

An Islamic Criminal Law Study of Financial Crimes in Modern Sharia Businesses

Liantha Adam Nasution¹, Mhd Yadi Harahap²

¹ Sekolah Tinggi Agama Islam Negeri Mandailing Natal

² Universitas Islam Negeri Sumatera Utara

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Correspondence

Author:

Liantha || lianthaadamnasution93@gmail.com

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Abstract: The increasing complexity of modern finance requires a strong ethical and legal framework. Islamic law offers a foundation such as Sharia principles that can effectively curb economic violations. This study develops an integrative framework by integrating fiqh al-jinayah into corporate management and offers targeted policy recommendations. Using a normative-doctrinal methodology, this research combines a comprehensive literature review with thematic content analysis of corporate Sharia policies and a comparative examination of Sharia-compliant and non-Sharia-compliant practices. The study's findings indicate that empowering the Sharia Supervisory Board (DPS) and conducting internal Sharia audits to institutionalize the values of amanah, siddiq, and ta'zir significantly enhances transparency and accountability. These measures help prevent embezzlement, fraud, and money laundering while promoting profit-sharing financing models. The moral approach of Sharia law complements the existing legal regime by addressing the root causes of corporate misconduct, linking divine accountability with procedural rigor. The research contribution seeks to align corporate regulations by incorporating ta'zir-based sanctions for financial violations, explicitly granting the Sharia Supervisory Board (DPS) sanctioning authority, and implementing ethics-based capacity-building programs for executives and board members. This initiative paves the way for integrating Islamic legal principles into modern business processes and strengthening corporate governance with a Sharia-based value orientation.

Kata Kunci:

Hukum Pidana Islam,
 Kejahatan Keuangan,
 Bisnis Syariah.

Abstrak: Meningkatnya kompleksitas keuangan modern menuntut adanya kerangka kerja etika dan hukum yang kuat. Hukum Islam menawarkan landasan seperti prinsip-prinsip syariah yang dapat secara efektif mengekang pelanggaran ekonomi. Studi ini mengembangkan kerangka kerja integratif dengan mengintegrasikan *fiqh al-jinayah* ke dalam manajemen perusahaan dan menawarkan rekomendasi kebijakan yang tepat sasaran. Menggunakan metodologi normatif-doktrinal, penelitian ini menggabungkan tinjauan literatur yang komprehensif dengan analisis konten tematik dari kebijakan syariah perusahaan dan pemeriksaan komparatif terhadap praktik-praktik yang sesuai dengan syariah dan yang tidak sesuai dengan syariah. Temuan penelitian menunjukkan memberdayakan Dewan Pengawas Syariah (DPS) dan melakukan audit syariah internal untuk melembagakan nilai-nilai *amanah*, *siddiq*, dan *ta'zir* yang terkalibrasi secara signifikan meningkatkan transparansi dan akuntabilitas. Langkah-langkah ini membantu mencegah penggelapan, penipuan, dan pencucian uang serta mendorong model pembiayaan bagi hasil. Pendekatan moral hukum syariah melengkapi rezim hukum yang ada dengan menangani akar penyebab kesalahan perusahaan, yang mengaitkan akuntabilitas *ilahi* dengan ketelitian prosedural. Kontribusi penelitian berupaya menyelaraskan peraturan perusahaan dengan memasukkan sanksi berbasis *ta'zir* dalam pelanggaran keuangan, memberikan Dewan Pengawas Syariah (DPS) kewenangan pemberian sanksi secara eksplisit, dan menerapkan program peningkatan kapasitas berbasis etika bagi para eksekutif maupun anggota dewan. Inisiatif ini membuka jalan untuk mengintegrasikan prinsip hukum Islam dalam proses bisnis modern dan memperkuat tata kelola perusahaan dengan orientasi berbasis nilai syariah.

INTRODUCTION

The accelerated globalization of expansive trade and increasing complexity in financial transactions have underscored the urgent need for an ethical framework that goes beyond conventional business regulations. ¹The application of Islamic Shariah in the context of business management offers a comprehensive moral and legal direction rooted in the Qur'an and Sunnah, which emphasize justice, trust, and

¹ Saurabh Mishra, Ishani Tewari, and Siavash Toosi, "Economic Complexity and the Globalization of Services," *Structural Change and Economic Dynamics* 53 (2020): 267–80, <https://doi.org/10.1016/j.strueco.2020.03.002>.

responsibility.² Embedding such core values into corporate governance, contractual arrangements, and financial practices, companies can promote transparency and accountability,³ thereby reducing incentives and opportunities for economic irregularities. Shariah's prohibitions against usury, excessive uncertainty or *gharar*, and fraud directly address the root causes of many modern financial crimes, making Islamic principles even more relevant in today's business environment.⁴

