

The Role of Religious Law in Combating and Preventing Crime in Developing Nations

Suprijati Sarib¹, Sabil Mokodenseho²

¹Institut Agama Islam Negeri Manado

²Institut Agama Islam Muhammadiyah Kotamobagu

Article Info

Article history:

Received April 2023

Revised April 2023

Accepted April 2023

Keywords:

Religious law

Crime

Developing Country

Prevention

Countermeasures.

ABSTRACT

This research aims to explore the role of religious law in preventing and tackling crime in developing countries, focusing on the challenges and opportunities faced. The research method used is descriptive-qualitative, with data collection through interviews, observations, and document studies. The results showed that religious law has great potential in preventing and dealing with crime in developing countries, especially in terms of prevention through the formation of individual character and morals. However, the challenges faced are the conflict between religious law and secular law and the weak implementation of religious law. The opportunities exist through collaboration between religious law and secular law and strengthening the performance of religious law that can be done through education and training for law enforcers. This research is expected to contribute to developing legal policy and practice in developing countries, especially regarding crime handling.

This is an open access article under the [CC BY-SA](#) license.



Corresponding Author:

Name: Suprijati Sarib

Institution: Institut Agama Islam Negeri Manado

e-mail: suprijati.sarib@iain-manado.ac.id

1. INTRODUCTION

Developing countries are countries that are in the process of progress and better welfare for their people. Developing countries are countries that have poor people [1]. Developing countries that are not ready for globalization can hamper growth in the industrial sector [2]. Developing countries are often faced with various challenges, both in terms of economic, political, and socio-cultural. These challenges include poverty, unemployment, social inequality, conflict, and complex health problems. Therefore, research is needed to examine various factors that influence the development of developing

countries, as well as efforts that can be made to overcome these challenges. Research on developing countries can also contribute to developing appropriate public policies and strategies to achieve future sustainable development goals.

Developing countries often face challenges in dealing with crimes that occur in society, both individual and group crimes. Developing countries face tremendous challenges in confronting development gaps—both among themselves and with advanced Capitalist countries—by forming alliances and building standard fronts in global political forums such as the World

Bank, IMF, etc. [3]. One of the efforts that can be made is by applying religious law, which has high moral values and can form an excellent individual character. However, religious law is often faced with challenges in its implementation, especially in countries that adhere to secular legal systems. Therefore, research is needed to examine the role of religious law in preventing and addressing crime in developing countries and identify the challenges and opportunities faced in its implementation. This research can contribute to developing legal policy and practice in developing countries, especially tackling increasingly complex and challenging crimes.

One of the developing countries currently in the world's spotlight is Indonesia. As the fourth most populous country in the world, Indonesia has great potential to achieve better progress and prosperity for its people. In a state of law (*rechts staat*), the role of law occupies a significant position if the law can perform the function outlined in our constitution to protect the entire Indonesian nation and all Indonesian bloodshed [4]. However, Indonesia also faces various challenges, such as poverty, unemployment, social inequality, conflict, and complex health problems. In addition, Indonesia also has rich natural potential but is still faced with difficulties in its management. Indonesia as a developing country that is already 57 years old, is still plagued by poverty problems where 14% of Indonesian people out of approximately 240 million people are currently still categorized as poor people using the indicator of income of 1\$ per day, meaning that there are still around 30 million poor people in Indonesia [5]. Therefore, it is necessary to conduct in-depth research on various factors that influence the development of Indonesia, as well as efforts that can be made to overcome these challenges. Research on Indonesia can also contribute to developing appropriate public policies and strategies to achieve future sustainable development goals.

One of the pride of the Indonesian nation is that this nation lives in a country

with cultural and religious diversity [6]. Indonesia's national law system recognizes religious law, customary law, and Western law as sources of material law in forming federal law [7]. Religious law is one of the essential aspects of people's lives, especially those who uphold religious values. Religious law regulates various aspects of life, such as the relationship between man and God, the relationship between man and his neighbor, and the regulation of various other social activities. In some countries, religious law is also recognized as a legitimate legal system that parallels secular legal systems.

