

Research Proposal: The Influence of Islamic Law on European Law

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Abstract

The purpose of this study is to highlight the influence of Islamic law "Sharia" on the development of European legal frameworks, by focusing on particular areas of legal convergence and divergence. It investigates how concepts and practices have traveled throughout the continent as a result of centuries of trade cultural exchange and political involvement.

The primary objective of this project is to provide a clear understanding on the complex relationship, impact, and continuous implications for European law, examining the enduring impacts and ongoing implications for the European legal landscape, by offering a different perspective, this study aims to enrich our understanding of how Islamic legal principles have not only contributed to shaping but also been integrated into European legal traditions over time.

In our increasingly interconnected global society, most existing narratives about the development of European law are strongly Eurocentric and do not take into account the great contributions of non-European legal traditions. This project aims at disputing these controversial narratives by giving a glimpse into the historical and contemporary significance of legal pluralism. Thus, it intends to make the study of European law more inclusive and comprehensive by focusing on the different influences that have had an impact on it.

Through this research, I aim to highlight the instances of legal syncretism, such as the influence of Islamic commercial law on European mercantile practices during the Middle Ages and the incorporation of various Islamic legal principles into European jurisprudence. Additionally, I would like to explore the dynamic interplay between Sharia and European law in areas such as family law, criminal justice, and human rights, revealing how these legal systems have mutually informed and enriched each other.

Finally, this study aims to be a major factor in the construction of a more balanced and comprehensive history of the law, one that would recognize and appreciate the complex history of the cultural and legal exchanges that made the world what it is today.

1. Scientific Background

Traditionally, Roman law served as the main basis for European legal systems which were historically perceived differently from Islamic law. But new research highlights important connections between these apparently different legal traditions. Historical evidence tells a more complex story of cross-pollination from the rise of Islamic empires like the Ottomans to the bustling trade routes spanning the Mediterranean. European legal systems bear the enduring influence of Islamic legal principles in fields such as contract law maritime law and commercial law. Enlightenment European legal scholars were deeply moved by Islamic jurisprudences emphasis on social justice and fairness which went beyond particular legal doctrines.

Muslims, and the Islamic law in particular placed a strong emphasis on the rule of law and treated everyone equally which impressed Montesquieu and other legal scholars. This intercultural interchange of ideas demonstrates that the advancement of law is more than just a matter of one location or set of people always being correct. It's a dynamic process that crosses national boundaries and cultural boundaries to allow ideas and ideals to influence one another.¹

State of Art

In recent years, there has been a growing recognition of the need to re-evaluate the historical narratives that dominate our understanding of legal development. Traditional Eurocentric perspectives have often marginalized or overlooked the contributions of non-European legal systems, particularly those of the Islamic world. Current scholarship has started to address these gaps, but comprehensive studies that specifically focus on the interplay between Sharia and European law remain relatively rare.

This research paper aims to fill this scholarly void by providing a detailed examination of how Islamic legal principles have influenced and been incorporated into European legal systems whether in a direct or indirect way. According to Timur Kuran Islamic law played a central role in hindering the economic development of the Middle East. Kuran suggests that while Islamic legal institutions were initially beneficial, around the 10th century they started to act as a drag on progress. This happened because they restricted the emergence of key features of a modern economy, such as large-scale production, impersonal business practices, and the accumulation of private capital. The book contrasts this with the West, where modern economic institutions emerged and propelled those societies forward. While the Middle East eventually adopted some modern economic practices in the 19th century, Kuran argues it hasn't been able to catch up.²

Moreover, the current globalized environment is characterized by the growth of cultural and legal contacts, therefore, the need to know the history and growth of legal pluralism is higher than ever. The research into the intersections between Islamic and European legal traditions will not only make a significant contribution to historical scholarship but also will give valuable insights to the current and future legal frameworks which are nowadays having to deal with the complexity of the multicultural world.³

Hallaq, Wael B. in his book emphasizes that the concept of a modern Islamic state is fundamentally flawed. Focusing on the first millennium of Islamic history, Hallaq critiques the underlying assumptions of modernity as incompatible with traditional Islamic political thought. Through a detailed analysis of Islamic legal and political texts alongside Western political theory, he challenges the idea of Western universality and argues that the modern state, a European invention, is inherently problematic for Muslims.

