



The Existence of Sharia Courts in the United Kingdom

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ABSTRACT

The Islamic Risala brought by Muhammad SAW has been presented as the last heavenly religious teaching that carries a mission of peace with the Qur'an as the guidebook of his people. The study of all life aspects contained in the Qur'an is Hudan (guidance), and it is the most complete guide for all humans in the world. The authenticity of the Qur'an and language style has been unrivaled throughout the ages, and it strengthens the perfection of Islamic teachings, which is universal as Rahmatan Lil' ālamīn. As time goes by, Islam has significantly contributed to the history of human civilization. History also records areas where great civilizations have emerged. There are relics of high Islamic culture, admired and recognized, including in the European region, definitely cannot be separated from the contribution of the struggle of Muslim leaders who are highly dedicated and persistent in spreading Islamic teachings. As a European country, the United Kingdom was not spared from the spread of Islamic teachings. By collecting research data from various works of literature and making the world of texts the main object of its analysis, this article intends to examine the track record of the early embryo of the universality of Islam touching British society by looking deeper into the history of the beginning of the arrival of Islam, the Dynamics of Muslim life and Sharia Courts in the United Kingdom.

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1. Introduction

United Kingdom is one of the countries on mainland Europe apart from France and the Netherlands whose population is a Muslim minority amidst a majority group who are none other than native British citizens. Even though it is only the size of the island of Java,

United Kingdom is widely known throughout the world because it is superior in various fields. Interestingly, England is known as a global city, an international city with native British citizens, namely white citizens who in fact adhere to Christianity but have modern characteristics. The dynamism of Muslim life in this country is very prominent in the midst of a liberal, plural and multicultural situation. Therefore, the dynamics of the development of the Islamic religion in England are interesting to study by taking a deeper look at the existence of sharia justice in England.¹

There are basically several previous studies and discussions related to the dynamics of Muslim life in the United Kingdom, including first, a study that examines the description of the historical roots and development of Islam in England written by Syah Budi. From his exploration of the literature, Syah Budi presented data and facts that provide an overview of the historical roots of Islam in England from the VIII century to the seventeenth century. This includes providing an overview of the development of Islamic institutions in the United Kingdom as well as notes on several religious organizations that refer to tarekat. The existence of the Shiite organization (World Ahlul Bait League/Wabil) in the history of the development of Islam in England is also highlighted in his writing.²

Second, an article written by Nuraeni entitled The Development of Islam in the United Kingdom which was published in 2020. In the article it is concluded that Islam has existed in the United Kingdom since 1707, through the contact of individual British people with the Islamic Community, and the existence of a group of people who Muslims who came to trade, also as workers in England. In the article, Nuraeni describes that there are around 2,869,000 Muslims in the United Kingdom or 4.6 percent of the total population. This figure has jumped significantly from the 2001 census which only recorded 1,647,000 Muslims. Nuareni also described Islamic organizations in the United Kingdom as having given their own color to the development of Islam. These organizations have at least opened the eyes of British people about Islam, which they do openly and interact with non-Muslim British society.³

¹ Lepore, C. R. (2012). Asserting State sovereignty over national communities of Islam in the United States and Britain: Sharia Courts as a tool of Muslim accommodation and integration. *Wash. U. Global Stud. L. Rev.*, 11, 669.

²Syah Budi. "Akar Historis dan Perkembangan Islam di Inggris." *Tasamuh: Jurnal Studi Islam* 10.2 (2018): 325-354.

³Nuraeni, S. "Perkembangan Islam Di Inggris." *Jurnal al-Hikmah* 21.1 (2019): 95-111.

