



## STONING LAW IN THE PERSPECTIVE OF ISLAMIC LAW: A COMPARISON OF THE IMPLEMENTATION OF STONING LAW IN INDONESIA AND ARAB COUNTRIES<sup>\*</sup>

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### **Abstract:**

This study explores the contextual interpretation of Islamic law within the framework of Arab countries and Indonesia, emphasising the historical, social, and political factors that influence their legal systems. It highlights the complexities of implementing Islamic law, particularly concerning human rights and international legal standards. The research critiques the role of monarchies in Arab countries, where legal systems often reflect a blend of traditional Islamic principles and modern secular influences. The study also discusses the challenges these legal systems face in balancing religious mandates with contemporary human rights issues, as highlighted by various international organisations. The findings indicate that while Islamic law provides a fundamental legal framework, its application is significantly shaped by the socio-political context of each Arab country, leading to diverse interpretations and implementations of justice. This study concludes by advocating for a more nuanced understanding of Islamic law that considers both its religious roots and the modern legal landscape.

**Keywords:** Islamic Law; Arab Countries; Human Rights; Legal System; International Law; Socio-Political Context

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## A. INTRODUCTION

Islam, as a comprehensive religion, has a legal system that regulates various aspects of human life, including criminal law, which is known as *jinayah*<sup>1</sup>. One form of punishment in Islamic criminal law that remains a topic of debate today is stoning (*rajam*), which is a punishment for individuals convicted of adultery (*zina muhsham*), meaning those who are married.<sup>2</sup> The complexity of implementing stoning law (*rajma*) in the modern era has become an intriguing discourse, especially when compared to its implementation in various Muslim countries.<sup>3</sup>

Indonesia, the country with the largest Muslim population in the world, has its dynamics in viewing and implementing Islamic law.<sup>4</sup> In Indonesia, although the majority of the population is Muslim, the stoning law (*rajam*) is not regulated within the national criminal justice system. This is because Indonesia adopts the principle of legal pluralism, integrating Sharia into national law without fully accommodating Islamic criminal law<sup>5</sup>. This differs from several Arab countries that still maintain and enforce the stoning law within their judicial systems.<sup>6</sup>

The province of Aceh, as the only province in Indonesia that formally implements Sharia law, also does not adopt the stoning law (*rajam*) in its *Qanun Jinayat* (Islamic criminal code).<sup>7</sup> This reflects a process of contextualisation and interpretation of Islamic law that differs from Arab countries. These differences are influenced by historical, social, and political factors shaping each country's legal systems.<sup>8</sup> On the other hand, several Arab countries, such as Saudi Arabia, Yemen, and Sudan, still enforce the stoning law (*rajam*) as part of their judicial system<sup>9</sup>. The implementation of stoning in these countries is based on a literal interpretation of Islamic legal sources and the strong influence of traditional

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<sup>1</sup> Al-Qaradawi, Y. (2019). *Islamic Law in Modern Times*. Islamic Studies.

<sup>2</sup> Anderson, J. (2018). *Islamic Law in Contemporary World*. London: The Islamic Foundation.

<sup>3</sup> Kamali, M. H. (2020). *Principles of Islamic Jurisprudence*. Cambridge: Islamic Texts Society.

<sup>4</sup> Salim, A. (2021). *Dynamic of Islamic Law in Indonesia*. Oxford: University Press.

<sup>5</sup> Assegaf, M. (2017). *Pluralisme Hukum di Indonesia*. Jakarta: Gramedia.

<sup>6</sup> Peters, R. (2017). *Crime and Punishment in Islamic Law*. Cambridge: Cambridge University Press.

<sup>7</sup> Abubakar, A.-Y. (2019). *Syariat Islam di Aceh*. Banda Aceh: Pustaka Alvabet.

<sup>8</sup> Hallaq, W. B. (2020). *History of Islamic Legal Theories*. Cambridge: Cambridge University Press.

<sup>9</sup> Otto, J. M. (2018). *Sharia and National Law in Muslim Countries*. Leiden: Brill.