This research project, in turn, intends to show the interesting examples of the legal syncretism, which are the Islamic commercial law that influenced the European mercantile practices during the Middle Ages and the inclusion of various Islamic legal principles in the European jurisprudence. Besides, it will examine the interaction between Sharia and European law in the fields like the family law, criminal justice and human

¹ Education and Scholarship in Islamic Law, 1868–1923

² Kuran, Timur. "The Long Divergence: How Islamic Law Held Back the Middle East." Princeton University Press, 2011.

³ Hallaq, Wael B. "The Impossible State: Islam, Politics, and Modernity's Moral Predicament." Columbia University Press, 2012

rights, in order to demonstrate that these two legal systems have interacted with each other in a positive way and have enriched each other.

Development of the research

1. History. A first part of the research will address the historical development of the relations between the Islamic and European legal environments, starting with the Middle Age. It will be articulated in chapters, each of them addressing a specific area of interest for the development of relations and reciprocal legal influence.

A. Historical Relations. An overview

The historical connection between Islamic and Western law consists of the issues of both Islamic impact on Western law and the Western (as well as the other non-Islamic) impact on Islamic law in the wider world history. Through a world historical viewpoint, the Western and Islamic worlds have, since the rise of Islam, in the seventh century CE, shared borders and at times even living spaces around the Mediterranean (particularly in Spain, Italy, and Anatolia), some coastal areas (in France, Syria-Palestine, and elsewhere), and the Mediterranean islands (mainly Sicily, Sardinia, Corsica, Cyprus, and Crete).

For a long period, they were involved in not only military conflicts which included hostage taking and exchange as well as the negotiation of peace treaties, but the trade, that is, the international trade which was a major part of the economic system of the time, took place as they traveled through both land and sea routes to the market places where the merchants were daily mingling. This was all made possible by the diplomatic missions, religious pilgrimages, political alliances, and other forms of encounter which are, of course.⁴

The reciprocal influence has thus been made throughout the centuries with the help of the scientific, cultural, religious, economic, philosophical, political and legal exchanges by the European and the North American people. On the contrary, it can be stated that the West is more Islamic just as Islam is more Western because of the long history of relations and interaction between these two civilizations. Despite the big differences, the immense gap between the two cultures does not, in fact, exist.

The boundaries still exist, moving and changing, as a result of the continuous interaction that is present between people across the space and time.⁵

B. The Legacy of Islamic Empires

A second chapter will explore the legacy of Islamic legal influence in the legal systems of States that have experienced the rule of Islamic empires.

The influence of Islamic law on European legal systems is especially noticeable in areas that were ruled by Muslims for a long time or had a lot of cultural exchanges with them.

For instance, Muslim law practices had a long-lasting effect in Spain where Muslims lived for centuries in an area known as Al-Andalus (Muslim Iberia)⁶. During the Al-Andalus period laws pertaining to contracts water rights and land ownership were influenced by the Maliki madhhab (school of thought) in Islamic law. Legal concepts also became interbred due to the Ottoman Empires wide-ranging influence throughout the Balkans and Southeast Europe⁷. Christian traders extensively embraced Kanun or Ottoman commercial law and

⁴ Boisard (1980)

⁵ Weller, R. C., & Emon, A. M. (2021, February 24). *Reason, Revelation and Law in Islamic and Western Theory and History*. Springer Nature.

⁶ An Introduction to Islamic Law by Joseph Schacht

⁷ The Legacy of Al-Andalus by Maribel Fierro

incorporated it into regional legal systems. An increasingly complex commercial legal system has emerged throughout the region as a result of this process of legal borrowing.⁸

C. Trade routes along the Silk Road

A third chapter will especially focus on the influence of trade routes on legal exchange.

Trade routes were crucial in promoting the transfer of legal concepts between Europe and the Islamic world even beyond matters of territorial control. The importance of the Silk Road allowed legal ideas to be exchanged alongside the goods and services, due to its interconnected trade routes that connected East Asia to Europe.

Bills of exchange and partnerships highly developed legal documents that Islamic traders introduced were progressively embraced by European traders. This promoted global trade and economic growth by helping Europe create a more sophisticated commercial legal system.⁹

2. Case Law Supporting the Study

A second part of the study will examine case studies from different European States and the relevant case-law, including the case-law of European regional courts, such as the ECHR and the ECJ. The case studies will show the significance of the phenomenon in contemporary Europe.