Next is an article written by Mutmainnah and Rahmawati entitled The Existence and Reform of Islamic Family Law in England. In her study, it was explained that several figures supported Islamic law being implemented in England, including the head of the Regional Justice of England and Wales, Lord Nicholas Phillips, the Archbishop of Canterbury, Rowan Williams, Sheikh Siddiqi who also helped Muslims based on the 1996 Arbitration Act. obtain formal legal recognition. Thus, Islamic family law which basically adheres to Islamic principles must also comply with existing positive law, however in the United Kingdom there are many institutions based on Muslim family law (MFL) Muslim family law, namely aspects of Sharia which regulate marriage, divorce, maintenance and rights. child care and inheritance are known as sharia councils.⁴

From the results of this research, so far there has not been a single study that has examined the existence of sharia justice in the United Kingdom in one study. Therefore, this research attempts to fill this gap by describing the existence of sharia justice in the United Kingdom. The results of this study then become the value of the novelty of this study compared to previous studies.

2. Legal Materials and Methods

This research is normative legal research using a historical approach, namely an approach carried out by tracing and researching the history that underlies the recognition of Sharia justice in the United Kingdom as an institution in resolving conflicts for British Muslims. The aim of a historical approach is to better understand the rationale underlying the existence of Sharia justice in United Kingdom. Data was obtained from primary legal materials and secondary legal materials. Primary legal materials include statutory regulations, international legal norms and Islamic legal norms. Secondary legal materials are legal materials that will provide explanations of primary legal materials, such as books, scientific journal articles, legal dictionaries, newspapers and theses and dissertations. Legal materials are obtained through literature studies. The data obtained was then processed and then analyzed using descriptive analysis techniques.

⁴Mutmainnah, Rahmawati. "Eksistensi Dan Reformasi Hukum Keluarga Islam di Inggris." *Dikum: Jurnal Syariah dan Hukum* 18.2 (2020): 154-173.

3. Results and Discussion

British Muslims today participate at every level of British society, from politics, law, education, banking, health and social care, media, and journalism, as well as fulfilling their civic duties; while an extensive network of mosques, Islamic schools and Muslim organizations reflects their religious identity.⁵

Every Muslim who obeys Allah SWT of course desires to always be able to live his life in accordance with Islamic norms. The desire to be able to discuss and resolve all personal problems with fellow Muslims in accordance with what is taught by the Al-Qur'an and the Sunnah of the Prophet SAW. Therefore, it is only natural that Muslims in the United Kingdom want the same thing. British Muslims have long wanted formal sharia courts. As their level of education increases and their awareness increases, they return to the roots of their religious identity. It is not an exaggeration that British Muslims have long dreamed of the availability of formal Sharia courts.⁶ It cannot be denied, the fact is that formal British courts often fail to provide satisfying services both spiritually, financially and in legal procedures to Muslim citizens⁷. Financially, because attempting to resolve legal disputes through official English courts usually requires significant investment, such as hiring lawyers and other professionals.

In 1996 the British government passed the Arbitration Act, where parties who have disputes, especially civil disputes, can resolve their problems through third parties (parties outside the formal court) and with a system that is different from the formal court system. also. This path can be considered as a kind of semi-informal path, a family system or "customary" settlement as is generally owned by each community.⁸For Muslims, this is of course an opportunity to be able to implement Sharia courts among them.⁹

Responding to these conditions, Muslim citizens then designed all legal instruments to convene a sharia council which was under the legal umbrella of the Arbitration Law.

⁵Nahid A. Kabir, *Young British Muslims: Identity, Culture, Politics and the Media* Edinburgh: Edinburgh University Press, 2012

⁶Brechin, J. (2013). A study of the use of Sharia law in religious arbitration in the United Kingdom and the concerns that this raises for human rights. *Ecclesiastical Law Journal*, 15(3), 293-315.

⁷Ali, S. S. (2013). Authority and Authenticity: Sharia Councils, Muslim Women's Rights, and the English Courts. *Child & Fam. LQ*, 25, 113.

⁸Hasyim Aidid, (2011) *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*, Sulawesi Selatan, Alauddin University press. p. 132.

⁹Nash, P. S. (2017). Sharia in England: The Marriage Law Solution. *Oxford Journal of Law and Religion*, 6(3), 523-543.

