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An Analysis of Islamic Law Regarding Criminal Sanctions for Adultery within the Indonesian National Legal System

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Abstract: Islamic law plays an important role in regulating moral and social conduct, particularly through its prohibition of adultery (zina). However, the criminal sanctions prescribed by Islamic jurisprudence differ from those established under Indonesia's national criminal legislation. This study aims to analyze the concept and sanctions for adultery under Islamic law, examine its regulation in Indonesia, compare the legal principles and sanctions of both systems, and evaluate the challenges of integrating Islamic legal values into the national legal framework. This research employs a normative juridical method using statutory, conceptual, and comparative approaches. Primary, secondary, and tertiary legal materials are collected through library research and analyzed using qualitative descriptive and normative legal analysis. The findings indicate that Islamic jurisprudence distinguishes between muhsan and ghayr muhsan, with different sanctions based on Qur'anic provisions and classical jurisprudential interpretations. Meanwhile, Article 411 of Law No. 1 of 2023 regulates adultery as a complaint-based offense, punishable by imprisonment of up to one year or a Category II fine. Although both systems emphasize the protection of marriage and social morality, they differ in legal foundations, definitions, evidentiary requirements, and sanctions. Harmonization requires balancing Islamic legal values with justice, legal certainty, human rights, and constitutional principles.

Research Highlights:

- Examines the concept and criminal sanctions for adultery (zina) under Islamic criminal jurisprudence.
- Explains the distinction between muhsan and ghayr muhsan and their respective sanctions.
- Analyzes the regulation of adultery under Article 411 of Indonesia's Law No. 1 of 2023.
- Compares the legal foundations, elements, evidentiary requirements, and sanctions of Islamic and Indonesian national criminal law.
- Highlights the importance of harmonizing Islamic legal values with constitutional principles, human rights, justice, and legal certainty.

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INTRODUCTION

Law plays a fundamental role in maintaining morality, social order, justice, and public welfare(Lau, 2007). It establishes standards of behavior, protects individual rights, and provides mechanisms for resolving social conflicts. In Indonesia, Islamic law represents an important religious and normative legal tradition that influences social values, family relationships, and moral conduct. Within Islamic jurisprudence, the regulation of sexual behavior is closely associated with the protection of family integrity, human dignity, and lineage (hifz al-nasl), which constitutes one of the essential objectives of maqashid al-sharia.

Adultery (zina) is considered a serious prohibited act in Islamic criminal law because it contradicts the principles of marriage, family responsibility, and social morality. The Qur'an explicitly prohibits approaching adultery in Surah Al-Isra (17):32 and establishes punishment in Surah An-Nur (24):2(FITRI WAHYUNI, 2022). Islamic jurisprudence distinguishes between ghayr muhsan, referring to offenders who

do not fulfill the legal conditions of ihsan, and muhsan, referring to offenders who fulfill those conditions. Classical Islamic scholars generally prescribe one hundred lashes for ghayr muhsan, while the punishment of rajm for muhsan is discussed on the basis of Hadith and classical jurisprudential interpretations. These provisions demonstrate the significance of religious texts, legal interpretation, evidentiary standards, and procedural safeguards in determining criminal responsibility.

In Indonesia, the regulation of adultery has undergone significant legal development. The former Criminal Code (KUHP), particularly Article 284, regulated adultery within a relatively limited framework involving violations of marital obligations(Butt, 2018). However, Law No. 1 of 2023 concerning the Criminal Code introduces a broader formulation through Article 411, which criminalizes sexual intercourse with a person who is not one's spouse. The provision establishes a maximum penalty of one year's imprisonment or a Category II fine and classifies the offense as a complaint-based crime (delik aduan). The regulation reflects changes in Indonesia's approach to morality, family protection, and criminal responsibility while maintaining specific limitations on prosecution.

Despite certain similarities in recognizing adultery as legally prohibited conduct, Islamic criminal law and Indonesian national criminal law differ in their legal foundations, definitions, classifications, evidentiary requirements, and punishment systems. These differences create important questions concerning the relationship between Islamic legal principles and Indonesia's pluralistic national legal framework. The integration of Islamic legal values must also consider constitutional principles, religious diversity, human rights, individual privacy, legal certainty, and proportionality. Therefore, examining criminal sanctions for adultery is essential to understanding how religious values and national legal principles can be critically evaluated within contemporary Indonesian criminal law.