Sharia principles not only serve as ethical guidelines,⁵ but also as a preventive mechanism against economic crime. The central principle of tawhid or the oneness of Allah SWT can foster the realization that all wealth ultimately belongs to Allah SWT, preventing the pursuit of unauthorized gains to enrich oneself or certain groups.⁶ Other principles, such as trustworthiness and honesty, create legal obligations that require full disclosure, fair dealing, and protection of stakeholders' interests.⁷ The prohibition of *usury*, *gharar*, and *maysir* (gambling) eliminates exploitative financial instruments and high-risk speculative behavior,⁸ which often catalyze money laundering, embezzlement, and corruption.⁹ Operationalizing these norms in corporate policies and regulatory frameworks, companies can build resilient systems,¹⁰ which preemptively block the path of economic crime.

Several empirical and theoretical studies have explored aspects of sharia compliance in corporate and financial settings. Wijayanti and Setiawan examined Islamic-based financial corporate governance models and their impact on firm performance, highlighting the role of the Sharia Supervisory Board (DPS) in

² Ibrahim Fatwa Wijaya and Andrea Moro, "Trustworthiness and Margins in Islamic Small Business Financing: Evidence from Indonesia," *Borsa Istanbul Review* 22 (2022): S35-46, <https://doi.org/10.1016/j.bir.2022.10.010>; Nora S. Eggen (س. ن. إيجن), "Trust, Trusting and Trustworthiness in Ethical Discourse [الأمانة والثقة وحسن الظن في الخطاب الأخلاقي]," *Journal of Islamic Ethics* 5, no. 1-2 (2021): 194-222, <https://doi.org/10.1163/24685542-12340059>.

³ Abdullah Alnamlah et al., "A New Model for Screening Shariah-Compliant Firms," *Borsa Istanbul Review* 22, no. 1 (2022): S10-23, <https://doi.org/10.1016/j.bir.2022.10.011>.

⁴ Melisa Tiran, "Islamic Economics: Principles and Applications in Contemporary Finance," *International Journal of Science and Society* 5, no. 3 (2023): 180-88, <https://doi.org/10.54783/ijssoc.v5i3.735>.

⁵ Chaudhry Ghafran and Sofia Yasmin, "Ethical Governance: Insights from the Islamic Perspective and an Empirical Enquiry," *Journal of Business Ethics* 167, no. 3 (2020): 513-33, <https://doi.org/10.1007/s10551-019-04170-3>.

⁶ Rahadi Wasi Bintoro, "Basic Principles of Sharia Economy for Community Economic Empowerment (Study of the Sharia Principles Application in Indonesia)," *Problems of Legality*, no. 153 (2021): 199-213, <https://doi.org/10.21564/2414-990X.153.222847>.

⁷ Zulfahmi Alwi, Rika Dwi Ayu Parmitasari, and Alim Shariati, "An Assessment on Islamic Banking Ethics through Some Salient Points in the Prophetic Tradition," *Heliyon* 7, no. 5 (2021): e07103, <https://doi.org/10.1016/j.heliyon.2021.e07103>.

⁸ Noor Leena Haniffah, Mohammed Sharaf Shaiban, and Pervaiz Ahmed, "Development and Validation of a Performance Measurement System Based on Islamic Principles," *Heliyon* 9, no. 5 (2023): e16095, <https://doi.org/10.1016/j.heliyon.2023.e16095>.

⁹ Tiran, "Islamic Economics: Principles and Applications in Contemporary Finance."

¹⁰ Ahmad Ali Jan, Fong-Woon Lai, and Muhammad Tahir, "Developing an Islamic Corporate Governance Framework to Examine Sustainability Performance in Islamic Banks and Financial Institutions," *Journal of Cleaner Production* 315 (2021): 128099, <https://doi.org/10.1016/j.jclepro.2021.128099>.

enforcing ethical oversight and impacting sustainable development.¹¹ Mukhibad et al. provide a basic analysis of Islamic economic principles, focusing on risk sharing and asset- and equity-backed financing as an alternative to interest-based lending.¹² Leena Haniffah, Sharaf Shaiban, and Ahmed in their research revealed that the basic values of Islamic economics such as the prohibition of *gaharar*, *usury*, *maysir* are considered better in overcoming contemporary economic and financial problems, so as to achieve the objectives of sharia for the welfare of the people.¹³ Research by Menne et al. assessed sharia compliance among small and medium enterprises in Indonesia, identifying gaps in *fintech* knowledge and regulatory enforcement against it.¹⁴ Nobanee et al. evaluated the effectiveness of anti-corruption frameworks in Islamic financial institutions and banks, and found that formal governance structures alone are insufficient without an embedded ethical culture.¹⁵

While previous research contributions extend to product design and governance structures, no study has systematically mapped the framework of Islamic criminal law as a preventive instrument in managerial processes. Few studies have systematically mapped the relationship between *fiqh al-jinayah* (Islamic criminal law) and corporate policy formation, and none have developed a framework that translates criminal norms into preventive corporate controls. Such as *hudud* or fixed penalties, as well as *ta'zir* or discretionary sanctions.¹⁶ This research answers this gap by formulating how the principles of *fiqh al-jinayah* can be adapted into internal company policies. Thus, the credit risk management process or internal audit does not only follow the sharia provisions, but also contains a penal dimension that has deterrent power.