Exactly in 2007, the first Sharia Court was formed in England by British Muslims.¹⁰ Now there are approximately 85 recorded¹¹ Sharia courts throughout the UK where Muslim citizens can go to them to resolve problems between fellow Muslims.

According to Dr. Suhaib Hasan, Secretary General of the British Islamic Sharia Council, generally the cases that come to them are civil cases, for example marriage cases and inheritance cases. This Sharia Court is integrated with English positive law, is related because it is already under the 1996 Arbitration Act. So that every subsequent legal process, for example when force is needed, will receive coordination with British law enforcement.¹² This condition is part of the success of the British Muslim community considering that throughout the pioneering process up to the establishment and implementation of the functions of the sharia court it has not been free from controversy both from the internal Muslim community itself and external parties, even to this day¹³.

The existence and implementation of the functions of the Sharia Court to date has not been without debate in British society. In the history of the active implementation of the functions of the sharia court, it is clear that Dr. Rowan Williams, Bishop of Canterbury once turned the British Sharia Court into a public polemic. Addressing more than 800 attendees in the Great Hall of the Royal Courts of Justice, he said that sharia trials were inevitable and a right of British Muslims. In fact, according to him, sharia is very necessary to maintain social cohesion, especially among British Muslims. This statement had an impact on the anger and responses of various groups in England as well as triggering public debate about sharia at that time until now.¹⁴

The arguments underlying the pro group are as follows: firstly, a similar trial had been carried out by British Jews called Beth Din and had even been going on for decades before the existence of the arbitration law, so this was considered equal human rights for citizens. Muslim. Second, many Muslim women need religious confirmation from an imam or spiritual leader that they have the right to file for divorce. On the other hand, the opposing group also has other arguments, firstly, sharia does not recognize equality

¹⁰Hasyim Aidid, *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*,..... p. 132.

¹¹John Bingham, At Least 85 'Courts' operating in Britain, says Civitas Report. 2009. Retrieved from <http://www.telegraph.co.uk> (November 2022)

¹²Hasyim Aidid, *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*,..... p. 132.

¹³ Bano, S. (2008). In pursuit of religious and legal diversity: A response to the Archbishop of Canterbury and the 'Sharia debate' in Britain. *Ecclesiastical Law Journal*, 10(3), 283-309.

¹⁴Hasyim Aidid, *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*,..... p. 133.

between men and women, does not tolerate homosexual groups, and does not recognize equal rights with other religions. Second, there is a contradiction between sharia and British positive law, and third, sharia courts will further add to the dichotomy between Muslim citizens and Western society.¹⁵

In 2010, the European Council for Research and Fatwa (ECFR) issued a shocking statement that “legal marriages performed in Western countries are valid marriages in the eyes of Sharia and can be accepted by Sharia courts in these countries. Muslim country.¹⁶ And in 2018, for the first time, a British court recognized sharia law in determining important decisions in a divorce. This is an acknowledgment of the existence of Islamic law in the legal system in England. In this divorce case, the judge decided that a wife could claim her husband's assets when they divorced, known as gono-gini assets.¹⁷ History records, for the first time the court in England made an important decision in the divorce case between the couple Nasreen Akhtar and Mohammed Shabaz Khan using Sharia law or Islamic law.¹⁸

The fact that surprised everyone was that the Sharia courts in the United Kingdom were also used by other non-Muslim British citizens. In *The Sunday Times*, Fiona Hamilton reports that more and more non-Muslim Britons are settling their civil disputes in Sharia courts. Based on Hamilton's explanation, the number of non-Muslim British citizens could reach 554 people. He said that one reason is that these non-Muslims find sharia courts easier than Britain's conventional formal courts in some respects. This is because the Sharia court provides space for oral agreements to be used as evidence in court. Meanwhile, in English courts, the completeness of documents as evidence is emphasized. For example, a non-Muslim from an English city sued his Muslim business partner in the Sharia court. In the end, the Sharia court sided with the non-Muslim and awarded him £48,000.¹⁹

¹⁵Hasyim Aidid, *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*,..... p. 134.