Previous studies concerning adultery (zina) have examined its regulation from the perspectives of Islamic criminal law, Indonesian national criminal law, criminal sanctions, legal reform, human rights, and legal pluralism. Hidayat (2016), in a study entitled Analisis Normatif Tindak Pidana Perzinahan Dilihat dalam Perspektif Hukum Islam, examined the offense of adultery from the perspective of Islamic law. The study emphasized the prohibition of zina based on Islamic legal principles and the importance of religious sources in determining criminal responsibility. It provides a foundation for understanding adultery as a prohibited act and examining its legal consequences within Islamic jurisprudence. However, its discussion primarily focuses on Islamic legal norms and does not comprehensively examine their relationship with the development of Indonesia's contemporary national criminal legislation.

Butt (2018), in his research entitled Religious Conservatism, Islamic Criminal Law and the Judiciary in Indonesia: A Tale of Three Courts, examined the relationship between religious conservatism, Islamic criminal law, and judicial institutions in Indonesia. His study provides important insights into the institutional and constitutional complexities surrounding the application of Islamic criminal principles within Indonesia's pluralistic legal system. The research demonstrates that the implementation of Islamic legal values is influenced by institutional authority, judicial interpretation, and broader political and constitutional considerations. Nevertheless, the study does not specifically concentrate on comparing the criminal sanctions for adultery under Islamic jurisprudence and the Indonesian Criminal Code.

Wahyuningsih (2023), in her article entitled Perbandingan Hukum Perzinahan dalam UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (KUHP) dengan Hukum Islam, examined the regulation of adultery under the new Indonesian Criminal Code from the perspective of Islamic law. Using normative legal research, she identified differences between Article 411 of Law No. 1 of 2023 and Islamic criminal jurisprudence, particularly concerning punishment, legal principles, and the protection of social morality. Her analysis also highlighted debates regarding individual privacy, the complaint-based nature of the offense, and the effectiveness of criminal sanctions. This research is particularly relevant because it establishes a direct comparative foundation for examining adultery regulations under both legal systems. However, further analysis is necessary concerning evidentiary requirements, criminal liability, constitutional safeguards, and the broader implications of legal pluralism.

Mashendra, Corrin, and Rukmana (2024), in their article entitled Policy Reform of the Concept of Adultery in Article 411 of Law Number 1 of 2023 KUHP Indonesia, investigated the policy considerations underlying the expansion of the definition of adultery in the new Criminal Code. Their normative legal research evaluated the criminalization policy and the values protected through Article 411. They argued that the expanded formulation raises concerns regarding criminal policy, fairness, and equal legal protection, particularly when the provision is applied to individuals with different marital statuses. Their findings provide an important perspective on the challenges of reforming Indonesia's adultery regulations.

Nevertheless, their primary focus is criminal law policy rather than a comprehensive examination of Islamic criminal sanctions and their jurisprudential foundations.

Suardita and Irayadi (2025), in their study entitled Limits and Proof of A dultery in Islamic Law and Law No. 1 of 2023: Criminology Perspective, examined the definition and evidentiary requirements of adultery under Islamic law and Indonesia's new Criminal Code. Their research highlighted differences in the standards of proof, criminal sanctions, and legal approaches adopted by both systems. They also emphasized the importance of legal harmonization in maintaining social morality and legal certainty. Their findings are particularly relevant to the present study because they demonstrate that differences in evidentiary standards and enforcement mechanisms are essential considerations in comparing the two legal frameworks.

Based on these previous studies, it can be concluded that existing research has substantially examined adultery from the perspectives of Islamic jurisprudence, national criminal legislation, legal reform, evidentiary standards, and legal pluralism. Nevertheless, an opportunity remains to develop a more integrated normative analysis that systematically connects the classification of zina, the jurisprudential foundations of muhsan and ghayr muhsan, the principles governing criminal responsibility, evidentiary requirements, and the sanctions prescribed under Islamic jurisprudence with the specific provisions of Indonesia's national criminal law.