This research is based on several problems regarding how key principles of Islamic criminal law can be operationalized in contemporary business management practices to prevent economic crime, and what mechanisms derived from the provisions of *hudud* and *ta'zir* can be adapted as corporate governance tools and internal control measures? The purpose of this study is to analyze the relevance and

¹¹ Rita Wijayanti and Doddy Setiawan, "The Role of the Board of Directors and the Sharia Supervisory Board on Sustainability Reports," *Journal of Open Innovation: Technology, Markets, and Complexity* 9, no. 3 (2023): 100083, <https://doi.org/10.1016/j.joitmc.2023.100083>.

¹² Hasan Mukhibad et al., "Equity-Based Financing and Risk in Islamic Banks: A Cross-Country Analysis," *Cogent Economics & Finance* 11, no. 2 (2023): 2235117, <https://doi.org/10.1080/23322039.2023.2235117>.

¹³ Leena Haniffah, Sharaf Shaiban, and Ahmed, "Development and Validation of a Performance Measurement System Based on Islamic Principles."

¹⁴ Firman Menne et al., "Optimizing the Financial Performance of SMEs Based on Sharia Economy: Perspective of Economic Business Sustainability and Open Innovation," *Journal of Open Innovation: Technology, Markets, and Complexity* 8, no. 1 (2022): 18, <https://doi.org/10.3390/joitmc8010018>.

¹⁵ Haitham Nobanee, Osama F. Atayah, and Charilaos Mertzanis, "Does Anti-Corruption Disclosure Affect Banking Performance?", *Journal of Financial Crime* 27, no. 4 (2020): 1161–72, <https://doi.org/10.1108/JFC-04-2020-0047>.

¹⁶ Muhammad Imran Khan, Nadia Saleem, and Sardar Ali, "Concept of Crime and Punishment in the Context of the Legal System of Islam and Public Policy Perspective," *Russian Law Journal* 11, no. 5 (2023): 1337–41, <https://www.russianlawjournal.org/index.php/journal/article/view/2824>.

applicability of sharia criminal sanctions in modern organizational settings, design an integrative framework that infuses Islamic criminal norms into business management processes, and provide policy recommendations for government and corporate leaders aimed at strengthening economic crime prevention through sharia-based governance.

***Fiqh al-Jinayah* (Islamic Criminal Law)**

Fiqh al-jinayah or Islamic criminal law is a specialized branch of Islamic legal theory that describes unlawful acts (*jarimah*) and the corresponding sanctions prescribed in sharia (*uqubah*). Islamic criminal law draws its primary sources from the Qur'an and Sunnah, specifically the verses and hadiths that prescribe punishment for offenses such as theft, adultery, and false accusation (*qadzif*) and is supplemented by secondary sources such as *ijma'*, *qiyas*, *istihsan*, and others, where textual evidence is absent or is general in nature, in other words, for acts that are not expressly regulated in the *nashas* of the Qur'an and hadith. The scope of Islamic criminal law includes not only the identification and punishment of substantive crimes, but also procedural norms governing investigation, proof, and execution of punishment. By articulating both substantive (*mahkumat al-wad'*) and procedural (*mahkumat al-'ibad*) rules, *fiqh al-jinayah* seeks to ensure that law enforcement mechanisms are in line with the objectives of Islamic law (*maqashid al-syariah*) and respect individual rights.¹⁷

The essence of *fiqh al-jinayah* is to protect the five *maqashid al-syariah*, namely the protection of religion (*hifdz al-din*), soul (*hifdz al-nafs*), intellect (*hifdz al-'aql*), offspring (*hifdz al-nasl*), and property (*hifdz al-mal*), as expressed by the *fuqaha*.¹⁸ Crimes are classified into three main categories based on the prescribed sanctions:

1. *Hudud*, which is a fixed punishment explicitly stipulated by the Qur'an that is *qath'i*, for example, cutting hands for theft, stoning or whipping for adultery, which serves as a preventive measure and a symbol of Allah's justice.¹⁹
2. *Qishash* and *diyat* are retaliation or compensation for offenses against a person, such as intentional bodily harm or murder, where the victim or his heirs can demand equal retribution (*qishash*) or receive blood money or in lieu of *qishash* if the victim's heirs forgive (*diyat*).²⁰

¹⁷ Hajed A. Alotaibi, "The Challenges of Execution of Islamic Criminal Law in Developing Muslim Countries: An Analysis Based on Islamic Principles and Existing Legal System," *Cogent Social Sciences* 7, no. 1 (2021), <https://doi.org/10.1080/23311886.2021.1925413>.