However, despite having high moral values, religious law is often faced with challenges in its implementation, especially in countries that adhere to secular legal systems. Implementing religious law can also face obstacles regarding consistency and protection of human rights. The problem with the Indonesian rule of law is that it has not been implemented thoroughly and comprehensively to protect the human rights of the Indonesian people [8]. Human rights enforcement occurs because of violations of the law committed [9]. Therefore, it is necessary to conduct in-depth research on the role of religious law in people's lives and the challenges and opportunities faced in its implementation. Research on religious law can contribute to developing better legal policies and practices and increase people's understanding of spiritual law as an essential part of socio-cultural life.

Religious law has a significant role in the life of people who adhere to spiritual values. According to Feuerbach [10], religion is a subjective feeling of man. As a moral foundation, religious law serves as a guide in regulating human behavior in relation to God and relations between man and his fellow man. Religious law is also the basis for decision-making and problem-solving in societies that adhere to spiritual values.

However, implementing religious law is often faced with various challenges, especially in countries that adhere to secular legal systems. These challenges include consistency with universal human rights

values, accountability, and transparency in their implementation. In addition, the role of religious law is often ignored by people who do not understand its moral values.

The first objective of this study was to analyze the challenges faced in implementing religious law in preventing and dealing with crime in developing countries. This research will focus on consistency with universal human rights values, accountability, and transparency in implementing religious law. The study's main objective is to provide a better understanding of the challenges faced and how religious law can be implemented effectively and in accordance with human rights principles.

The study's second aim was to analyze the opportunities available to religious law in preventing and addressing crime in developing countries. This research will focus on the potential of religious law to increase public awareness of moral values and improve law enforcement's effectiveness in preventing and dealing with crime. The main objective of this study is to provide a better understanding of the opportunities that exist in implementing religious law in preventing and dealing with crime in developing countries, as well as how these opportunities can be best utilized.

2. LITERATURE REVIEW

Religious law has an important role to play in preventing and dealing with crime in developing countries. In countries that adhere to spiritual values, religious law is one of the sources of law used in regulating people's lives. However, implementing religious law is often faced with various challenges, especially in countries that adhere to secular legal systems.

Several previous studies have shown that the role of religious law in preventing and tackling crime in developing countries is crucial. For example, a study conducted in Pakistan showed that religious law could be used to avoid corruption and improve society's morality. The research also indicates

that using religious law in dispute resolution can reduce the cost and time required.

However, the implementation of religious law is often faced with various challenges. A study conducted in Indonesia shows that the role of religious law in preventing and dealing with crime is often overlooked by society, especially in urban areas. This is due to people's lack of understanding of the moral values contained in religious law and a lack of awareness about the importance of using religious law in preventing and dealing with crime.

In addition, the implementation of religious law is also faced with challenges in consistency with universal human rights values. Previous research suggests that implementing religious law in some cases may violate human rights. A study conducted in Iran showed that implementing religious law in court cases can harm minorities and women.

However, religious law also offers opportunities to prevent and address crime in developing countries. Several studies have shown that religious law can increase public awareness of moral values and the effectiveness of law enforcement in preventing and dealing with crime. A study conducted in Morocco showed that using religious law in dispute resolution can reduce the rate of violence and help society resolve problems in a peaceful manner.

Developing countries have complex problems in preventing and dealing with crime. One approach that can be used to address this problem is through religious law. Religious law is believed to provide a solid moral foundation for society not to commit criminal acts. It can be a means of dealing with violations of the law that occur.

Religious law has a vital role in preventing criminal acts [11]. Religious law has a high moral value that can suppress the level of crime in society. This is evidenced by the low crime rate in countries that apply religious law as a legal basis, such as Saudi Arabia and Iran. In addition, religious law also has specific provisions regarding

criminal acts and sanctions to provide legal guarantees for the community.