This research addresses four principal questions: How does Islamic law define adultery (zina) and regulate its criminal sanctions? How are adultery offenses and their criminal sanctions regulated under Indonesia's national legal system? What are the similarities and differences between Islamic criminal law and Indonesian national criminal law concerning adultery? Furthermore, what legal implications and challenges arise from applying Islamic legal principles within Indonesia's national legal framework?

This study aims to analyze the concept and legal foundations of adultery in Islamic criminal law, examine the types and principles of criminal sanctions according to Islamic jurisprudence, and identify the applicable Indonesian legal provisions. It also seeks to compare both legal systems regarding definitions, criminal liability, evidentiary requirements, and punishment, while evaluating the compatibility, challenges, and implications of Islamic legal principles within Indonesia's national legal system.

Theoretically, this research contributes to the development of Islamic criminal law scholarship, particularly regarding the relationship between Islamic jurisprudence and modern national criminal law. Practically, it provides legal insights for academics, legal practitioners, policymakers, and society concerning adultery regulations and criminal sanctions. Legally, the study contributes to discussions on legal pluralism, constitutional principles, justice, human rights, and national criminal law development(Delmas-Marty, 2009). Ultimately, it emphasizes the importance of establishing a fair and legally certain criminal justice framework that considers religious values while respecting constitutional protections and individual rights.

METHOD

This study employs a normative juridical legal research method, also known as doctrinal legal research, to examine the regulation of adultery (zina) and its criminal sanctions from the perspectives of Islamic criminal law and Indonesia's national legal system. This method is appropriate because the research focuses on analyzing legal norms, statutory provisions, Islamic legal principles, and scholarly interpretations rather than collecting empirical data from respondents or conducting field observations. The study investigates the normative foundations of adultery prohibitions, the classification of criminal offenses, the principles of criminal responsibility, and the legal consequences established under both legal systems. Furthermore, a comparative legal framework is employed to identify similarities and differences between Islamic criminal jurisprudence and Indonesian positive law. A conceptual framework is also used to examine the concepts of zina, hudud, muhsan, ghayr muhsan, criminal liability, justice, proportionality, and legal protection. Through this research design, the study seeks to develop a comprehensive understanding of the relationship between Islamic legal principles and contemporary Indonesian criminal legislation.

This research applies four complementary legal approaches. First, the statutory approach examines relevant Indonesian legislation, particularly Law No. 1 of 2023 concerning the Criminal Code, with specific attention to Article 411 and other related provisions governing adultery(Umar, 2023). The approach also considers the 1945 Constitution of the Republic of Indonesia and other relevant statutory regulations to

understand the constitutional and legislative foundations of criminal liability. Second, the conceptual approach examines fundamental Islamic legal concepts, including zina, hudud, muhsan, ghayr muhsan, and maqashid al-sharia. It also considers the principles of justice, legal certainty, criminal responsibility, and the protection of human dignity. Third, the comparative approach analyzes the similarities and differences between Islamic criminal law and Indonesian national criminal law, particularly concerning legal definitions, elements of offenses, evidentiary standards, criminal sanctions, and enforcement mechanisms. Fourth, the historical approach examines the development of adultery regulations in Islamic jurisprudence and Indonesia, including the transition from the former Criminal Code, particularly Article 284, to the new provisions established under Law No. 1 of 2023. These approaches provide a comprehensive framework for understanding the legal development and contemporary implications of adultery regulations.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials(Hamzani et al., 2023). Primary legal materials include the Qur'an, particularly Surah An-Nur (24):2 and Surah Al-Isra (17):32, Hadith concerning the prohibition of adultery and its legal consequences, classical and contemporary Islamic jurisprudential doctrines, and Indonesian statutory regulations. Particular attention is given to Law No. 1 of 2023 concerning the Criminal Code, especially Article 411 and related provisions, as well as the 1945 Constitution of the Republic of Indonesia. Secondary legal materials consist of academic books on Islamic criminal law (fiqh jinayah), scholarly journal articles, legal commentaries, textbooks on Indonesian criminal law, and previous research addressing the relationship between Islamic jurisprudence and national legislation. These materials provide theoretical explanations, scholarly interpretations, and comparative perspectives. Tertiary legal materials include legal dictionaries, Islamic legal encyclopedias, legal terminology references, and other supporting resources that assist in clarifying legal concepts and interpreting primary and secondary legal materials.