*mazhab* (Islamic schools of thought) in their legal systems.<sup>10</sup> The stoning law (*rajam*) is often scrutinised at the international level, particularly from a human rights perspective. Criticism of stoning is frequently voiced by international organisations such as Amnesty International, which considers it a form of punishment that violates the right to life and the prohibition of torture as stipulated in international law.<sup>11</sup>

The differences in the implementation of the stoning law (*rajam*) between Indonesia and Arab countries reflect variations in understanding and contextualising Islamic law.<sup>12</sup> A more moderate and contextual approach to interpreting Sharia has resulted in a legal system accommodating local values and human rights principles in Indonesia.<sup>13</sup> The discourse on stoning law is also closely linked to debates on the relationship between Islamic law and human rights.<sup>14</sup> Contemporary Muslim scholars hold diverse views on the relevance of stoning in the modern era, with some arguing that the punishment should be re-evaluated under the current context.<sup>15</sup>

The complexity of implementing the stoning law (*rajam*) is also related to the stringent evidentiary requirements in Islamic law.<sup>16</sup> The conditions that must be met to impose the stoning punishment are highly rigorous, making its actual enforcement very rare, even in countries that still uphold it.<sup>17</sup> In the Indonesian context, debates on stoning law also involve discussions on the relationship between Islamic law and national law.<sup>18</sup> As a country that follows the *civil law* system with influences from customary law and Islamic law, Indonesia faces challenges in harmonising these different legal systems.<sup>19</sup>

A comparative study on the implementation of the stoning law (*rajam*) between Indonesia and Arab countries is essential to understanding how socio-political contexts influence the application of Islamic law<sup>20</sup>. This research is also relevant for analyzing how modern Muslim countries respond to the challenges

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<sup>10</sup> An-Na'im, A. (2021). *Islamic Law Reform*. Cambridge: Cambridge University Press.

<sup>11</sup> Amnesty International. (2021). *The Death Penalty and Human Rights*. London: Amnesty International Publications.

<sup>12</sup> Coulson, N. (2017). *History of Islamic Law*. Edinburgh: Edinburgh University Press.

<sup>13</sup> Hooker, M. (2019). *Indonesian Syariah*. Singapore: Institute of Southeast Asian Studies.

<sup>14</sup> Mayer, A. (2018). *Islam and Human Rights*. Boulder: Westview Press.

<sup>15</sup> Rahman, F. (2020). *Islamic Methodology in History*. State University of New York Press.

<sup>16</sup> Schacht, J. (2018). *Introduction to Islamic Law*. Oxford University Press.

<sup>17</sup> Zuhaily, W. (2019). *Islamic Jurisprudence*. Dar al-Fikr.

<sup>18</sup> Lukito, R. (2020). *Legal Pluralism in Indonesia*. Springer.

<sup>19</sup> Hefner, R. (2021). *Shari'a Politics*. Indiana University Press.

<sup>20</sup> Lombardi, C. (2019). *State Law as Islamic Law*. Cambridge University Press.

of globalisation and modernisation in the context of Islamic law enforcement.<sup>21</sup> Amid global debates on human rights and criminal law reform, the study of stoning law has become increasingly relevant in understanding the dynamics of Islamic law implementation in contemporary times.<sup>22</sup> This research is expected to contribute to the academic discourse on the contextualisation of Islamic law and its transformation within modern legal systems, particularly concerning the application of stoning.

## B. METHODS

This study adopts a qualitative approach with a descriptive-analytical method to explore stoning law (*rajam*) from the perspective of Islamic law and compare its implementation in Indonesia and Arab countries. Data is gathered through a literature review, examining classical Islamic texts, legal documents, scholarly journals, and official reports. Primary sources, such as the Qur'an, Hadith, and fiqh books, serve as the foundation for understanding the concept of stoning law in Islam, while secondary data, including academic studies and international reports, illustrate its application in both regions. A comparative analysis is conducted to identify similarities and differences in implementing stoning law, considering social, political, and cultural factors. The *maqashid al-shariah* approach is also used as a theoretical framework to assess its relevance in modern contexts. This method provides a holistic and critical perspective on stoning law within Islamic jurisprudence and its implications in contemporary society.