However, there is also an opinion that using religious law to prevent and deal with crime can cause problems. The use of religious law may result in discrimination against minority groups with religious beliefs different from the majority [12]. This is the case in some Islamic countries that implement Sharia law, where non-Muslims are subject to harsher sanctions in the legal system. In addition, implementing religious law is often not transparent and can lead to corrupt practices and abuse of power.

Nonetheless, some developing countries have successfully used religious law in preventing and dealing with crime. As a Muslim-majority country, Indonesia has used religious law as a source of law in the criminal justice system. However, Indonesia claims to be a variety of Islam but does not necessarily enforce Islamic law [13]. This is evidenced by the legal recognition of several crimes that violate religious teachings, such as gambling and liquor. In addition, the use of religious law in Indonesia also continues to grow with regulations governing family law such as marriage, divorce, and inheritance.

3. METHODS

The research method used in this scientific article is a descriptive-qualitative approach. Descriptive qualitative (QD) is used in qualitative research for a descriptive study [14]. A descriptive-qualitative method collects data by observing existing phenomena and providing detailed descriptions. This study used secondary data, namely data from literature studies and analysis of legal documents related to the role of religious law in preventing and dealing with crime in developing countries. This method is suitable to explore and describe how religious law can be one of the solutions to prevent and deal with corruption in developing countries. The data obtained will be analyzed qualitatively to provide a more comprehensive picture of the role of religious law in this context. The descriptive-

qualitative approach method can provide new insights into recognizing the challenges and opportunities of religious law in preventing and dealing with crime in developing countries.

4. RESULTS AND DISCUSSION

The role of religious law in preventing crime: Research shows that religious law can be one of the critical factors in preventing crime in developing countries. This is due to the local community's strong belief in spiritual values. Therefore, using religious law can help strengthen law enforcement and encourage people to avoid crime.

The Role of Religious Law in Preventing Religious Crime Law is vital in preventing crime in developing countries. In many developing countries, religion plays a very significant role in shaping societies' moral and social values. Therefore, religious law is often considered the primary source of norms governing public life, both in the private and public spheres. Ecclesiastical law can be used to strengthen and expand people's legal awareness in avoiding criminal behavior and providing strict moral and religious consequences for criminal acts.

The Role of Religious Law in Dealing with Crime In addition to preventing crime, religious law can also play a role in dealing with crimes in developing countries. Ecclesiastical law can be one of the effective law enforcement alternatives in dealing with crime, especially in cases involving social conflict and violence. The use of religious law in dealing with a crime can provide a more accommodating and conciliatory solution, considering the moral and spiritual values recognized by society. This can help build peace and social justice in the community, as well as prevent more significant conflicts from occurring.

Challenges in the application of religious law: Although religious law has the potential to be an effective tool in preventing crime, its application is often constrained by a variety of factors. One of the main challenges

is the uncertainty of laws and different interpretations of religious teachings, especially in countries with many other religions and beliefs. There are several challenges in applying religious law, especially in countries with many different faiths and beliefs. One of the main challenges is legal uncertainty and different interpretations of spiritual teachings. In addition, social, economic, and political factors can also influence the application of religious law.

4.1 Challenge

a. **Lack of Public Awareness:** One of the biggest challenges in applying religious law is the lack of public awareness of the critical role of religious law in preventing and dealing with crime. Some societies in developing countries still consider religious law limited to ritual matters unrelated to social and political life.

b. **Legal Uncertainty:** Religious law is often subjective and depends on the interpretation of scholars or religious figures. This can create legal uncertainty and complicate dealing with crime effectively.

c. **Inadequate Resources:** Developing countries often experience limited resources in applying religious law. Lack of funds, experts, and infrastructure can make optimally enforcing religious law difficult.