The collection of legal materials is conducted through library research (library research), involving the systematic identification, examination, classification, and documentation of relevant legal sources(Sloan & Sloan, 2009). The process begins with reviewing statutory regulations and official legal documents governing adultery and criminal sanctions in Indonesia. Subsequently, relevant Qur'anic verses, Hadith, classical Islamic jurisprudential texts, and contemporary scholarly interpretations are examined to establish the normative foundations of adultery regulations in Islamic law. Academic books, peer-reviewed journal articles, legal publications, and previous research are also collected through relevant scholarly databases and academic repositories. The collected materials are classified according to their relevance to the research questions, including the definition of adultery, criminal sanctions, evidentiary requirements, legal principles, and the relationship between Islamic law and Indonesia's national legal framework. This systematic collection process ensures that the analysis is supported by relevant and authoritative legal sources.

The legal materials are analyzed using qualitative normative legal analysis(Zainuddin & Koto, 2023). The analysis begins with a descriptive examination of the relevant provisions of Islamic criminal jurisprudence and Indonesian national legislation to establish their respective legal foundations and regulatory characteristics. Subsequently, comparative analysis is conducted to identify similarities and differences concerning the definition of adultery, classification of offenders, criminal responsibility, evidentiary requirements, and applicable sanctions. Interpretative analysis is then employed to examine the meaning, objectives, and implications of relevant legal provisions by considering Islamic legal doctrines, statutory principles, and constitutional values. Particular attention is given to the relationship between maqashid al-sharia, legal certainty, justice, proportionality, privacy, and human rights. Finally, conclusions are formulated through deductive reasoning, beginning with general legal principles and theories before applying them to the specific legal problems examined in this research. Through these analytical procedures, the study seeks to produce a systematic and critical assessment of criminal sanctions for adultery under Islamic law and their relationship with Indonesia's national legal system.

RESULTS AND DISCUSSION

The Concept of Adultery in Islamic Law

Adultery (zina) is an offense that occupies an important position in Islamic criminal jurisprudence (fiqh jinayah)(Amri & Busthami, n.d.). In general, zina refers to unlawful sexual intercourse between a man and a woman who are not legally married to each other, provided that the act fulfills the specific legal

elements established by Islamic jurisprudence. The prohibition is grounded in the Qur'an and Hadith, which emphasize the importance of maintaining human dignity, protecting family relationships, preserving lineage, and preventing social harm. Surah Al-Isra (17):32 explicitly prohibits approaching adultery, describing it as an immoral act and an evil path. Meanwhile, Surah An-Nur (24):2 establishes a specific punishment for those who commit adultery. These provisions demonstrate that the prohibition of zina is not merely a moral recommendation but also a religious and legal principle within Islamic jurisprudence.

The prohibition of adultery is closely connected to the objectives of Islamic law (maqashid al-sharia), particularly the protection of lineage (hifz al-nasl), religion (hifz al-din), and human dignity. The protection of lineage ensures clarity regarding family relationships, inheritance, parental responsibilities, and the social status of children. From this perspective, Islamic law regards marriage as the legitimate institution for establishing family relationships and regulating sexual relations. Adultery is therefore understood as conduct that potentially undermines family stability, marital responsibility, and social morality. However, the application of these principles must be understood alongside the Islamic emphasis on justice, evidence, individual responsibility, and the prevention of wrongful accusations.

Islamic jurisprudence generally distinguishes offenders according to the legal classification of muhsan and ghayr muhsan(Kamali, 2019). The term muhsan refers to a person who fulfills the specific conditions of ihsan, which classical jurists generally associate with a valid consummated marriage and additional legal qualifications. The term ghayr muhsan refers to an offender who does not fulfill those conditions. This distinction is important because Islamic jurisprudence recognizes different legal consequences depending on the offender's circumstances. Nevertheless, the precise qualifications of ihsan and their application are discussed differently among Islamic legal schools.

Classical Islamic scholars, particularly jurists from the Hanafi, Maliki, Shafi'i, and Hanbali schools, developed detailed interpretations concerning the definition, classification, and legal consequences of zina(Mir-Hosseini, 2011). Although they share the fundamental prohibition of adultery, differences exist regarding certain elements of the offense, the qualifications of muhsan, and the interpretation of evidentiary requirements. Contemporary scholars have also reconsidered the relationship between classical jurisprudential doctrines, modern legal institutions, human rights, and the objectives of Islamic law. Consequently, the concept of zina should be examined through both its textual foundations and the diversity of Islamic legal interpretations (Kamali, 2019).