¹⁶European Council for Fatwa and Research (ECFR), “The Twentieth Ordinary Session of the European Council for Fatwa and Research”, <https://www.e-cfr.org/twentieth-ordinary-session-european-council-fatwa-research/> accessed in November 2022 .

¹⁷Mutmainnah dan Rachmawati, “Eksistensi dan Reformasi Hukum Keluarga Islam di Inggris” , *Diktum: Jurnal Syariah dan Hukum*. Vo. 18 No 2 2020. p. 154-173.

¹⁸Muhaimin, “Pertama Kali, Pengadilan Inggris Gunakan Hukum Islam”, *Sindonews.com*. 2018. Retrieved from [https://international.sindonews.com/berita/1327322/41/pertama-kali-pengadilan-inggris-using- Hukum-islam](https://international.sindonews.com/berita/1327322/41/pertama-kali-pengadilan-inggris-using-Hukum-islam) (November 2022)

¹⁹Fiona Hamilton, *Non-Muslims turning to sharia courts to resolve civil disputes*. 2009. Retrieved from <http://business.timesonline.co.uk> (November 2023).

While the debate and implementation of Sharia courts in the UK continues, Muslim businesses also continue to grow. It seems that the implementation of the Sharia court is not the end of their struggle. The Daily Mail reported on the efforts of a Muslim group called MAC (Muslims Against Crusade) which demanded and fought for a project to establish a state that specifically implemented Sharia. The three proposed areas are Bradford, Dewsbury and Tower Hamlets. These three areas were chosen because they have quite dense Muslim settlements. This venture was considered highly provocative by many Britons. Another “provocative” effort was reported in the Daily Mail where a group of Muslims on several London street corners had “proclaimed” several areas as “Shariah Zones” by placing 50,000 stickers displaying signs prohibiting drinking, gambling, narcotics and prostitution.²⁰

Anjem Choudry, a British Muslim leader who is considered by many to be an extremist, and who coordinated the installation of the stickers, explained that the stickers sent a message to the public that Muslim citizens would fight crime and that together with him there were 10,000 Muslim volunteers who willing to carry out patrols on the streets of London which are the "Sharia Zones" he is planning. He said, "This is the best way to solve the problems of drunkenness, prostitution, and all kinds of thuggish behavior that exist in English cities."²¹

Apart from the controversy over the Sharia court struggle, especially the latest one regarding the "Sharia zone", this shows a high level of dynamism in the form of freedom and courage of Muslim citizens in the UK. to fight for Sharia. The freedom and courage of British Muslims was even attempted to be exported to the United States. The American Sharia struggle group had planned to hold a pro-Shariah demonstration in Washington DC, in front of the White House. This demonstration was originally led by Anjem Choudry who intended to fly directly to America from England. In the end, this demonstration was canceled because conditions in Washington were deemed not conducive to this activity. The United States government and public, apparently in this case, were more restrictive towards calls for Sharia than the more lenient British attitude. By looking at this comparison, it can be concluded that the struggle for Sharia in England is much more dynamic than in any Western country, including democracy champions such as the United

²⁰Hasyim Aidid, *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*,..... p. 135.

²¹Rebecca Camber. 'No Porn or Prostitution' Islamic Extremists Set up Sharia Law Controlled Zones in British Cities. <http://www.dailymail.co.uk> (November 2023).

States, which places "freedom of speech/expression" as the first article (first amendment) of the constitution. his country.²²

4. Conclusion

The struggle for Sharia in the United Kingdom was much more dynamic than in other Western countries. In fact, sharia courts in the United Kingdom have become popular. In 2018, for the first time, a British court recognized sharia law in determining important decisions in a divorce. This happened to divorce case between the couple Nasreen Akhtar and Mohammed Shabaz Khan using Sharia law or Islamic law.

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²²Hasyim Aidid, *Dinamika Muslim dan Penegakan Hukum Islam di Inggris*,..... p. 137.

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