¹⁸ Iffatin Nur, Syahrul Adam, and M. Ngizzul Muttaqien, "Maqāṣid Al-Sharī'at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *AHKAM : Journal of Sharia Science* 20, no. 2 (2020): 331–60, <https://doi.org/10.15408/ajis.v20i2.18333>.

¹⁹ Silvia Tallenbach, "Islamic Criminal Law," in *The Oxford Handbook of Criminal Law*, ed. Markus D. Dubber and Tatjana Hörnle (Oxford University Press, 2015), 248–268, <https://doi.org/10.1093/oxfordhb/9780199673599.013.0012>.

²⁰ Mohammad Hashim Kamali, "Just Retaliation (Qīṣās)," in *Crime and Punishment in Islamic Law: A Fresh Interpretation* (New York: Oxford University Press, 2019), 201–12, <https://doi.org/10.1093/oso/9780190910648.003.0015>.

3. *Ta'zir* is a punishment left to the judgment of the judge (*qadi*) for offenses not covered by *hudud* or *qishash*, which allows flexibility to take into account context, intent, and social welfare.²¹

This tripartite structure balances the rigidity of fixed sharia sanctions with procedural adaptability, aiming to achieve justice and social harmony. Underlying *fiqh al-jinayah* are several overarching principles designed to protect individual dignity and minimize wrongful punishment.²² The *fiqh* rule of certainty *al-yaqinu la yuzalu bi syakk* demands irrefutable evidence, preferably several reliable eyewitnesses or a clear confession before imposing severe punishment.²³ Other rules such as *la dharar wa la dhirar* prohibit unjust torture, ensuring that the punishment does not exceed the degree of the crime or guilt of the accused.²⁴ The *fuqaha* also uphold the principle of emergency necessity (*dharurah*), which may excuse certain offenses in circumstances of necessity or extreme need. Suspects are procedurally afforded the right to present a defense, challenge evidence, and request judicial review, reflecting Islamic sharia's broader commitment to accountability, due process, and the preservation of the public interest (*mashlahah*).²⁵

Sharia Principles in Business

Business ethics in Islam is firmly rooted in the goal of achieving justice (*al-'is*), which in sharia connotes more than mere equality, it rather implies balance, fairness, and proper fulfillment of rights and obligations among all parties.²⁶ Fairness in a transactional context requires sellers and buyers to exchange value fairly, ensuring neither party bears an unfair burden or gains an unfair advantage to the point of unilateral loss.²⁷ Pricing should reflect actual costs, market conditions, and a

²¹ Muhammad Mawardi Djalaluddin et al., "The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law," *Samarah: Journal of Family Law and Islamic Law* 7, no. 1 (2023): 399, <https://doi.org/10.22373/sjhk.v7i1.15101>.

²² Alotaibi, "The Challenges of Execution of Islamic Criminal Law in Developing Muslim Countries: An Analysis Based on Islamic Principles and Existing Legal System."

²³ Luqman Zakariyah, "4 Legal Maxims Regarding Certainty and Doubt: 'Certainty Cannot Be Overruled by Doubt' (Al-Yaqīn Lā Yazūl Bi-Shakk)," in *Legal Maxims in Islamic Criminal Law: Theory and Applications* (Leiden, The Netherlands: Brill | Nijhoff, 2015), 80-135, <https://doi.org/10.1163/9789004304871>.

²⁴ Luqman Zakariyah, "6 Legal Maxims Regarding Elimination of Harm: 'No Injury/Harm Shall Be Inflicted or Reciprocated' (Lā Ḍarar Wa-Lā Ḍirār)," in *Legal Maxims in Islamic Criminal Law: Theory and Applications* (Leiden, The Netherlands: Brill | Nijhoff, 2015), 158-172, <https://doi.org/10.1163/9789004304871>.

²⁵ Mohammad Hashim Kamali, "Necessity (Darurah) and Forgetfulness (Nisyan)," in *Shariah and the Halal Industry* (Oxford University Press, 2021), 103-11, <https://doi.org/10.1093/oso/9780197538616.003.0010>.

²⁶ Mahmoud Abed Al-Khatib, "The Concept of Justice in Islam: A Socio-Pragmatic Analysis," *Journal of Ethnic and Cultural Studies* 10, no. 5 (2023): 45-66, <https://doi.org/10.29333/ejecs/1749>.

