mecelle Civil Code (1869-1876), which codified some areas of Islamic commercial law into a formal legal code, to be administered by state courts (Bayram, 2025). It has been proposed by contemporary legal commentators that about three-quarters of Muslim-majority states now have hybrid legal systems which mix civil law traditions with some chosen Islamic legal texts, as an indication of the institutional impact of positive law on the modern regime (Zeghal, 2024).

5.1.3. Structural Differences and Areas of Overlap

Conceptual distinctions between Islamic and positive law can be better understood in the context of their structural bases (Al-Farsi, 2022). Sharia has its authority in religious legitimacy and interpretive scholarship, whereby the positive law has its origin in the political power of the state (Muro, 2022) (Lightwood, 2024). The legal change in Islamic law is traditionally made by means of interpretive reasoning and scholarly discussion, and by positive law, it is made by means of legislative amendments and institutional reforms. A second difference is concerning institutional organization. Classical Islamic legal systems had to depend on the jurist and the local courts to interpret and adjudicate cases, but modern legal systems have centralized institutions, including the parliaments, constitutional courts, and administrative agencies (LC, 2025). This change of institution is indicative of the general turn in the decentralized jurisprudence toward state-based legal power.

Though these are the structural differences, Islamic and

positive law have some common normative objectives. The two systems are designed to control social behavior, ensure order, and enhance justice in society (Ibrahim & Arifin, 2025). Islamic jurisprudence is based on the principle of justice as a moral imperative established on the principles of religious ethics, whereas modern legal systems create the concept of justice with references to constitutional principles and legal freedoms (Muro, 2022) (Lightwood, 2024). It is these common objectives that make modern states tend to incorporate Islamic legal norms into their statutory regulations. As an illustration, the family law in a few Muslim-majority states has been included in laws as a result of the principle of Islamic jurisprudence, although it operates within the contemporary legal system (Ahmed, 2024). These instances indicate that the relationship between Islamic and positive law is not entirely oppositional; it is a process of transformation where the traditions of morality and the state legislations co-contribute to the modern law of governance (Muro, 2022).

5.2. Narratives Explaining the Shift from Sharia to Law

Islamic legal scholars have suggested a number of explanatory accounts to explain the historical transformation of the classical Sharia-based systems of governance to state-based legal regimes (Abu Ali, 2025). These accounts understand the change in various ways, such as the colonial influence, institutional incompatibility, internal reform, and hybrid legal development (Polymenopoulou, 2024). Modern studies theorize that the shift was gradual during the late nineteenth century and early twentieth century as Muslim societies were exposed to new forms of political, administrative, and legal systems (Nadir et al., 2024).

5.2.1. External Influence Narrative

The narrative of the external influence claims that the revolution of Islamic law was mostly influenced by the colonial influence and the establishment of Western legal institutions (Sulaiman et al., 2024). Historians like Tariq Al-Bishri underline that the European colonial regimes began to install their legal systems that slowly replaced the traditional Sharia courts (Parray, 2023). In the nineteenth century, there were also civil codes, commercial laws, and mixed courts established by colonial governments, which used the European principle of law to resolve any disputes related to foreigners and trade (Sulaiman et al., 2024). The legal reforms introduced by the colonialists in Egypt and other countries formed mixed courts where there were European-style procedures and traditional Sharia

courts (El-Deeb, 2024). With time, these institutions increased their jurisdiction, especially in commercial and administrative law. Codification, including the Ottoman Mecelle Civil Code (1869-1876), which tried to reform the commercial law of Islam into a systematic statutory code to be applied by the state courts, was also a part of the shift (Rubin, 2022). According to modern research, these reforms had a great impact because they curtailed the powers of the independent jurists and handed the legal powers to central bodies (Ahmed, 2025).

5.2.2. Structural Incompatibility Narrative

Another influential interpretation focuses on the structural incompatibility between classical Islamic jurisprudence and the modern nation-state (Sadek, 2023). This point of view can be linked to the writings of Wael Hallaq, who believes that the institutional logic of the contemporary state is not inherently the same as the classical Sharia system (Ahmad, 2025).