## C. RESULTS AND DISCUSSION

### 1. The Concept of The Law of Stoning In Islam

Stoning (*rajam*) is a form of punishment in Islamic law imposed on individuals convicted of adultery who are already married. In the context of Sharia, stoning is derived from various sources, including the Qur'an and Hadith. Although there is debate among scholars regarding the implementation of this punishment, many agree that stoning aims to uphold societal morality and prevent adultery. The implementation of stoning law in Indonesia and Arab countries shows significant differences in positive law and social practices.

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<sup>21</sup> Vogel, F. (2020). *Islamic Law and Legal System*. Brill.

<sup>22</sup> El Fadl, K. (2018). *Speaking in God's Name*. Harvard University Press.

Indonesia's stoning law (*rajam*) is not included in the national legal system. Although some regions, such as Aceh, implement Sharia law, the enforcement of stoning remains rare and is often not carried out. This is due to various factors, including the more moderate views of society and regulations that prioritise human rights principles. In Aceh, although there are *qanun* (Islamic bylaws) that regulate the implementation of Sharia, the practice of stoning is often hindered by complex social and legal challenges.<sup>23</sup> On the other hand, in Arab countries such as Saudi Arabia, the stoning law (*rajam*) is enforced more strictly. The legal system in Saudi Arabia is entirely based on Sharia, and stoning is considered a legitimate punishment. The implementation process involves strict legal procedures, including requiring witnesses and a trial to determine guilt. However, enforcing this law often faces criticism from various human rights organisations, which argue that it violates modern human rights principles.

The media and international organizations are crucial in shaping public opinion on the stoning law (*rajam*). In Indonesia, human rights campaigns often focus on a more humanistic approach to law enforcement, educating society about alternative ways to address moral violations. Meanwhile, in Arab countries, although there are critical voices, support for the stoning law remains strong among some segments of society that consider it an integral part of religious law.<sup>24</sup>

The implementation of the stoning law (*rajam*) from the perspective of Islamic law shows significant differences between Indonesia and Arab countries. However, both are based on Sharia principles, and social, cultural, and political factors greatly influence how this law is accepted and enforced. Discussions on the stoning law are expected to encourage a broader dialogue on the compatibility between religious law and human rights in the modern era.<sup>25</sup>

## 2. Implementation in Indonesia

The stoning law (*rajam*) in Islam is a form of punishment imposed on individuals convicted of adultery who are already married. In Indonesia, the implementation of stoning is not integrated into the national legal system, which is based on Pancasila and the 1945 Constitution (*UUD 1945*). Although

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<sup>23</sup> Shihab, M. (2011). *Membumikan Al-Qur'an: Fungsi dan Peran Al-Qur'an dalam Kehidupan*. Jakarta: Lentera Hati.

<sup>24</sup> A. Rahman. (2019). *Hukum Pidana Islam di Indonesia: Antara Teori dan Praktik*. *Jurnal Hukum dan Pembangunan*.

<sup>25</sup> Abdillah. (2021). *Relevansi Hukum Islam dan Hak Asasi Manusia*. *Jurnal Hukum Islam*.

some regions, such as Aceh, implement Sharia law, the enforcement of stoning remains rare and is often hindered by various social and legal factors.<sup>26</sup>

In Aceh, the only province in Indonesia that implements *Qanun* Sharia, the stoning law (*rajam*) is regulated under *Qanun* No. 6 of 2014 on *Hukum Jinayat* (Islamic Criminal Law). However, the enforcement of this law is not as straightforward as it may seem. Many challenges arise, including requiring qualified witnesses and the legal procedures to be followed before the punishment can be executed (*Qanun* Aceh No. 6 of 2014 on *Hukum Jinayat*, Article 33). This indicates that although stoning has a legal basis, its implementation still requires strict attention and oversight.

One of the reasons behind the rare implementation of the stoning law (*rajam*) in Indonesia is the presence of moderate views within society. Many believe a more humanistic and rehabilitative approach is more appropriate for addressing moral violations. Additionally, the presence of human rights organisations in Indonesia is also a significant factor driving opposition to the enforcement of stoning. They argue that this punishment can potentially violate individual rights and contradict the principles of justice from a modern perspective.