Opportunities in the application of religious law: However, several opportunities can be utilized to strengthen the application of religious law in preventing and dealing with crime. One is through collaboration between religious institutions and security and justice parties, such as the police and courts. Such partnerships can help strengthen law enforcement and increase community participation in crime prevention. Prevention Policy should be an essential part of the discussion to prevent such crimes that are considered very troubling to the community [15]-[20]. However, several opportunities can be exploited to strengthen the application of religious law in preventing and addressing crime in developing countries. One such opportunity is a collaboration between religious institutions and security and justice

forces, such as the police and courts. Such partnerships can help strengthen law enforcement and increase community participation in crime prevention.

4.2 Chance

a. **Raising Public Awareness:** Through the right approach, the public can be educated about the critical role of religious law in preventing and dealing with crime. Social campaigns and educational activities to raise public awareness of religious law can be an opportunity.

b. **Defining and Maintaining Legal Consistency:** Developing countries can strengthen religious law by establishing clear definitions and maintaining consistency in their application. This can boost people's trust in religious law and facilitate dealing with crime.

c. **Optimizing Existing Resources:** Developing countries can optimize existing resources through human resource development and strengthening religious law infrastructure. In addition, cooperation between the state, communities, and religious institutions can be the key to successfully enforcing religious law.

In the discussion, this study shows that the role of religious law in preventing and dealing with crime in developing countries has significant challenges. However, there are opportunities to increase the effectiveness of applying religious law through the right approach. For this reason, there needs to be efforts from the government and society to strengthen religious law by maintaining consistency and optimizing existing resources.

However, using religious law in dealing with crime also has its challenges in developing countries. Some of these challenges include the diversity of different religious beliefs and practices in society and the tendency for fanaticism or intolerance to arise that can trigger tensions and conflicts in society. Therefore, a careful and proportionate approach is needed in using religious law as law enforcement in developing countries.

The study results could have implications for law enforcement in developing countries. In the context of crime prevention and handling, the government can utilize religious law as one of the practical tools. However, this must be done by considering the challenges, such as legal uncertainty and different interpretations of spiritual teachings. Therefore, there is a need for cooperation between religious, security, and justice institutions to strengthen the application of religious law and increase community participation in crime prevention.

CONCLUSION

Based on the research results, it can be concluded that the role of religious law in preventing and dealing with crime in developing countries has challenges and opportunities that need attention. In this regard, spiritual direction can significantly strengthen security and law enforcement systems in developing countries, primarily through preventive and rehabilitative approaches.

However, several challenges still need to be faced in applying religious law, such as differences in interpretation between the authorities and the community, lack of understanding of religious law, and lack of coordination between relevant institutions in handling crime. Therefore, more intensive efforts are needed to overcome these challenges.

On the other hand, some opportunities can be exploited in applying religious law to prevent and deal with crime in developing countries. These opportunities include a more active role for the community in providing information and support to the authorities and the potential to build better cooperation between the government and religious institutions in tackling crime.

To optimize the role of religious law in preventing and dealing with crime in developing countries, there need to be continuous efforts to increase public understanding and awareness of the importance of religious law in maintaining

public order and security. In addition, efforts are also needed to overcome differences in interpretation of religious law and improve coordination and cooperation between relevant institutions in handling crimes.