The interpretation of the laws in pre-modern Muslim societies was done by independent scholars, but the judges applied their decisions in the local communities (Makhlouf, 2023). The contemporary state, however, demands centralized legislation, bureaucracy, and uniformity of the law. The modern legal systems are thus based on written laws instead of judicial interpretation (Carelli & Peters, 2024). Indicatively, a law like the Criminal Act 1991 (Sudan) brought about a criminal law on the basis of Islamic law in a contemporary statutory framework, hudud penalties, and a set of rules of public behavior (A Mansoor, 2024).

Such institutional developments indicate a wider shift in the legal power. It has been reported that most of the Muslim majority countries in the present day are under hybrid legal systems whereby state laws supersede criminal and commercial law, with the Islamic laws in most cases being limited to personal status issues like marriage and inheritance (Zakkii, 2025).

5.2.3. Internal Development Narrative

An alternative reasoning focuses on internal reform of Muslim societies as opposed to the foreign pressure. Khaled Fahmy suggests that changes in legal systems were a result of administrative modernization and institutional reorganization by Muslim authorities themselves (Fahmy, 2023). The nineteenth century was marked by numerous states making bureaucratic changes aimed at enhancing the control of the state, taxing colonies, and the judicial system

(Anderson, 2022).

Through these reforms, the ministries of justice, the standard court hierarchy, and legal training of the judges were established. Historical research indicates that such institutional transformations necessitated more systematized legal regulations that promoted codification (Goncharova et al., 2022). As an example, the contemporary state reforms of Southeast Asian countries involved Islamic law in the governments (Kurniawan, 2025). Studies of the Malaysian legal system indicate how institutional characteristics of the state slowly restructured the Islamic courts but retained their power over the family and personal status issues (Azzahra & Shuaib, 2022).

5.2.4. Integrative Narrative

The integrative narrative is a combination of the external and internal explanations. Historians suggest that this change in Islamic law was achieved through the interplay of colonialism and local institutional change (Al-Shuqairat & Aldajah, 2025). This view maintains that the colonial governments brought in new legal institutions, as the local governments were at the same time seeking administrative modernization and restructuring of the law (Tumanut, 2023).

The hybrid process is depicted by empirical examples. In Nigeria, the Sharia Penal Code of Katsina State (2000) and subsequent judicial reforms that created Sharia courts and Sharia criminal procedures followed as a result of reintroducing Islamic criminal law following democratic reforms (Mustapha et al., 2022). These reforms also established enforcement bodies like the Kano State Hisbah Corps that regulates the adherence to Islamic legal norms (Ibrahim, 2022).

On the same note, the constitutional clauses in a number of countries permit regional or specialized courts to exercise the application of Islamic law in the contemporary jurisdiction (Maican, 2025). These agreements indicate that modern legal systems tend to integrate state laws with aspects of Islamic law instead of totally replacing one with the other (Husain et al., 2024). In general, these studies demonstrate that the transformation of classical Sharia into modern state law did not occur due to one particular reason (Al-Farsi, 2022). Rather, it was a consequence of colonial contacts, administrative modernization, institutionalization, and the continued intellectual reevaluation of the societies of the Muslim world (Makhlouf, 2023).

5.3. Comparative Evaluation of Interpretive Approaches

There are various interpretive ways in which scholars have defined how classical Sharia-based governance has shifted to modern state law (Iska, 2025). A comparative assessment of these viewpoints emphasizes the way the various theoretical approaches view legal transformation in the Muslim societies. This is one of the debates that have continued to be the focal point of Islamic Legal Studies and Comparative Law, as it can show how religious legal traditions relate to the contemporary state institutions (Gaffar & Al Mamari, 2024).