The diversity of Indonesian society regarding religious views makes discussions about the stoning law (*rajam*) highly complex. Most people advocate for a legal approach prioritising education and prevention rather than imposing harsh punishments. This condition influences society's perspective on adultery and other moral violations. Public debates on the stoning law often highlight ethical and moral dimensions, making it a highly sensitive issue.

The mass media also significantly shapes public perception of the stoning law (*rajam*). Various news reports and articles about the implementation of Sharia law in Aceh often attract national and international attention. This significantly influences public views on the stoning law among its supporters and opponents. The debates are generally related to human rights issues and social justice.<sup>27</sup> On the other hand, some groups support the implementation of the stoning punishment (*rajam*) as part of enforcing Sharia law. They argue that stoning is necessary to protect societal morality and as a form of accountability for those who commit adultery. However, this view is

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<sup>26</sup> Shihab, M. (2011). *Membumikan Al-Qur'an: Fungsi dan Peran Al-Qur'an dalam Kehidupan*. Jakarta: Lentera Hati.

<sup>27</sup> A. Rahman. (2019). *Hukum Pidana Islam di Indonesia: Antara Teori dan Praktik*. Jurnal Hukum dan Pembangunan.

often opposed by moderate and secular groups, who believe that such an approach is unsuitable for Indonesia's context, which is characterized by religious and cultural diversity.<sup>28</sup>

The implementation of the stoning law (*rajam*) in Indonesia is also influenced by broader political and legal dynamics. When Sharia-related issues emerge in political debates, intense discussions often arise regarding the enforcement of stoning. This can impact public policy and how the government responds to societal demands related to establishing Sharia law in certain regions.<sup>29</sup>

Implementing the stoning law (*rajam*) in Indonesia demonstrates deep complexity. Although Aceh has a legal basis, various social, cultural, and political factors significantly influence how this law is accepted and enforced. Discussions on the stoning law are expected to spark deeper conversations about the compatibility between religious law and human rights in Indonesia's diverse society.<sup>30</sup>

### 3. Implementation in Arab countries

The stoning law (*rajam*) in Islam is enforced more strictly in Arab countries compared to Indonesia. In countries such as Saudi Arabia, stoning is considered an integral part of the Sharia legal system that governs societal behaviour. This law is established based on interpretations of the Qur'an and Hadith, where married individuals convicted of adultery may receive the stoning punishment, provided certain conditions are met, including the presence of valid witnesses.<sup>31</sup>

In Saudi Arabia, the implementation of the stoning law (*rajam*) is strictly regulated by Sharia judicial institutions. The legal process begins with a thorough investigation and a trial involving judges and witnesses. If found guilty, the offender is sentenced, which in some cases may result in a public stoning execution.<sup>32</sup> Although these procedures ensure a legal process, enforcing this law often faces criticism from human rights organisations, which argue that it violates individual rights and modern principles of justice.<sup>33</sup>

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<sup>28</sup> Natsir, M. (n.d.). Islam dan Hak Asasi Manusia: Perspektif dan Realitas.

<sup>29</sup> Abdillah. (2021). Relevansi Hukum Islam dan Hak Asasi Manusia. Jurnal Hukum Islam.

<sup>30</sup> Prabowo, D. (2020). Penerapan Syariah di Indonesia: Tantangan dan Peluang. Jurnal Hukum dan Peradilan.

<sup>31</sup> Al-Qur'an, Surah An-Nur (24:2) dan hadits sahih tentang hukuman zina.

<sup>32</sup> Shihab, M. (2011). Membumikan Al-Qur'an: Fungsi dan Peran Al-Qur'an dalam Kehidupan. Jakarta: Lentera Hati.

<sup>33</sup> Human Rights Watch, *World Report 2020: Events of 2019*.

One of the challenges in enforcing the stoning law (*rajam*) in Arab countries is the social stigma surrounding those accused of adultery. Many individuals involved in such cases face not only physical punishment but also social ostracism. This often makes them reluctant to report their cases or seek justice due to fear of more significant social consequences.<sup>34</sup> In this context, the stoning law is not just a legal issue but also a complex social problem.