A. Introduction

Across Europe, the influx of immigrants from Muslim-majority countries such as Pakistan, Bangladesh, Somalia, and others has reshaped the demographic landscape, leading to the emergence of significant Muslim communities.

This demographic shift has made Europe home to some of the largest Muslim populations outside of the Islamic world. As these communities established themselves and grew in size and influence, the need for Sharia courts and the application of Islamic law became increasingly apparent.

This introduction aims to explore the rise of Sharia courts across European countries and their integration within the broader legal frameworks of the European Union (EU). By examining the historical context, reasons for their emergence, and their legal status and operation, we seek to understand how Sharia courts function alongside the secular legal systems of European nations.

Additionally, we will draw parallels with historical models of legal pluralism, such as the Ottoman Empire's approach to minority rights and autonomy through separate legal systems for different communities.

⁸ Maqasid al-shari'a and Modern Common Morality Larsen - How Muftis Think - 2018

⁹ Trade Routes through Asia and the Silk Road Connection Rome and the Distant East: Trade Routes to the ancient lands of Arabia, India, and China

2.1 Focus Areas

Historical Context and Emergence

What factors contributed to the emergence of Sharia courts in European countries?

How did immigration patterns shape the establishment of these courts?

When did Sharia courts begin to gain recognition and prominence within European societies?

Operation within European Legal Systems

How do Sharia courts operate within the legal frameworks of European countries?

What legal mechanisms govern their activities and decisions?

How are judgments rendered by Sharia courts reconciled with national laws and regulations?

Comparison with Historical Models

Compare and contrast the contemporary integration of Sharia courts in Europe with historical models of legal pluralism.

How did historical empires like the Ottoman Empire preserve the autonomy of minority communities through separate legal systems?

What lessons can be drawn from historical practices to inform the treatment and integration of Sharia law within modern European legal systems?

By addressing these questions, this research aims to shed light on the complex dynamics surrounding the integration of Sharia law within European societies. It will provide insights into the challenges, controversies, and potential benefits of accommodating diverse legal traditions within the broader framework of European legal systems.

Case 1: Molla Sali v. Greece (2018)

An illustrative example of the interplay between Islamic and European legal principles is found in the case of *Molla Sali v. Greece* (2018). Ms. Molla Sali, a widow of Greek national of the Muslim minority, talks about the application of Sharia law to an inheritance dispute regarding her husband's Greek and Turkish properties. The husband's initial wish, which was written in a will in accordance with Greek civil law, was to leave his whole estate to his wife (the applicant).

Nevertheless, the Greek courts considered that the will was devoid of effect and instead applied principles from Muslim inheritance law which, in Greece, applied specifically to Greeks of Muslim faith. As a result, the applicant was thus denied 3/4 of her inheritance and the deceased husband's sisters were subsequently recognized as joint beneficiaries.¹⁰

Ms. Molla Sali, challenged the application of Islamic inheritance law to her late husband's estate, arguing that it violated her rights under the European Convention on Human Rights. The case highlighted the tensions between Greece's obligations under international human rights law and its recognition of the legal autonomy

¹⁰ TOPTSİ, R. (2023, April 30). Islamic Law Practices in Greece And the Molla Sali Case Transferred to the ECHR. *Rumeli İslam Araştırmaları Dergisi*, 11, 10–21

of the Muslim minority in Western Thrace, which is governed by Sharia law for family and inheritance matters.

The ECHR ruled in favor of Ms. Sali, holding that the imposition of Sharia law in this instance violated her rights to non-discrimination and peaceful enjoyment of her possessions. The court emphasized the need for legal systems to ensure that religious laws do not infringe upon fundamental human rights guaranteed by international conventions.

This case is a compelling illustration of how Islamic legal principles and European human rights law can intersect and sometimes clash, necessitating a nuanced and balanced approach to legal pluralism. It underscores the importance of examining the historical and contemporary contexts in which such interactions occur, and the ongoing relevance of Sharia in shaping European legal practices.¹¹

¹¹ European Court of Human Rights. "Case of Molla Sali v. Greece (Application no. 20452/14)." Judgment, 19 Dec. 2018.