Criminal Sanctions for Adultery According to Islamic Law

Criminal sanctions for adultery in Islamic jurisprudence are generally discussed within the framework of hudud, referring to offenses and punishments that have specific foundations in Islamic legal sources. The punishment for adultery is principally based on Surah An-Nur (24):2, which prescribes one hundred lashes for the offenders addressed in the verse. Classical Islamic jurisprudence generally applies this punishment to offenders classified as ghayr muhsan. Some legal schools also recognize an additional punishment of exile for one year based on Hadith, although jurists differ concerning its application and whether it applies equally to men and women.

Regarding offenders classified as muhsan, the majority of classical Sunni jurists recognize rajm (stoning) as the prescribed punishment based on Hadith reports and established jurisprudential interpretations(Al-Ansari, 2023). This position is associated with the Hanafi, Maliki, Shafi'i, and Hanbali schools, although differences remain concerning the qualifications of ihsan, evidentiary requirements, and procedural application. The relationship between Surah An-Nur (24):2 and the Hadith-based doctrine of rajm has also become an important subject of contemporary Islamic legal discussion. Some modern scholars critically reassess the historical, textual, and jurisprudential foundations of this punishment. Therefore, the doctrine should be presented as the majority classical jurisprudential position rather than as an uncontested interpretation shared by every contemporary Muslim scholar (Kamali, 2019).

An important characteristic of Islamic criminal jurisprudence is its emphasis on strict evidentiary requirements before imposing hudud punishment. Traditionally, adultery may be established through the testimony of four qualified eyewitnesses who directly witness the legally relevant sexual act or through a valid confession by the offender. The Qur'anic foundation for the requirement of four witnesses is also discussed in Surah An-Nur (24):4, particularly concerning accusations of unlawful sexual conduct. However, the details of confession differ among Islamic legal schools. For example, Hanafi and Hanbali jurists traditionally require repeated confessions, while Maliki and Shafi'i jurists generally accept a single

valid confession, subject to their respective legal conditions. These differences demonstrate that Islamic jurisprudence does not establish a completely uniform evidentiary procedure.

Furthermore, Islamic criminal law recognizes the importance of avoiding punishment when legally relevant doubts (syubhat) exist. This principle is associated with the maxim that hudud punishments should be avoided in the presence of reasonable legal uncertainty. It reflects the broader objectives of justice, legal responsibility, and protection against wrongful punishment. The evidentiary framework is therefore essential to understanding the philosophy of Islamic criminal sanctions. The severity of a prescribed punishment is accompanied by procedural safeguards intended to prevent arbitrary enforcement and unjust accusations. Kamali (2019) emphasizes the importance of examining witness testimony, confession, the definition of muhsan, and the jurisprudential debates surrounding rajm when analyzing the Islamic law of zina.

Regulation of Adultery in Indonesia's National Legal System

The regulation of adultery in Indonesia has experienced significant development through the reform of national criminal legislation(Januarsyah et al., 2023). Under the former Indonesian Criminal Code (KUHP), Article 284 regulated adultery within a relatively narrow framework, particularly involving sexual intercourse in circumstances where at least one party was bound by marriage. The provision was designed to protect marital fidelity and treated adultery as a complaint-based offense, meaning that prosecution depended on a complaint from the legally affected spouse. Consequently, consensual sexual relations between two unmarried adults were generally not covered by the former Article 284.

The development of national criminal law introduced a broader formulation through Law No. 1 of 2023 concerning the Criminal Code. Article 411 establishes that any person who engages in sexual intercourse with someone who is not their husband or wife may be punished for adultery with imprisonment for a maximum of one year or a fine of up to Category II. This provision expands the scope of criminal liability beyond the traditional understanding under former Article 284 because it also covers sexual intercourse between two individuals who are both unmarried. The explanation of Article 411 identifies several circumstances that fall within the provision, including sexual intercourse involving married individuals and sexual intercourse between two individuals who are not married to each other.

