

**HUDUD LAW: ITS VALIDITY AND APPLICATION IN MALAYSIA
(TERENGGANU AND KELANTAN)**

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The students/authors confirm that the work submitted is their own and that appropriate
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ABSTRACT

The main aim of this study is to find answers to some of the outstanding questions surrounding *Hudud Law* and the Islamic Criminal Justice System from the controversy that arose following the former PAS Government of Terengganu's announcement that it wanted to implement *Hudud* and other Islamic Criminal Laws in the State in 2002. In order to do this, we shall examine the general *Quranic* provisions in regards to the offences of *Hudud*, *Qisas* and *Ta'zir* and the specific provisions of *Hudud* under the **Kelantan Islamic Criminal Bill 1993** and the **Terengganu Islamic Criminal Enactment 2002**. It should be noted that both laws have yet to be implemented, whereby the Kelantan Bill has yet to be passed by the State Legislative Assembly and gazetted as law, and the Terengganu Enactment has been passed but failed to obtain the Enabling Act from the Federal Parliament to allow its implementation.

The main questions that we hope to answer in this research are; firstly, whether or not the statutory interpretations of *Hudud* are rightfully based on the *Quranic* provisions. Secondly, whether the implementation of *Hudud* in Malaysia will be Constitutional; thirdly, whether the implementation of *Hudud* is feasible in the current local context and finally, whether the offences and punishments prescribed under *Hudud* are in gross violation of international human right standards.

In addition, we shall also be looking at the working models of the implementation of *Hudud Laws* in other Islamic countries like Pakistan, Saudi Arabia, Iran and Nigeria in order to identify the problems in the implementation of *Hudud Laws* and its effectiveness in reducing the crime rates in these countries.

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1.0 INTRODUCTION: HUDUD LAW AND THE MALAYSIAN UPROAR

Prior to June of 2002, the majority of Malaysian Muslims are only partially aware of what *Hudud Law* is. Some may feel that it is just a different name for *Syariah Law* the traditional Islamic Moral Code which prescribes how Muslims should lead their lives. Others may have little more than a general understanding that it is a facet of the overall *Syariah Law* which governs criminal offences and its punishments. While in other instances, it was also not surprising to find that the lack of knowledge on this subject matter have caused many to merely associate *Hudud Law* with the harsh punishments of stoning to death and the amputation of the limbs.

It was only after the former PAS-led State Government of Terengganu expressed its intentions of passing the total Islamic Criminal Law and its Punishment under the *Terengganu Islamic Criminal Bill* that we saw the general public in Malaysia paying more attention to this matter. Despite the fact that this law would only have been passed in Terengganu thus only affecting the Muslim citizens of that state, we saw the massive transformation of the general Malaysian public as a whole. From the ignorant and aloof public that they once were, they became experts of Islamic Law, supporting its validity and effectiveness or even challenging its constitutionality and infringement of the fundamental rights of human beings. It was not only a controversial topic amongst the different sects of the political conscious Malay Muslims, it also became a discussion topic amongst non-Malays, NGO's (particularly women groups who saw this law as having a discriminatory effect on Muslim women) and to a certain extent, the international community .

This law was subsequently passed as the *Terengganu Islamic Criminal Enactment* on July 16th 2002 under the PAS-led Government. However, it was denied actual implementation from the Federal Government as seen in Parliament's refusal to pass the enabling act in support of the implementation of this law. Furthermore, this law was further shelved in the dark corners of State Enactments after the loss of PAS in the 2004