Case 2: Uddin v. Choudhury [2009] EWHC 2037 (QB)

Background

The case of **Uddin v. Choudhury** involved a dispute over the enforcement of an Islamic marriage contract (Nikah) and the associated financial obligations. The case centered on whether the terms of a Mahr (a mandatory payment, in the form of money or possessions, paid or promised to pay by the groom to the bride at the time of marriage, which is a fundamental part of an Islamic marriage contract) could be enforced under UK law.¹²

Facts

Mr. Uddin and Ms. Choudhury had an Islamic marriage ceremony, during which Mr. Uddin agreed to pay a Mahr of £30,001 to Ms. Choudhury. The couple subsequently separated, and Ms. Choudhury sought to enforce the payment of the Mahr through the UK courts.

Legal Issue

The main legal issue was whether the Mahr, agreed upon during the Islamic marriage ceremony, could be enforced under UK contract law principles. This required the court to consider the validity of the Islamic marriage contract and its terms within the context of English contract law.¹³

Court's Decision

The High Court held that the Mahr was enforceable as a contractual obligation under UK law. The court recognized that the Mahr constituted a prenuptial agreement, which could be enforced provided it met the standard requirements of a contract under English law, such as intention to create legal relations, consideration, and certainty of terms.¹⁴

Integration of Sharia Law

In reaching its decision, the court integrated Islamic Sharia principles by acknowledging the validity of the Mahr as a binding financial obligation originating from an Islamic marriage contract. The court treated the Mahr as a contractual promise, thus bridging the gap between Islamic marital practices and UK contract law.

¹² Uddin v. Choudhury [2009] EWHC 2037 (QB). <http://www.bailii.org/ew/cases/EWHC/QB/2009/2037.html>

¹³ <https://www.irwinmitchell.com/news-and-insights/expert-comment/post/102ior2/sharia-series-mahr-and-the-english-court-system>

¹⁴ Griffith-Jones, Robin. "Islamic Law in British Courts: Between a Rock and a Hard Place." *Ecclesiastical Law Journal* 15, no. 3 (2013): 287-303.

Significance

The **Uddin v. Choudhury** case is significant because it demonstrates how UK courts can and do integrate aspects of Islamic Sharia law into the English legal framework, particularly in family and matrimonial matters. By recognizing and enforcing the Mahr, the court effectively incorporated an element of Islamic law into its judgment, provided it met the general requirements of enforceability under English law.

Reference to European Context

Although this case primarily involves UK law, it is relevant within the broader context of European legal principles that advocate for the recognition of diverse cultural and religious practices within national legal systems. Even if the UK left the EU, it remains anchored to the European legal culture, especially through the membership in the Council of Europe and the participation in the European Convention on Human Rights.

The latter emphasizes the protection of individual rights, including religious freedoms. This broader legal context supports the consideration of Islamic practices within the national legal framework, aligning with the principles of multiculturalism and religious tolerance.¹⁵

Conclusion

Uddin v. Choudhury exemplifies how UK courts can integrate Islamic Sharia law into their rulings by recognizing and enforcing contractual obligations that arise from Islamic marriage contracts. This case highlights the adaptability of UK law in accommodating the diverse cultural and religious practices of its population, ensuring that such practices are respected and given legal effect within the broader framework of English law.

¹⁵ Yilmaz, Ihsan. *Muslim Laws, Politics and Society in Modern Nation States: Dynamic Legal Pluralisms in England, Turkey, and Pakistan*. Ashgate Publishing, 2005.

3. The Integration of Islamic Sharia Law in Europe: Impact on legal culture and society and Legal Evolution

Introduction

A third part of the research will focus on the consequences of this ongoing process of legal integration (or separation) on the legal culture and perception in the European society. It is necessary to assess such an impact in order to verify whether there has been in fact an integration or, on the contrary, a separation by which Islamic communities find themselves governed by a distinct set of legal norms. This part will address the law of some selected European States and also some aspects of the law of the European Union and the relevant case-law.

The integration of Islamic Sharia law within European legal systems has had several notable effects on the supernational systems (European population), particularly as a result of the establishment of large Muslim communities in Europe due to immigration. Here's how this integration has evolved and impacted European society:

Development and Evolution

Legal Recognition and Accommodation:

Initially, European countries primarily followed secular legal systems, but as large Muslim communities formed due to immigration, there was a growing recognition of the need to accommodate Islamic practices within the legal framework.

Some European countries, such as the UK, France, and Germany, began to recognize the validity of Islamic family law principles, such as marriage, divorce, and inheritance, within their legal systems.