Article 411 also establishes a complaint-based prosecution mechanism. Under paragraph (2), a complaint may be submitted by the husband or wife when the person involved is married, or by the person's parents or child when the person is unmarried. The explanation further specifies that the child referred to in this provision is a biological child who has reached the age of sixteen. Paragraph (3) establishes special rules concerning the applicable complaint provisions, while paragraph (4) permits withdrawal of the complaint before examination at trial begins. These limitations are intended to prevent unrestricted prosecution and maintain the personal nature of the offense (Republic of Indonesia, 2023, Article 411).

The legal elements of Article 411 include the existence of a person who performs sexual intercourse, the existence of another person who is not legally that person's spouse, and the fulfillment of the relevant requirements for criminal responsibility(Januarsyah et al., 2023). The statutory explanation clarifies the different marital circumstances covered by the provision. Nevertheless, criminal liability cannot be established merely through suspicion, personal disagreement, or moral judgment. It must be demonstrated through lawful evidence and the applicable criminal procedure. The complaint requirement also constitutes an essential procedural condition before prosecution may proceed.

The implementation of Article 411 reflects an effort to strengthen the protection of marriage and family relationships while establishing boundaries for state intervention in private conduct. However, the provision has generated debate concerning privacy, individual autonomy, family authority, and the potential misuse of complaint mechanisms. The Constitutional Court's proceedings in Case No. 280/PUU-XXIII/2025 demonstrate that the constitutional implications of Articles 411 and 412 have become subjects of legal debate. The case highlights concerns regarding the involvement of parents or children in reporting the private sexual conduct of unmarried adults. Such developments indicate that the application of adultery provisions requires careful consideration of constitutional rights and procedural safeguards (Constitutional Court of the Republic of Indonesia, 2026).

Comparative Analysis of Islamic Law and Indonesian National Criminal Law

A comparison between Islamic criminal law and Indonesian national criminal law reveals important similarities and differences in their legal foundations, definitions, classification systems, criminal sanctions, evidentiary requirements, and enforcement mechanisms. Both systems recognize that

adultery may have legal consequences and regard marriage and family relationships as important social institutions. However, the two systems approach the offense through different normative foundations and legal mechanisms.

From the perspective of legal foundations, Islamic criminal law derives its principles from the Qur'an, Hadith, and Islamic jurisprudential interpretations(Zakariyah, 2015). Indonesian national criminal law, on the other hand, is based on statutory regulations established through the national legislative process. Although Islamic legal values may influence the development of Indonesian legislation, Islamic jurisprudential punishments do not automatically become applicable as national criminal sanctions.

Regarding the definition of adultery, Islamic jurisprudence generally defines zina through specific legal elements concerning unlawful sexual intercourse outside a valid marriage. Indonesian national criminal law adopts the formulation established in Article 411 of Law No. 1 of 2023, which includes sexual intercourse with a person who is not the offender's husband or wife. Unlike classical Islamic jurisprudence, Article 411 does not classify offenders according to the categories of muhsan and ghayr muhsan. Instead, it establishes criminal liability through statutory elements and applicable procedural requirements.

The differences are also evident in the punishment systems. Islamic jurisprudence traditionally recognizes one hundred lashes for ghayr muhsan and, according to the majority classical Sunni position, rajm for muhsan. Indonesian national criminal law establishes imprisonment for a maximum of one year or a Category II fine under Article 411(Bachri et al., 2023). These differences reflect distinct legal philosophies, historical developments, and institutional frameworks. Islamic criminal jurisprudence emphasizes religious obligations and the objectives of Islamic law, whereas Indonesian national criminal law emphasizes statutory legality, criminal responsibility, and the authority of national legal institutions.

The following table summarizes the principal comparative findings.

Aspect	Islamic Criminal Law	Indonesian National Criminal Law
Legal foundation	Qur'an, Hadith, and Islamic jurisprudence	Law No. 1 of 2023 and other relevant legislation
Definition	*Zina* as unlawful sexual intercourse fulfilling Islamic legal elements	Sexual intercourse with a person who is not one's spouse under Article 411
Classification	*Muhsan* and *ghayr muhsan*	No equivalent classification based on *ihsan*
Sanctions	100 lashes for *ghayr muhsan*; majority classical position recognizes *rajm* for *muhsan*	Maximum imprisonment of one year or Category II fine
Legal principles	*Hudud*, justice, and protection of lineage	Legality, criminal responsibility, and statutory certainty
Evidence	Qualified witnesses and valid confession, subject to jurisprudential differences	Evidence under applicable Indonesian criminal procedure
Enforcement	Depends on the applicable Islamic legal authority and jurisdiction	National criminal justice institutions