The first approach is linked to the works of Tariq Al-Bishri, which focuses on the influence of the colonial power and the establishment of Western law institutions (Hussein, 2024). This view holds that the European colonialists put in place new judicial systems and codified legal systems, which gradually replaced the traditional Sharia courts (Ayoub & Schriber, 2024). They can be seen in historical examples of emulating European civil law into the Egyptian legal system, such as the Egyptian Civil Code of 1949, which incorporated European concepts of civil law but restricted the jurisdiction of the Sharia courts to family law issues (Ayoub, 2022). The other one is the Indian Penal Code (1860), which was brought in by the British colonial government and adapted by various South Asian legal systems, such as Pakistan and Bangladesh (Anima, 2022). These legislations demonstrate how the colonial law forms transformed the courts' administration and decentralized the judicial power to centralized state organisations. Although the methodology of Al-Bishri is proven by a lot of historical facts, critics say that it can focus more on external forces and forget about the internal legal reform of Muslim societies (Hussein, 2024).

A second explanation is an explanation by Wael Hallaq, who asserts that the classical Sharia system is structurally incompatible with the modern nation-state (Ahmad, 2025). Based on this argument, the classical Islamic law operated under decentralized academic authority, as compared to modern states that depend on codified law and administration by bureaucracies (Djrboua, 2025). This institutional change is demonstrated by a number of contemporary legal systems. An example of this is the UAE Federal Penal Code (1987), which incorporates Islamic legal principles into an elaborate statutory criminal code that is enforced by the state courts (Al Qatawneh, 2021). Equally, Qatar Family Law No. 22 of 2006 codifies regulations based on the Islamic jurisprudence but within a centralized legislative system (Al-Saai, 2025). These cases

show how contemporary states convert religious legal doctrines into laws. The power of the argument presented by Hallaq is that it is philosophically exhaustive, but it is argued by critics that it is overly deterministic in that it assumes that classical jurisprudence cannot be adapted to contemporary institutional settings (Malik et al., 2025).

The other school of thought is linked with Khaled Fahmy, who underlines the internal administrative changes within Muslim communities (Fahmy, 2023). This perspective holds that one of the reasons why legal transformation took place was due to governments pursuing the modernization of judicial institutions and administrative governance (Fahmy, 2025). This process is depicted through legislative reforms. The Moudawana Family Code (2004) in Morocco has brought significant changes to family law, including the introduction of Islamic jurisprudence, alongside the broadening of women's and children's legal protection (Aissaoui, 2024). In the case of Indonesia, the Marriage Law No. 1 of 1974 provided a national legal framework of marriage and incorporated Islamic principles through a wider statutory framework (Sumiarni, 2024). These examples demonstrate that states with Muslim-majority populations embarked on legal changes to keep up to date with the governance system without losing ties to the Islamic legal traditions. Although this point of view emphasizes major institutional changes, critics are of the opinion that it occasionally does not give enough consideration to the role played by colonial legal systems (Fahmy, 2023).

The last one is the integrative narrative, which is a combination of the internal and external explanations. This method holds that the metamorphosis of the Islamic law was a product of the interaction between the colonial and legal reform of the local laws (Al-Shuqairat & Aldajah, 2025). This process of integration is represented in modern hybrid legal systems. A good example is Malaysia, which has a dual legal system where civil courts work under the national law and Sharia courts work under personal statutes like the Islamic Family Law (Federal Territories) Act 1984 (Awang, 2024). In the same way, the Jordan Personal Status Law No. 36 of 2010 enshrines the provisions of the Islamic family law but operates under a contemporary constitutional environment. These views show how many countries with modern legal systems are integrating aspects of religious jurisprudence alongside the contemporary statutory regulation (Mustapha et al., 2022).

Altogether, comparative analysis has indicated that the transition of the Sharia-based system of governance to

modern law cannot be attributed to one factor. Rather, it is the result of a complicated historical process of colonial legal impact, internal administrative reform, and institutional hybridization in the various Muslim societies (Azam et al., 2025).