Establishment of Sharia Courts:

In response to the demand for religiously aligned legal services, Sharia courts began to emerge in various European countries. These courts primarily handle family and matrimonial matters according to Islamic law.

Sharia councils or tribunals were established to provide mediation and arbitration services for disputes among Muslim communities, offering an alternative to civil courts.

Legal Framework and Oversight:

European countries developed legal frameworks to regulate Sharia courts and ensure compliance with national laws and human rights standards.

Oversight mechanisms were established to monitor the activities of Sharia courts and ensure they operate within the bounds of national legal systems, particularly regarding issues of gender equality and individual rights.

The Impact of Sharia Law on European Society: A Critical Examination

Cultural and Religious Diversity:

The integration of Sharia law has enriched the cultural and religious diversity of European societies, highlighting the presence and influence of Muslim communities within the broader population. European society has become more pluralistic, incorporating diverse legal traditions and practices alongside secular legal systems. In this chapter, we will explore both the positive and problematic perspectives of this integration to understand how the associated challenges can be addressed.

Positive Perspective:

1. Enhancement of Pluralism:

- The integration of Sharia law has indeed contributed to the cultural and religious diversity of European societies. It reflects the presence and influence of Muslim communities, allowing them to maintain their cultural and religious practices within a legal framework that respects their traditions.
- This pluralistic approach theoretically enriches the social fabric by incorporating diverse legal traditions and practices alongside secular legal systems.

Problematic Perspective:

2. Cultural Fragmentation:

- The implementation of Sharia law in Europe may deepen cultural fragmentation. Instead of promoting a unified multicultural community, it may result in parallel civilizations in which various groups follow to separate legal rules.
- This fragmentation could slow down Muslim communities' integration into larger society, prolonging social differences and undermining the idea of a united legal system that respects all citizens equally.

Access to Justice and Legal Services:

The establishment of Sharia courts has provided Muslim communities with access to legal services that align with their religious beliefs and cultural norms.

This has enhanced social cohesion by ensuring that religious and cultural minorities have avenues for resolving disputes and accessing justice within their own communities.

Positive Perspective:

1. Culturally Aligned Legal Services:

- The establishment of Sharia courts has provided Muslim communities with access to legal services that are consistent with their religious beliefs and cultural norms. This can enhance social cohesion by ensuring that religious and cultural minorities have specific avenues for resolving disputes and accessing justice.
- These courts can address issues such as marriage, divorce, and inheritance in ways that are culturally sensitive, potentially reducing the burden on secular courts.

Problematic Perspective:

2. Legal Isolation and Inequality:

- The existence of Sharia courts may result in the legal isolation of Muslim communities. Instead of integrating into the larger legal system, these communities may become increasingly isolated, relying only on their own tribunals to resolve disputes.
- This isolation may promote inequality, particularly in terms of female rights. Critics contend that Sharia law, under some interpretations, can be discriminatory toward women, particularly in marriage, divorce, and inheritance. This raises questions regarding the preservation of individual rights in these communities.

Social and Political Ramifications

Positive Perspective:

1. Multicultural Recognition:

- The recognition of Sharia law could be seen as a step towards acknowledging and valuing the multicultural makeup of European societies. It can symbolize respect for diversity and an inclusive approach to governance.

Problematic Perspective:

2. Political Backlash and Social Tensions:

- The incorporation of Sharia law into European legal systems can provoke significant political backlash and heighten social tensions. It might be perceived as an erosion of secularism and a threat to the fundamental principles of equality and uniformity in the legal system.
- Such developments can fuel right-wing and nationalist movements, increasing xenophobia and Islamophobia. This can lead to a more polarized society, where minority groups, particularly Muslims, face increased discrimination and hostility.

Conclusion

The possible integration of Sharia law into European societies is a complicated and difficult matter. While it has the potential to promote cultural diversity and offer necessary legal services to Muslim communities, it also presents substantial problems. These include the possibility of cultural fragmentation, legal isolation, inequity, and increased social friction. Future studies should focus on determining the actual impact of Sharia law in Europe, as well as ensuring that any legislative concessions preserve fundamental human rights and foster genuine social cohesion.

Challenges and Controversies:

The integration of Sharia law has also sparked debates and controversies, particularly concerning issues of gender equality, individual rights, and the separation of religion and state.