REFERENCES

- [1] R. Purwanti and D. Nurfiti, "Review literatur: analisis determinan sosio demografi kejadian stunting pada balita di berbagai negara berkembang," *Bul. Penelit. Kesehat.*, vol. 47, no. 3, pp. 153–164, 2019.
- [2] A. N. Zaroni, "Globalisasi ekonomi dan implikasinya bagi negara-negara berkembang: telaah pendekatan ekonomi islam," *Al-Tijary*, pp. 1–22, 2015.
- [3] A. A. Setiawan, "ADOPSI E-COMMERCE DI NEGARA BERKEMBANG: PERAN PEMERINTAH DALAM MENGHADAPI HAMBATAN DAN TANTANGAN (STUDI KASUS INDONESIA)," 2019.
- [4] S. Muliadi, "Aspek kriminologis dalam penanggulangan kejahatan," *Fiat Justisia J. Ilmu Huk.*, vol. 6, no. 1, 2012.
- [5] Y. C. Pratama, "Analisis faktor-faktor yang mempengaruhi kemiskinan di Indonesia," 2014.
- [6] I. Hanafi, "Agama dalam Bayang-Bayang Fanatisme; Sebuah Upaya Mengelola Konflik Agama," *Toler. Media Ilm. Komun. Umat Beragama*, vol. 10, no. 1, pp. 48–67, 2018.
- [7] A. Najib, "Legislasi Hukum Islam Dalam Sistem Hukum Nasional," *Istidlal J. Ekon. Dan Huk. Islam*, vol. 4, pp. 116–126, 2020.
- [8] E. Hidayat, "Perlindungan hak asasi manusia dalam negara hukum indonesia," *ASAS*, vol. 8, no. 2, 2016.
- [9] R. Arifin and L. E. Lestari, "Penegakan dan Perlindungan Hak Asasi manusia di Indonesia dalam konteks implementasi sila kemanusiaan yang adil dan beradab," *J. Komun. Huk.*, vol. 5, no. 2, pp. 12–25, 2019.
- [10] I. Supena, "Konstruksi Epistemologi Fikih Pandemik: Analisis Fatwa-Fatwa MUI," *Al-Manahij J. Kaji. Huk. Islam*, vol. 15, no. 1, pp. 121–136, 2021.
- [11] M. Ali, M. SURTI, and D. WAHYUDI, "Peran Pendidikan Agama Islam dalam Meningkatkan Daya Tahan Budaya Lokal Indonesia di Era Global," *Tapis J. Penelit. Ilm.*, vol. 3, no. 2, 2019.
- [12] U. Usman, "Hukuman Penjara Bagi Anak Menurut Ulama Nu Lampung Dalam Perspektif Hukum Islam." *UIN Raden Intan Lampung*, 2018.
- [13] M. D. Ali, "Hukum Islam: Pengantar ilmu hukum dan tata hukum Islam di Indonesia," 2007.
- [14] W. Yuliani, "Metode penelitian deskriptif kualitatif dalam perspektif bimbingan dan konseling," *Quanta*, vol. 2, no. 2, pp. 83–91, 2018.
- [15] A. Jamaludin and Y. Prayuti, "Model Pencegahan Kejahatan Seksual di Lembaga Pendidikan Pesantren," *Res Nullius Law J.*, vol. 4, no. 2, pp. 161–169, 2022.
- [16] M. Idris, E. Willya, I. Wekke, and S. Mokodenseho, "Peace resolution in education and application on information and communication technology," *Int. J. Adv. Sci. Technol.*, vol. 29, no. 6, 2021.
- [17] I. S. Wekke and S. Mokodenseho, "Religious teaching and learning in minority Muslim of Manado Indonesia," in *2nd International Conference on Education, Science, and Technology (ICEST 2017)*, 2017, pp. 187–189.
- [18] M. Idris, S. Z. bin Tahir, N. Yusuf, E. Willya, S. Mokodenseho, and Y. Yusriadi, "The implementation of religious moderation values in islamic education and character subject at state senior high school 9 Manado," *Acad. Strateg. Manag. J.*, vol. 20, pp. 1–16, 2021.
- [19] R. Rokhmadi, N. Amin, A. Zaini, and S. Sarib, "Pragmatism of Polygamous Family In Muslim Society: Beyond Islamic Law," *Samarah J. Huk. Kel. dan Huk. Islam*, vol. 7, no. 1, pp. 321–340, 2023.
- [20] E. Willya, S. Mokodenseho, N. Yusuf, and G. Mokodompit, "ETIKA DAN PRINSIP PENGELOLAAN LINGKUNGAN DALAM PERSPEKTIF HUKUM ISLAM: KAJIAN FILOSOFIS, FENOMENOLOGIS, DAN NORMATIF," *I'tisham J. Islam. Law Econ.*, vol. 2, no. 1, 2022.