5.4. Philosophical Analysis of the Claim of Compulsory Islamic Law Application

5.4.1. Normative Foundations of the Exclusivity Claim

One of the major controversies in the study of Islamic Legal Philosophy has been the argument that Islamic law should serve as the sole legal system that can exist in Muslim societies (Al-Farsi, 2022). According to some scholars and political movements, since Sharia is based on divine revelation, it must be used in their entirety and autonomy in the state administration (Makol & Zahra, 2025). Proponents of this view tend to highlight the fact that Islamic law offers an inclusive normative framework governing moral behavior, social interaction, and political power (Husain et al., 2024). As a matter of fact, many nations have even tried to have a wide-ranging legislation based on Sharia laws institutionalized in their legal frameworks. As an illustration, Saudi Arabia uses Islamic jurisprudence as the major source of law in its Basic Law of Governance (1992), which states that the Quran and Sunnah are the constitution of the state (Al-Farsi, 2022). On the same note, Iran has also created an Islamic law system by its Constitution of the Islamic Republic (1979), which necessitates that laws must adhere to Islamic principles as understood by religious jurists (Mutlu, 2025). These are examples of efforts to organize the national legal systems based on Islamic legal standards. Philosophical commentary, however, casts some doubt on whether such a model can be a fully self-sustaining legal order in a modern political institution.

5.4.2. Epistemological Challenges in Islamic law Interpretation

Among the main philosophical issues is the question of epistemology and especially the problem of interpretive plurality in Islamic jurisprudence (Adiyono et al., 2024). Classical Islamic law evolved under the various scholastic traditions that tended to generate divergent legal views on the same matter (Hallaq, 2022). This variation indicates the interpretive quality of fiqh wherein jurists examine textual materials and use logic to come up with legal decisions (Sayuti Ismail & Inayatillah, 2026). Consequently, there is no single standard interpretation

that is applicable in all Muslim societies.

The contemporary law reflects how states solve this plurality, choosing certain interpretations and embedding them in the statutory law. The example of Malaysia, which regulates the Islamic family issues by the Islamic Family Law (Federal Territories) Act 1984, which codifies the specific interpretation of marriage, divorce, and inheritance based on the Islamic jurisprudence (Awang, 2024). Similarly, Indonesia had proposed the Compilation of Islamic Law (1991) as a way of standardizing the legal rules in the application in the religious courts (Mathar, 2022). These instances demonstrate that contemporary states need to turn interpretive jurisprudence into a fixed rule of law, which cannot help but foster some interpretations above the others. According to recent legal research, this movement indicates the complexity of applying Sharia as a homogeneous legal framework since the jurisprudence of this movement is pluralistic and has historically been flexible (Husain et al., 2024).

5.4.3. Ethical Justification and Universal Moral Reasoning

In addition to the epistemological considerations, the argument of mandatory Sharia application also poses some ethical issues with respect to the validity of law (Al-Farsi, 2022). Immanuel Kant influenced philosophical views that warrant legal obligations to be based on a universal principle of practical reason and not on authority or custom alone (Varaba & Berebon, 2021). In that sense, the validity of legal regulations relies on their ability to be supported rationally as universally applicable principles.

The contemporary constitutional systems show how states strive to harmonize religious law with the overall ethical and legal systems. An example is the Moudawana Family Code (2004) in Morocco, which involved the reforms of marriage, guardianship, and divorce process with mention of the Islamic legal principles and the constitutional rights (Wahyudani et al., 2023). Equally, the Tunisian Republic adopted the Code of Personal Status (1956) that overhauled laws of marriage and divorce by synthesizing the Islamic legal customs with the contemporary legal safeguards (Iqbal et al., 2025). Such legislative changes indicate how governments often redefine religious legal norms as per ethical concerns like gender equality, social justice, and human rights.

5.4.4. Limits of Isolated Legal Application

The last philosophical question has to do with the practical challenges of implementing Sharia as a unitary

legal system that is not connected with the larger legal and ethical frameworks (ullah Al Azhari & Al Azhari, 2025). Modern governance needs extensive regulation of matters related to constitutional law, international trade, finance, and administrative law areas that have been historically dealt with by various legal systems in classical Islamic societies (Zakkii, 2025). Consequently, contemporary states tend to come up with mixed legal systems that integrate both the Islamic legal tenets and statutory legal regulations with international legal frameworks (Husain et al., 2024).

Such hybrid systems can be found in several countries. In Pakistan, legislation is reviewed by the Federal Shariat Court created by the Constitution of 1973 to see how it can be harmonized with Islamic principles, with the wider legal framework remaining in application under constitutional and statutory law (Munir, 2022). Equally, Nigeria enacted regional Islamic criminal law, including the Zamfara State Sharia Penal Code (2000), which operates in parallel to the federal constitutional law and the secular courts (Aliyu).