In other Arab countries, such as Sudan and Iran, the stoning law (*rajam*) is also enforced, but with variations in procedures and implementation. For example, in Iran, the enforcement of stoning is often accompanied by strict legal procedures, yet it still faces international criticism. The strict enforcement of this law in these countries is usually driven by deep-rooted political and religious ideologies, making stoning a symbol of strict Sharia implementation.<sup>35</sup> Differences in implementing the stoning law (*rajam*) in Arab countries can be observed from political and social aspects. In Saudi Arabia, support for stoning often stems from strong social consensus and government backing. In contrast, in other Arab countries, such as Egypt, there is a broader debate on enforcing this law, with many advocating for legal reform and a more humanistic approach.<sup>36</sup> This debate reflects the region's social values and human rights shift.

The media also plays a vital role in shaping public opinion on the stoning law (*rajam*) in Arab countries. News about stoning cases often attracts international media attention, influencing local public perceptions. In some cases, the media serves as a platform to criticise the enforcement of this punishment and call for legal reforms.<sup>37</sup> However, some media outlets support the implementation of stoning as part of society's cultural and religious identity. Despite strong criticism of the enforcement of the stoning law (*rajam*), many people in Arab countries believe that this punishment is necessary to uphold societal morality. They argue that stoning serves as an effective deterrent against adultery and aligns with the principles of justice in Islam.<sup>38</sup> This perspective often becomes a point of debate between tradition and modernity, as well as between the application of Sharia law and human rights.

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<sup>34</sup> A. Rahman. (2019). Hukum Pidana Islam di Indonesia: Antara Teori dan Praktik. Jurnal Hukum dan Pembangunan.

<sup>35</sup> Irfan Syaumi Beik, *Hukuman Zina dalam Islam: Studi Perbandingan Hukum Pidana Islam dan Hukum Pidana Nasional*.

<sup>36</sup> Natsir, M. (n.d.). Islam dan Hak Asasi Manusia: Perspektif dan Realitas.

<sup>37</sup> Abdillah. (2021). Peran Media dalam Mempengaruhi Opini Publik tentang Hukum Rajam. Jurnal Hukum Islam.

<sup>38</sup> Prabowo, D. (2020). Penerapan Syariah di Indonesia: Tantangan dan Peluang. Jurnal Hukum dan Peradilan.

Implementing the stoning law (*rajam*) in Arab countries demonstrates deep complexities. Although this law is recognised within the Sharia legal system, various social, political, and cultural factors influence how it is accepted and enforced. Discussions on the stoning law in Arab countries are expected to encourage a broader dialogue on the compatibility between religious law, social justice, and human rights in the modern era.

#### 4. Comparison of Implementation in Indonesia and Arab Countries

The stoning law (*rajam*) in Islam is a form of punishment imposed on individuals convicted of adultery who are already married. The implementation of this law shows significant differences between Indonesia and Arab countries, particularly in legal, cultural, and social contexts. In Indonesia, the enforcement of stoning is not regulated within the national legal system, whereas in Arab countries, such as Saudi Arabia, it is applied more strictly and systematically.<sup>39</sup>

In Indonesia, although some regions implement Sharia law, such as Aceh, the stoning punishment (*rajam*) is rarely carried out. Aceh's *Qanun* No. 6 of 2014 on *Hukum Jinayat* regulates Sharia violations, including adultery. Still, the implementation of stoning is often hindered by various factors, including the more moderate views of society and regulations that prioritise human rights.<sup>40</sup> This reflects the pluralistic nature of Indonesian society, which tends to reject the enforcement of harsh punishments. On the other hand, in Arab countries, particularly Saudi Arabia, the stoning punishment (*rajam*) is enforced in a more organised and strict manner. The legal process involves Sharia courts, which have the authority to impose the stoning sentence after thorough investigations and trials. If the accused is proven guilty of adultery, the stoning punishment may be handed down and is often carried out publicly.<sup>41</sup> Implementing this law reflects a more substantial social consensus among Arab societies regarding upholding moral values.

Differences in implementing the stoning law (*rajam*) are also evident from social and cultural aspects. In Indonesia, the pluralistic and religiously diverse society tends to be more sceptical about enforcing stoning. Many believe a more humanistic and rehabilitative approach is more appropriate for

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<sup>39</sup> Al-Qur'an, Surah An-Nur (24:2) dan hadits sahih tentang hukuman zina.