²⁷ Ahmed M. Deif (ضيف أحمد) and Logan Cochrane (كوكران لوجان), "A Values-Based Approach for Development: An Islamic Perspective [الالتمية القائم على القيم: منظور إسلامي نهج]," *Journal of Islamic Ethics* 6, no. 2 (2022): 284-310, <https://doi.org/10.1163/24685542-12340082>; Bintoro, "Basic Principles of Sharia Economy for Community Economic Empowerment (Study of the Sharia Principles Application in Indonesia)."

reasonable profit margin, while contracts should clearly define goods, quality, delivery terms, and warranty obligations.²⁸

Internal fairness includes organizational governance, where employees should receive fair wages, humane working conditions, and opportunities for grievance and redress.²⁹ Shareholders and stakeholders should be treated fairly, with profit distribution and decision-making processes free from favoritism or discrimination.³⁰ Embedding the principle of *al-'ish* at every level from board resolutions to frontline sales, Shariah-based companies foster trust and guard against exploitative actions, thereby strengthening the social fabric essential for sustainable trade.³¹

Closely related to justice is the principle of public welfare (*al-mashlahah*), which mandates business practices that serve the collective interests of society and prevent harm.³² Although sometimes translated as transparency, *mashlahah* encompasses a broader commitment to openness, accountability and the alignment of corporate objectives with the well-being of society. This principle in practice requires companies to publish accurate financial reports, fully disclose risk factors to investors, and maintain clear audit trails for regulatory oversight.³³ It also encourages proactive stakeholder engagement that involves customers, employees, regulators and civil society in policy formulation to ensure that innovations or expansions truly advance societal well-being. When potential conflicts arise, the pursuit of *mashlahah* guides decision-makers to prioritize long-term communal benefits over short-term individual gains, thereby preventing activities that could undermine economic stability or erode public trust.³⁴

Fundamental to the Islamic moral economy is the strict prohibition of *usury*, *gharar* and *maysir*. *Riba* is prohibited because it guarantees a return without any real economic activity or risk sharing, thus allowing rent-seeking that can concentrate

²⁸ Md. Abdullah Al Mamun et al., "A Hybrid Review of Islamic Pricing Literature," *The Singapore Economic Review* 67, no. 01 (2022): 477–509, <https://doi.org/10.1142/S0217590821420029>.

²⁹ Alwi, Parmitasari, and Shariati, "An Assessment on Islamic Banking Ethics through Some Salient Points in the Prophetic Tradition."

³⁰ Wijaya and Moro, "Trustworthiness and Margins in Islamic Small Business Financing: Evidence from Indonesia."

³¹ Bintoro, "Basic Principles of Sharia Economy for Community Economic Empowerment (Study of the Sharia Principles Application in Indonesia)."

³² Aamir Abbas et al., "The Role of Islamic Marketing Ethics towards Customer Satisfaction," *Journal of Islamic Marketing* 11, no. 4 (2019): 1001–18, <https://doi.org/10.1108/JIMA-11-2017-0123>.

³³ Achmad Firdaus and Khaliq Ahmad, "Islamic Economic System: Maslahah in a Muslim State Economy," in *Islamic Business and Performance Management: The Maslahah-Based Performance Management System*, ed. Achmad Firdaus and Khaliq Ahmad, 1st ed. (London: Routledge, 2023), 8–30, <https://doi.org/10.4324/9781003390947-2>.

³⁴ Muhammad Majdy Amiruddin, "Proposing Strategic Maqashid Management Framework (SMMF) to Sustainable Islamic Business: Integrating Maqashid Principles with Strategic Management Theories," in *Strategic Islamic Business and Management: Solutions for Sustainability*, ed. Ahmad Rafiki et al. (Cham: Springer Cham, 2024), 185–99, https://doi.org/10.1007/978-3-031-61778-2_10.

wealth and exploit borrowers.³⁵ *Gharar* or transactions characterized by uncertainty regarding subject, quality, price, or delivery, can undermine informed consent and may lead to disputes. Therefore, contracts should detail all material terms and contingencies.³⁶ *Maysir* which involves betting or speculative ventures where the outcome depends on chance and not on productive effort, is also prohibited, as it encourages addictive behavior and social decay.³⁷ These prohibitions eliminate predatory lending, opaque derivatives, and casino-style financial products, directing capital to asset-backed financing and risk-sharing partnerships, such as *mudarabah* and *musyarakah*.³⁸

Economic Crime in Islamic Criminal Law and Positive Law

Economic crimes that range from offenses such as embezzlement, bribery, fraud, money laundering, and misappropriation of funds to corruption pose a significant threat to the rights of individuals and the welfare of the wider society.³⁹ These crimes in law are defined through codified elements: 1) the *actus reus* or prohibited *act*, such as the unauthorized transfer of assets; 2) the requisite *mens rea* or criminal intent, such as fraud or willful corruption; and 3) the prescribed punishment, ranging from fines and restitution to imprisonment. Positive legal frameworks typically distinguish between crimes against property, such as acts of theft, crimes against the administration of public office, such as bribery, abuse of power, and financial crimes that exploit systemic vulnerabilities, such as insider trading, graft, money laundering, each of which is governed by specific regulations and enforced by specialized agencies.⁴⁰