In terms of evidentiary requirements, Islamic jurisprudence traditionally establishes strict conditions for proving *zina*, particularly through four qualified eyewitnesses or a valid confession. Indonesian national criminal law applies the evidentiary framework established by its criminal procedure legislation. Consequently, the two systems cannot be treated as having identical standards of proof. The differences are especially important because criminal punishment must be based on legally established facts rather than assumptions or moral allegations.

Regarding legal enforcement, Islamic criminal law operates according to the relevant legal authority and jurisdiction. In Indonesia, Islamic criminal law also has a specific positive-law application in Aceh through the regional Qanun Jinayat framework, which should be distinguished from the generally applicable national Criminal Code(Din & Yasa'Abubakar, 2021). Outside such specific arrangements, the punishments prescribed in classical Islamic jurisprudence cannot simply be imposed by national law enforcement institutions. National criminal sanctions must remain grounded in applicable Indonesian legislation.

The Integration of Islamic Legal Principles into Indonesia's National Legal System

The relationship between Islamic law and Indonesia's national legal system reflects the country's pluralistic legal and social structure. Islamic law constitutes an important normative tradition for Muslim communities, while Indonesia's national legal framework is based on Pancasila and the 1945 Constitution. The recognition of religious values within national life does not mean that every provision of Islamic

jurisprudence automatically becomes binding national legislation. Instead, the incorporation of religious legal principles requires constitutional and legislative processes that establish their legal validity and institutional application.

The influence of Islamic legal values can be identified in various areas of Indonesian legislation, particularly family law, marriage, Islamic banking, religious courts, and specific regional legal arrangements(Cammack & Feener, 2012). These developments demonstrate that Islamic legal principles can contribute to national legal development through legislation and recognized institutional mechanisms. Nevertheless, criminal law requires particular attention because the imposition of criminal sanctions directly affects individual liberty, dignity, and constitutional rights.

The 1945 Constitution provides an important framework for examining this relationship. Article 1 paragraph (3) establishes Indonesia as a state governed by law, while Article 28D paragraph (1) guarantees recognition, protection, and legal certainty that is fair and equal before the law. Article 28E recognizes freedom of religion and belief, and Article 29 paragraph (2) guarantees the freedom of every person to embrace a religion and worship according to their religion and belief. These constitutional provisions establish the framework within which religious values and national legal principles must operate.

The integration of Islamic legal principles therefore requires consideration of justice, equality, proportionality, legal certainty, and human rights. The principles of maqashid al-sharia, particularly the protection of religion, life, intellect, lineage, and property, can provide valuable perspectives for evaluating criminal policy(Shihan et al., 2021). However, the interpretation and implementation of these principles must be consistent with constitutional protections and the requirements of national legislation.

A major challenge in this process is distinguishing between Islamic legal doctrines as normative religious principles and positive law as legally enforceable national regulations. For example, the classical jurisprudential punishment of rajm cannot be applied as a national criminal sanction merely because it is recognized by a particular school of Islamic jurisprudence. Its application would require a valid legal basis within the applicable jurisdiction. Similarly, Article 411 must be interpreted and enforced according to its statutory formulation rather than automatically through the categories and punishment systems of classical fiqh jinayah.

Legal Implications and Challenges of Criminal Sanctions for Adultery

The criminalization of adultery has important implications for individuals, families, and society(Sweeny, 2014). From the perspective of Islamic law, prohibiting zina is intended to preserve family integrity, protect lineage, maintain human dignity, and prevent conduct considered harmful to social morality. From the perspective of Indonesian national criminal law, Article 411 seeks to establish legal consequences for sexual intercourse outside marriage while limiting prosecution through a complaint-based mechanism. Both approaches demonstrate that adultery is considered a matter with broader social and legal implications.