These examples show that contemporary criminal regimes hardly use Sharia in its pure form. Rather, Islamic legal principles exist within complicated institutional practices that also encompass constitutional law, administrative regulations, and international legal requirements (Sholeh & Ab Rahman, 2025). As a result, the philosophical analysis indicates that when states endeavour to enforce Sharia as a fully enclosed body of law, they often encounter serious interpretive, ethical, and institutional problems.

6. Discussion

The findings of the study confirm the idea that the context of the association between Islamic law and contemporary law is both continuity-based and transformation-based. To begin with, the analysis reveals that Sharia and modern legal systems have a number of normative objectives, especially the attainment of justice, social order, and ethical governance. They are quite different, however, in terms of their institutional organization and power. Classical Islamic law emerged through decentralized juristic interpretation, whereas the modern legal systems are based on the centralized state law and codification (Subhi, 2024). Second, the research establishes that the metamorphosis of Sharia-based rule into modern law cannot be attributed to a single factor. Studies suggest that the role of colonial legal influence, the reshaping of the administrative institutions internally, and intellectual reinterpretations all played a part in the

development of the modern legal systems in the Muslim-majority societies (Ayoub & Schriber, 2024). Third, the comparative analysis of the scholarly points of view implies that integrated explanations offer the most correct interpretation of this change. Lastly, the philosophical examination shows that arguments by proponents of the obligatory or exclusive use of Sharia need more ethical and epistemological support than just theological authority (Fouz Mohamed Zacky & Moniruzzaman, 2024).

The results of this research also correspond to the theoretical framework of the analysis. The shift of Sharia-focused jurisprudence to the modern law of the state is reflective of the fundamental assumption amongst the Living Law Theory of Eugene Ehrlich, who postulates that law does not exist as formal statutes in isolation and as such but develops within social institutions, structures of governance, and social practices (Asa, 2025; Machura, 2023). On the same note, the philosophical discussion of the mandatory application of Sharia appeals to Ronald Dworkin, who, in his Legal Interpretivism, argues that the legal rules should be understood with reference to the wider moral principles and ethical arguments (Dyrda, 2022). These theoretical insights can thus substantiate the conclusion of the study that modern legal systems can be said to be the result of interaction between normative traditions, institutional formations, and the development of societal values (Asa, 2025).

These findings align with recent studies on the development of Islamic family law and hybrid legal systems (Hududillah et al., 2025). Comparative studies reveal that numerous states have embedded Islamic law of family in the framework of modern-day law, and at the same time, have reformed these laws to adapt to social and institutional developments (Sezgin, 2023). This trend shows that Islamic law is hardly applied as an entirely independent legal regime; instead, it operates within a wider constitutional and legislative framework. Indicatively, reforms in Morocco have shown that it is possible to have Islamic legal principles that go hand in hand with modern legislative reforms (Laadam & Hasnaoui, 2025). The Moudawana Family Code (2004) made major revisions to the rules of marriage, divorce, and child custody, although it continues to be based on the Maliki school of Islamic jurisprudence (Özdemir, 2025). These changes increased the minimum age of marriage, enhanced the rights of women to divorce, and demanded more judicial regulation on polygamous marriages, showing how the Islamic legal traditions can be transformed in the contemporary statutory framework (Gad Makhoulouf, 2021).

The same trends are observed in other legal settings. The controversy around the Malian Family Code reforms (2009) in Mali depicts the conflict between the religious standards and the contemporary legislative reforms (Whitehouse, 2022). The suggested changes were aimed at reenacting the concept of marriage, allowing more women to receive inheritance, and raising the marriage age to eighteen. Though these proposals had caused political controversy and opposition among religious organizations, they reflect how governments have tried to reconcile religious legal traditions and the contemporary legal principles (Husain et al., 2024). These arguments have shown signs of the structural issues that have been found throughout this research, especially the necessity to harmonize religious jurisprudence and the changing social norms and governance needs.