Economic crime in the paradigm of Islamic criminal law is essentially understood as a violation of trust and honesty, which has implications for property rights and moral accountability before Allah SWT. Although the Qur'an and Sunnah explicitly prescribe *hudud* for some offenses, such as theft with strict evidentiary requirements,⁴¹ most economic crimes fall under the category of *ta'zir*, which gives judges discretion to impose punishments tailored to the severity of the offense and

³⁵ Fuady Abdullah and Moh. Mukhlas, "Dissenting Approaches of Islamic Economics: The Contemporary Juristic Discussion of Riba," *Justicia Islamica* 17, no. 1 (2020): 1–16, <https://doi.org/10.21154/justicia.v17i1.1925>.

³⁶ Daniele D'Alvia, "Risk, Uncertainty and the Market: A Rethinking of Islamic and Western Finance," *International Journal of Law in Context* 16, no. 4 (2020): 339–52, <https://doi.org/10.1017/S1744552320000154>.

³⁷ J.M. Sichali et al., "Regulation of Gambling in Sub-Saharan Africa: Findings from a Comparative Policy Analysis," *Public Health* 214 (2023): 140–45, <https://doi.org/10.1016/j.puhe.2022.07.018>.

³⁸ Muhammad Khan, Dodik Siswanto, and Abid Ur Rahman, "The Obstacle Factors of Musharakah and Mudharabah Application in Pakistan," *Journal of Indonesian Accounting and Finance* 17, no. 2 (2020): 183–96, <https://doi.org/10.21002/jaki.2020.11>.

³⁹ Mark Button and David Shepherd, "The Case for Economic Criminology," *Journal of Economic Criminology* 1 (2023): 100015, <https://doi.org/10.1016/j.jeconc.2023.100015>.

⁴⁰ Mark Button, Branislav Hock, and David Shepherd, "Economic Crime and Economic Criminology," in *Economic Crime*, 1st ed. (London: Routledge, 2022), 1–30, <https://doi.org/10.4324/9781003081753-1>.

⁴¹ Reni Surya, "Klasifikasi Tindak Pidana Hudud Dan Sanksinya Dalam Perspektif Hukum Islam," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 2 (2019): 530–47, <https://doi.org/10.22373/sjkh.v2i2.4751>.

its social impact.⁴² For example, in the case of embezzlement by custodial agents or other acts such as bribery, *ta'zir* sanctions may be imposed, ranging from financial restitution and physical reprimand to imprisonment, which are designed to restore the rights of victims and deter future offenses. Similarly, bribery can be conceptualized as a form of treason, which entails *ta'zir* penalties that reflect the breach of public trust and the harm caused to the common good. Both systems comparatively recognize the importance of intent and the need to protect public property and trust, yet they differ in terms of the normative and philosophical underpinnings of sanctioning.⁴³

RESEARCH METHODS

This study uses a qualitative research design with a normative-doctrinal approach,⁴⁴ to explore how the principles of Islamic criminal law can be embedded into business management practices for the prevention of crime in the economic sphere. Data were drawn from textual and documentary sources, including primary Islamic legal texts of Islamic criminal law primary literature related to *hudud* punishment, *qishash* and *ta'zir*, as well as secondary data from books and journal articles on sharia governance and business ethics in Islam. Data collection followed a systematic literature review protocol, key search terms were defined based on topic relevance, and accessibility, selected from international digital libraries, Scopus and Google Scholar databases as support, with a maximum publication year of the last 10 years.⁴⁵ Each document was analyzed in a structured manner using thematic analysis, where relevant passages were extracted and coded according to a pre-defined coding framework covering themes,⁴⁶ such as trustworthiness, prohibition of *usury* practices, *gharar*, *maysir*, *hudud* punishment, *ta'zir*, and governance mechanisms by the Shariah Supervisory Board (DPS). Comparative analysis was used to harmonize the differences between classical juridical positions and modern regulatory needs,⁴⁷ resulting in an integrative framework that adapts *hudud* and *ta'zir*

⁴² Djalaluddin et al., "The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law."

⁴³ Zufahmi et al., "Criminal Sanctions for Extortionists in the Perspective of Positive Law and Islamic Criminal Law: A Comparative Analysis," *Al-Rasikh: Journal of Islamic Law* 14, no. 1 (2025): 1–16, <https://doi.org/10.38073/rasikh.v14i1.1978>.

⁴⁴ Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9, <https://doi.org/10.22219/aclj.v4i1.24855>.