Nevertheless, criminal regulation of private sexual conduct raises complex questions concerning the relationship between religious morality and individual privacy. Although the protection of marriage and family relationships constitutes a legitimate social concern, the application of criminal sanctions must also respect constitutional guarantees, personal dignity, and legal certainty. The complaint-based mechanism under Article 411 provides a limitation on prosecution because only legally designated family members may submit complaints. However, the provision also creates potential challenges when family relationships involve conflict, coercion, intimidation, or disputes concerning personal autonomy.

Another significant challenge concerns the evidentiary process. Law enforcement authorities must establish that the statutory elements of adultery have been fulfilled through lawful evidence. Suspicion, personal accusations, or information obtained through improper means should not be treated as sufficient grounds for criminal conviction. The existence of a complaint does not automatically establish the guilt of the accused. Rather, it provides the procedural basis for prosecution, while the elements of the offense and criminal responsibility must still be proven through the applicable judicial process.

The potential misuse of complaint-based provisions also requires attention. Family members may use criminal complaints as instruments of pressure, retaliation, or control over personal relationships(Thomas, 2013). Such situations can create risks of discrimination, reputational damage, psychological pressure, and wrongful accusations. Therefore, legal institutions must ensure that investigations and prosecutions are conducted professionally, impartially, and in accordance with procedural safeguards. The confidentiality and dignity of the parties involved should also be protected throughout the legal process.

Furthermore, the differences between Islamic criminal jurisprudence and Indonesian national criminal law demonstrate the importance of legal harmonization. Islamic legal values can contribute to discussions concerning family protection, responsibility, morality, and social welfare. However, the development of national criminal law must also consider the principles of legality, proportionality, equality, privacy, and constitutional protection. The objective should not be to impose classical Islamic punishments without regard to the national legal framework, but to examine how the ethical and legal objectives of Islamic jurisprudence can contribute to a fair and effective criminal justice system.

Accordingly, several considerations are important for the development of adultery regulations in Indonesia. First, the interpretation of Article 411 should remain consistent with the principle of legality and the statutory elements of the offense. Second, the complaint mechanism must be implemented strictly according to the categories of persons authorized by law. Third, law enforcement institutions should prevent intimidation, discrimination, and arbitrary accusations. Fourth, legal education should improve public understanding of the distinction between religious prohibitions and nationally enforceable criminal sanctions. Finally, policymakers should continue evaluating the relationship between Islamic legal values, constitutional principles, and contemporary human rights standards.

In conclusion, the analysis demonstrates that criminal sanctions for adultery under Islamic jurisprudence and Indonesia's national criminal law emerge from different legal traditions but share certain concerns regarding family protection and social responsibility. Their differences in legal foundations, punishment systems, evidentiary requirements, and enforcement mechanisms demonstrate the importance of a careful comparative approach. The development of Indonesia's national criminal law should therefore consider Islamic legal values while maintaining constitutional protections, legal certainty, justice, proportionality, and respect for individual rights.

CONCLUSION

This study concludes that adultery (zina) occupies an important position in Islamic criminal law because it contradicts religious principles and threatens family integrity, human dignity, and the protection of lineage (hifz al-nasl). Islamic jurisprudence distinguishes between muhsan and ghayr muhsan, prescribing one hundred lashes for the latter, while the majority classical Sunni scholars recognize rajm for the former based on Hadith. In Indonesia, adultery is regulated under Article 411 of Law No. 1 of 2023, which establishes a maximum penalty of one year's imprisonment or a Category II fine through a complaint-based offense mechanism. Although both legal systems recognize the importance of protecting marriage and social morality, they differ in legal foundations, definitions, evidentiary requirements, punishment systems, and enforcement mechanisms. Integrating Islamic legal values into Indonesia's pluralistic legal framework therefore requires careful consideration of constitutional principles, legal certainty, justice, proportionality, privacy, and human rights. Legal scholars, policymakers, and law enforcement institutions should promote regulations and enforcement practices that respect religious values while ensuring fairness, transparency, procedural protection, and equality before the law.

AUTHORS' DECLARATION

Authors' Contributions and Responsibilities

The author was responsible for conceptualizing the research, formulating the research questions, determining the normative juridical methodology, collecting and examining relevant legal materials, conducting statutory, conceptual, and comparative analyses, interpreting the findings, and preparing the manuscript.

Competing Interests

The author declares that there are no financial, personal, institutional, or professional conflicts of interest that could have influenced the research, analysis, or publication of this manuscript.

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