Critics argue that Sharia courts may perpetuate discriminatory practices, particularly against women, and undermine the principles of secularism and equality before the law.

Legal Pluralism and Adaptation:

European legal systems have demonstrated a capacity for legal pluralism, adapting to accommodate diverse cultural and religious practices while upholding core legal principles and human rights standards.

This adaptation reflects Europe's evolving identity as a multicultural and inclusive society, where different legal traditions can coexist within a framework of shared values and principles.

Conclusion:

Overall, the integration of Islamic Sharia law within European legal systems has led to a complex interplay between religious and secular norms, shaping the legal landscape and social dynamics of European societies.

Motivation

The primary objective of this PhD study is to critically examine the integration of Sharia law within European societies, with a particular focus on identifying and understanding the associated challenges and problems. By investigating the impact of Sharia law on cultural and religious diversity, access to justice, and social cohesion, this research aims to highlight the complexities and potential issues arising from the coexistence of different legal systems within a secular framework.

Firstly, this study challenges the Eurocentric legal development narrative, which often portrays European legal systems as autonomous and unaffected by external influences. By recognizing the interconnections between legal systems across various cultural contexts, we can gain a deeper, more nuanced understanding of how legal traditions evolve.

Secondly, analyzing these historical influences can provide clarity in current discussions regarding multiculturalism and the assimilation of Muslim populations in Europe. Acknowledging the shared legal heritage of Europe and the Islamic world can foster consensus and promote dialogue on matters related to legal pluralism and religious minorities.

Finally, investigating common legal ideas across these traditions can enhance cooperation and understanding between different communities. By identifying areas of convergence, particularly in fields like contract law and dispute resolution, legal practitioners and policymakers can develop a more inclusive and functional legal framework that better serves the diverse populations of contemporary Europe.

The main purpose of this PhD study is to highlight these problems and to propose viable solutions. Through rigorous analysis and empirical research, this dissertation aims to contribute to the ongoing discourse on multiculturalism, legal pluralism, and social integration in Europe, ensuring that the rights and needs of all communities are respected and upheld.

Research Objectives

The following particular goals are the focus of this research project:

1. Examine the Integration of Sharia Law in European Legal Systems:

- Investigate the historical and contemporary processes through which Sharia law has been integrated or recognized within various European jurisdictions.
- Analyze the extent to which Sharia law operates within these legal systems, identifying the areas of law it affects most significantly.

2. Analyze the Impact on Cultural and Religious Diversity:

- Assess how the recognition of Sharia law influences the cultural and religious landscape of European societies.
- Explore whether this integration promotes greater cultural and religious pluralism or if it leads to social fragmentation and segregation.

3. Evaluate Access to Justice and Legal Services:

- Examine how Sharia courts and other Islamic legal institutions provide access to justice for Muslim communities.
- Investigate whether these institutions enhance social cohesion by catering to the specific legal and cultural needs of Muslims or if they contribute to their social isolation.

4. **Study the Effects on Social Cohesion:**

- Investigate the broader social implications of integrating Sharia law, focusing on its impact on social cohesion and community relations.
- Analyze whether this integration fosters mutual understanding and respect among different cultural and religious groups or if it exacerbates tensions and divisions.

5. **Identify Legal and Policy Challenges:**

- Highlight the legal and policy challenges associated with the coexistence of Sharia law and secular legal systems.
- Examine cases where conflicts have arisen between these legal systems and propose frameworks for resolving such conflicts.

6. **Propose Solutions for Legal Pluralism:**

- Develop recommendations for policymakers and legal practitioners on how to manage legal pluralism effectively.
- Suggest ways to create a more inclusive and functional legal framework that accommodates the diverse populations of contemporary Europe, ensuring the rights and needs of all communities are respected.

7. **Contribute to Theoretical and Practical Knowledge:**

- Enhance the theoretical understanding of legal pluralism, multiculturalism, and the integration of religious laws in secular contexts.
- Provide practical insights and solutions that can be applied in the development of more inclusive and harmonious legal and social policies.