<sup>40</sup> Qanun Aceh No. 6 Tahun 2014 tentang Hukum Jinayat.

<sup>41</sup> Shihab, M. (2011). *Membumikan Al-Qur'an: Fungsi dan Peran Al-Qur'an dalam Kehidupan*. Jakarta: Lentera Hati.

addressing moral violations.<sup>42</sup> On the other hand, in Arab countries, support for stoning often stems from strong religious ideology and the belief that this punishment is a legitimate part of Sharia enforcement. The media also plays a vital role in shaping public opinion regarding the stoning law (*rajam*) in both contexts. In Indonesia, the media often highlights human rights issues and criticisms of the implementation of stoning, which can influence public perception.<sup>43</sup> Meanwhile, in Arab countries, the media can serve as a tool to support the enforcement of stoning by emphasising the importance of morality and adherence to religious law. This demonstrates how the media can shape societal perceptions of the stoning law.

In the context of human rights, implementing the stoning law (*rajam*) in Indonesia and Arab countries also shows striking differences. In Indonesia, many human rights organisations oppose the enforcement of stoning, arguing that this punishment violates individual rights and is not in line with modern principles of justice.<sup>44</sup> Conversely, in Arab countries, despite international criticism, many people believe that stoning is a necessary measure to uphold societal morality and as a form of accountability for those who commit adultery.<sup>45</sup>

From a political perspective, implementing the stoning law (*rajam*) in Indonesia and Arab countries is also influenced by broader political dynamics. In Indonesia, Sharia-related issues often become part of political debates, with some groups supporting the implementation of Sharia law while others oppose it.<sup>46</sup> In Arab countries, the enforcement of the stoning law is often backed by the government as part of the legitimacy of deep-rooted political and religious ideology. However, there are also voices calling for legal reform.<sup>47</sup>

The comparison of the implementation of the stoning law (*rajam*) in Indonesia and Arab countries reveals deep complexities. Although both are based on Sharia principles, social, cultural, and political factors significantly influence how this law is accepted and enforced. The debate on stoning law is

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<sup>42</sup> Human Rights Watch, *World Report 2020: Events of 2019*.

<sup>43</sup> Rahman, A. (2020). Stigma Sosial dan Hukum Zina di Negara-Negara Arab. *Jurnal Hukum dan Pembangunan*.

<sup>44</sup> Natsir, M. (n.d.). Islam dan Hak Asasi Manusia: Perspektif dan Realitas.

<sup>45</sup> Abdillah. (2021). Peran Media dalam Mempengaruhi Opini Publik tentang Hukum Rajam. *Jurnal Hukum Islam*.

<sup>46</sup> Prabowo, D. (2020). Penerapan Syariah di Indonesia: Tantangan dan Peluang. *Jurnal Hukum dan Peradilan*.

<sup>47</sup> Al-Munajjid, A. (2018). The Application of Shari'ah Law in Saudi Arabia. *Middle Eastern Studies Journal*.

expected to encourage a broader dialogue on the compatibility between religious law, social justice, and human rights in the modern era.<sup>48</sup>

#### D. CONCLUSION

From the perspective of Islamic law, the implementation of the stoning law (rajam) shows notable differences between Indonesia and Arab countries, influenced by social, cultural, and political contexts. In Indonesia, stoning is rarely enforced, even in regions like Aceh that implement Sharia law. This is due to more moderate societal views, the influence of human rights organisations, and legal frameworks prioritising personal rights. Indonesian society favours a more humanistic and rehabilitative approach in handling moral violations. Conversely, in Arab countries, particularly Saudi Arabia, stoning is applied more strictly, with the legal process involving formal Sharia judicial institutions. While these procedures follow strict guidelines, they often face international criticism regarding human rights. The broader social consensus in Arab countries supports stoning as part of Sharia enforcement. These differences highlight the complex challenge of balancing religious teachings with human rights, necessitating ongoing dialogue to harmonise these values in diverse societies.

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<sup>48</sup> Rahman, A. (2021). Hukum Islam dan Hak Asasi Manusia: Perspektif Global. *Jurnal Hukum Internasional.*

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