The findings on the hybrid legal systems in this study are the most common model in the contemporary world, which is also supported by recent scholarship (Wardhani et al., 2022). Comparative legal studies have noted that several countries, including Indonesia, Pakistan, and Nigeria, are under a plural legal system whereby the Islamic law controls certain areas, including family law, whilst the constitutional or statutory law controls others, including the criminal, administrative, and commercial law (Azam et al., 2025; Yahya et al., 2025). These systems demonstrate the way of how religious legal norms in modern states are implemented, not substituting the system in its entirety. Studies of the Islamic legal reform also suggest that legal change may be more of a product of political bargaining between the state apparatus, religious thinkers, and social movements that demand gender equality and the modernization of the law (Laadam & Hasnaoui, 2025). Therefore, the integrated interpretative approach as presented in this paper seems to offer the most integrated explanation of legal change in Muslim majority societies. The philosophical findings of the study are supported by the Moroccan reforms, which show that legal modernization usually needs to interpret the classical jurisprudence based on the new ethical standards, such as gender equality and human rights (Laadam & Hasnaoui, 2025). In the same manner, the constant discussion of family law reforms in different Muslim-majority nations indicates how challenging it is to fully apply Islamic law as an entirely independent legal system without referring to constitutional provisions, international law, and social policy factors (ullah Al Azhari & Al Azhari, 2025). Such instances support the idea that contemporary legal governance is a

multifaceted process, which entails relationships between religious rules, political power, and moral arguments. These findings lead to a number of recommendations regarding legal and scholarly development in the future. First, policymakers should embrace unified legal systems, which will permit Islamic legal ideologies to co-exist with constitutional rule and international law (Haider et al., 2025). These structures can maintain the legitimacy of religion and provide legal consistency and institutional effectiveness. Second, legal reform efforts must focus on interpretive flexibility of Islamic jurisprudence, especially by use of interpretive strategies such as maqasid al-sharia, which focus on attaining bigger ethical goals of Islamic law (Hassanein, 2025). Third, empirical research of legal reform in various Muslim-majority societies should be extended to future studies to comprehend the empirics of the hybrid legal systems of practice in greater detail (Husain et al., 2024). Lastly, the interdisciplinary dialogue between the scholars of Islamic jurisprudence, legal philosophy, and comparative law is to be promoted in order to come up with more sensitive conceptualizations of the changing relationship between religion and law with the state power in the modern form of government (Husain et al., 2024).

7. Limitations and Future Research

The interdisciplinary nature of the analytical approach embraced by this study is one of its primary strengths, as it combines the views of Islamic legal philosophy, comparative law, and political history to analyze how Sharia-oriented governance could be transformed into modern legal regimes. With the help of conceptual analysis, comparative analysis, and philosophical analysis, the research gives a holistic view of how legal, institutional, and intellectual aspects have interacted to create the legal structures present in the Muslim societies. However, one of the limitations of the research is that the study is based mostly on the theoretical and doctrinal analysis in lieu of massive empirical data or a field-based study. This limitation can be overcome in future studies by carrying out empirical case studies of legal reforms in other jurisdictions and how hybrid legal systems are actually practiced, and how courts, legislatures, and societies interpret and apply Islamic law to modern forms of governance.

8. Conclusion

This study has explored how the Sharia-based legal systems were transformed into the modern state-based legal systems in a conceptual, comparative, and

philosophical way. The findings indicate that, although Islamic law and modern law possess similar normative goals, including justice, social, and ethical control, the two are largely diverse in terms of structure, sources of power, and institutional procedures. Classical Islamic law was formed by decentralized interpretation of the Islamic law, and modern legal systems are based on codified laws and centralized institutions of the state. This study also shows that a historical transition of Sharia to modern law cannot be attributed to one factor. Rather, it was a product of the collective action of colonial legal reform, internal administrative modernization, and intellectual reinterpretations in Muslim societies. Analytical comparison of academic views shows that combined theories offer the most detailed account of this change. Lastly, the philosophical discussion indicates that arguments in favor of Islamic law obligatory implementation need wider ethical and epistemological explanation in modern legal and governance systems.

Conflict of Interest

The Author declares no conflict of interest.

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