Research Design and Methods

This research will use a multi-methodological approach to achieve its objectives and ensure a full understanding of the topic:

Historical Analysis: This strategy will involve the examination of primary materials such as court documents, treaties, merchant manuals, and legal codes. The research of these papers will provide insights on the historical exchanges and legal lending that occurred between European and Islamic legal systems.¹⁶

Comparative Law: The study will use comparative law methods to compare and contrast specific legal concepts and principles in Islamic and European legal systems. This will entail doing a thematic study of subjects such as contract law, commercial law, and property rights, showing parallels and variations in legal reasoning and techniques.¹⁷

Discourse Analysis: This approach will examine academic publications legal discussions and media coverage of the impact of Islamic law on European legal frameworks. The study can learn more about the current by looking at how academics and legal professionals frame this relationship.

¹⁶ A History of Islamic Law by Noah Feldman

¹⁷ Comparative Law by Mathias Reimann and Reinhard Zimmermann

Case Studies: Analyzing specific court cases in European jurisdictions that demonstrate the influence of Islamic law can give us a better understanding of how these effects actually appear in real-world situations. This might entail looking into cases pertaining to inheritance, family law, or business dealings where Islamic legal principles have been examined or disputed.

Expected Results

This research is expected to yield the following outcomes:

Comprehensive Account of Influence: The project will provide a comprehensive account of the historical and contemporary influence of Islamic law on European legal systems. By mapping out specific areas of legal convergence and divergence, it will offer a more nuanced understanding of this complex relationship.

Key Areas of Convergence and Divergence: The research will identify key areas of legal convergence and divergence between the two traditions. This will allow for a more informed discussion about the potential for future legal harmonization and cooperation based on shared principles.

Challenges and Opportunities: The research will offer a critical analysis of the challenges and opportunities presented by the interconnectedness of Islamic and European law. It can provide insights into navigating potential tensions and fostering fruitful dialogue between the two legal systems.

Contribution to Legal Pluralism: The findings of this research will contribute to the ongoing scholarly dialogue on legal pluralism and the evolution of legal systems in a globalized world. By demonstrating the historical and ongoing cross-pollination between legal traditions, it can challenge rigid notions of legal exceptionalism and promote a more inclusive understanding of legal development.

Impact of Research

The findings of this research will be of interest to a wide range of stakeholders:

Scholars: The research will contribute to various academic fields, including Islamic law, European legal history, comparative law, and legal pluralism. It will provide valuable insights for scholars researching the historical and contemporary interactions between these legal systems.

Policymakers: Policymakers working on issues related to migration, religious minorities, and intercultural legal frameworks can benefit from the research findings. Understanding the historical and contemporary influence of Islamic law can inform the development of more inclusive and effective legal policies for diverse European societies.

Legal Practitioners: Legal practitioners dealing with cases involving individuals from Muslim backgrounds can benefit from a deeper understanding of the underlying principles of Islamic law. This can contribute to more informed legal strategies and facilitate cross-cultural legal representation.

Feasibility

In practice, the development of this research project within the three-year duration of the PhD program will be carefully programmed to ensure its successful completion. The following outline illustrates how the research will be structured over the course of the program:

First Year: Historical Analysis and Literature Review

- The initial year will be dedicated to conducting an extensive historical analysis of the integration of Sharia law within European legal systems.
- This phase will involve a comprehensive review of relevant literature, including primary sources such as court documents, treaties, and legal codes, as well as scholarly works on Islamic law, European legal history, and comparative law.
- The goal is to establish a solid foundation of knowledge and understanding regarding the historical development of Sharia law's influence in Europe.

Second Year: Empirical Research and Case Studies

- The second year will focus on empirical research and case studies to examine the contemporary impact of Sharia law on European societies.
- This phase will involve conducting interviews with legal practitioners, policymakers, and members of Muslim communities to gather insights into the practical implementation of Sharia law within European legal frameworks.
- Additionally, case studies will be analyzed to provide real-world examples of how Sharia law interacts with secular legal systems in areas such as family law, inheritance, and dispute resolution.

Third Year: Analysis of Challenges and Proposed Solutions

- The final year will be dedicated to analyzing the challenges and complexities arising from the integration of Sharia law in Europe, as well as proposing solutions to address them.
- This phase will involve synthesizing the findings from the historical analysis, literature review, empirical research, and case studies to identify key issues and trends.
- Based on these findings, recommendations will be developed for policymakers and legal practitioners on how to manage legal pluralism effectively and promote social cohesion within diverse European societies.

By programming the research in this manner, each year of the PhD program will build upon the previous one, culminating in a comprehensive and well-rounded study that contributes valuable insights to the field of legal pluralism and multiculturalism in Europe.

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