⁴⁵ He-in Cheong et al., "Secondary Qualitative Research Methodology Using Online Data within the Context of Social Sciences," *International Journal of Qualitative Methods* 22 (2023): 160940692311801, <https://doi.org/10.1177/16094069231180160>.

⁴⁶ Prokopis A. Christou, "How to Use Thematic Analysis in Qualitative Research," *Journal of Qualitative Research in Tourism* 3, no. 2 (2022): 79–95, <https://doi.org/10.4337/jqrt.2023.0006>.

⁴⁷ Hiba Al Abiad and Ayman Masadeh, "Law Comparison as a Research Method in Legal Studies, and Its Importance in Promoting Uniformity in Legal Systems," in *BUiD Doctoral Research Conference 2023. Lecture Notes in Civil Engineering*, ed. Khalid Al Marri et al., vol. 473 (Cham: Springer Cham, 2024), 446–54, https://doi.org/10.1007/978-3-031-56121-4_42.

provisions into business control. To enhance the rigor of the study, validity was conducted through source triangulation that cross-verified the concepts of various key juridical and scholarly texts, with primary and secondary sources for each theme.⁴⁸

RESULTS AND DISCUSSION

Relationship between Sharia Principles and Financial Crime Prevention

At the heart of Shariah-compliant business is an insistence on fairness and trustworthiness, which together form a strong ethical scaffolding for corporate behavior.⁴⁹ Fairness demands that the value exchanged in every transaction must be fair and that no party bears an unfair burden, ensuring fair pricing, honest marketing, and fair profit-sharing arrangements, such as *mudharabah* or *musyarakah*.⁵⁰ Amanah requires managers and employees to treat entrusted assets as a trust, guard against misappropriation and demand full accountability. In addition, Shariah's prohibition of *riba*, *gharar* and *maysir* directs companies away from exploitative, opaque or speculative financial instruments towards asset-backed financing and risk-sharing models.⁵¹ By institutionalizing these norms through Shariah Supervisory Boards (DPS), internal codes of conduct, and ongoing training companies foster an organizational culture that prioritizes long-term stability over short-term profits, thereby instilling corporate sustainability.⁵²

One of the most glaring examples is the 1Malaysia Development Berhad (1MDB) scandal, where billions of ringgit intended for national development were allegedly diverted by senior officials and middlemen. The lack of transparency and breach of trust allowed for the layering of complex transactions, shell companies and offshore accounts, classic symptoms of *gharar* and betrayal of trust that led to multi-jurisdictional money laundering and bribery charges.⁵³ If robust Shariah-based controls, such as asset-backed financing, strict disclosure requirements and community oversight, are in place, the concealment of liabilities and the cascading flow of haram funds may be detected and curtailed earlier.

⁴⁸ Karine da Silva Santos et al., "O Uso de Triangulação Múltipla Como Estratégia de Validação Em Um Estudo Qualitativo," *Ciência & Saúde Coletiva* 25, no. 2 (2020): 655–64, <https://doi.org/10.1590/1413-81232020252.12302018>.

⁴⁹ Bintoro, "Basic Principles of Sharia Economy for Community Economic Empowerment (Study of the Sharia Principles Application in Indonesia)"; Deif (ضيف أحمد) and Cochrane (كوكران لوجان), "A Values-Based Approach for Development: An Islamic Perspective [منظور إسلامي: نهج التنمية القائم على القيم]." *Journal of Islamic Economics* 10, no. 1 (2017): 1–15.

⁵⁰ Khan, Siswantoro, and Ur Rahman, "The Obstacle Factors of Musharakah and Mudharabah Application in Pakistan."

⁵¹ Sichali et al., "Regulation of Gambling in Sub-Saharan Africa: Findings from a Comparative Policy Analysis"; D'Alvia, "Risk, Uncertainty and the Market: A Rethinking of Islamic and Western Finance"; Abdullah and Mukhlas, "Dissenting Approaches of Islamic Economics: The Contemporary Juristic Discussion of Riba."

⁵² Wijayanti and Setiawan, "The Role of the Board of Directors and the Sharia Supervisory Board on Sustainability Reports."

⁵³ David Seth Jones, "1MDB Corruption Scandal in Malaysia: A Study of Failings in Control and Accountability," *Public Administration and Policy* 23, no. 1 (2020): 59–72, <https://doi.org/10.1108/PAP-11-2019-0032>.

The second illustrative case comes from Indonesia's state-owned airline, Garuda Indonesia, which in 2019-2020 was involved in a series of procurement and recruitment frauds. Senior executives allegedly manipulated the tender process and accepted bribes, a clear violation of honesty and trustworthiness.⁵⁴ Despite operating in a Muslim-majority country, the company lacked enforceable sharia governance mechanisms, such as an empowered DPS with real sanctioning powers, allowing conventional profit-driven impulses to override ethical boundaries. The result was significant financial losses, reputational damage, and ultimately criminal charges against key personnel, outcomes that Shariah's preventative and moral focus was precisely designed to avoid.

Conventional penal systems categorize economic offenses through statutory definitions, rely on state agencies for enforcement, and set fixed sentencing ranges that are largely aimed at deterrence and retribution. While such frameworks offer clarity and predictability, they often lack an intrinsic moral dimension and may treat *white collar crime* as a matter of administrative regulation rather than moral corruption.⁵⁵ In contrast, Islamic criminal law frameworks view economic crime primarily as a violation of sharia beliefs and social harmony. Through the sanctions of *hudud*, *qishash*, and especially *ta'zir*, sharia law empowers judges to tailor sentences not only to punish but also to rehabilitate, encourage repentance, and restore collective welfare or *mashlahah*.⁵⁶

Sharia procedurally demands strict standards of proof, such as multiple eyewitnesses or clear confessions for *hudud* offenses, whereas positive law often accepts circumstantial and forensic evidence. The Islamic criminal law model instills an ethos of deterrence through moral education, mandatory disclosure, and community accountability rather than relying solely on post-offense prosecution. Therefore, this comprehensive approach guided by Islamic values can complement conventional systems by infusing them with ethical rigor and by addressing the root causes of offenses rather than just the symptoms.

Implementation of Sharia Principles in Business Management

Successful integration of Shariah ethics into contemporary corporations begins with the establishment of a strong governance infrastructure. Many companies appoint a DPS—a panel of qualified legal and financial experts—to review and certify all products, contracts, and key strategic decisions for compliance. Complementing the *Sharia Supervisory Board* (SSB), companies embed Sharia compliance departments

⁵⁴ Mufidatur Rohmah and Sri Trisnaningstih, "Analysis of Violation of Professional Ethics in Manipulation Report Finance (Study The Case of PT Garuda Indonesia)," *International Journal of Management Science and Information Technology* 3, no. 1 (2023): 8–15, <https://doi.org/10.35870/ijmsit.v3i1.844>.

⁵⁵ Nandha Risky Putra and Rosa Linda, "Corruption in Indonesia: A Challenge for Social Changes," *Integritas: An Anti-Corruption Journal* 8, no. 1 (2022): 13–24, <https://doi.org/10.32697/integritas.v8i1.898>.

⁵⁶ Djalaluddin et al., "The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law."

in their organizational charts, tasked with drafting policy guidelines, conducting regular training for staff, and coordinating internal Sharia audits.⁵⁷ At the operational level, managers translate the prohibitions of *riba*, *gharar*, and *maysir* into clear procedural controls,⁵⁸ such as mandatory asset guarantees for financing, standardized contract templates detailing all material terms, and risk-sharing partnership structures such as *mudharabah* or *musyarakah* in lieu of interest-bearing loans.⁵⁹ To foster an ethical culture, companies are implementing continuous professional development programs that combine case-based learning, e.g. analyzing past corporate scandals through a shariah lens with certification pathways to credential shariah-compliant practitioners.⁶⁰ Companies are leveraging digital platforms to enhance transparency by publishing *real-time* disclosures on financing approvals, profit-loss sharing arrangements, and fund allocations, thereby strengthening accountability both to policymakers and the wider public.⁶¹

Incorporating sharia criminal provisions, particularly *ta'zir* sanctions into a predominantly secular legal system presents several challenges, particularly in the context of a country with plural laws.⁶² The main challenge in terms of legal pluralism can be the conflict between codified laws, customary and religious norms, especially when national laws lack provisions for customary and religious-based offenses or equate an unlawful act solely with the obligations of national legal provisions.⁶³ Another challenge is that human rights concerns and international treaty obligations may preclude the imposition of fixed *hudud* penalties.⁶⁴ To overcome these hurdles, policymakers can seek additional harmonization, such as drafting model business crime laws that translate *ta'zir* principles into corporate compliance violations, for example defining embezzlement or bribery as criminal

⁵⁷ Wijayanti and Setiawan, "The Role of the Board of Directors and the Sharia Supervisory Board on Sustainability Reports."

⁵⁸ Ozkan Imamoglu and Osman Cevik, "A Conceptual View of Behavioral Finance," *European Journal of Managerial Research Dergisi* 4, no. 7 (2020): 246-63, <https://dergipark.org.tr/tr/pub/eujmr/issue/57882/844082>.

⁵⁹ Khan, Siswanto, and Ur Rahman, "The Obstacle Factors of Musharakah and Mudharabah Application in Pakistan."

⁶⁰ Mustafa Faza' and Nemer Badwan, "Compliance of Sharia Audit in Islamic Banks and Islamic Financial Institutions in Palestine: A Literature Review," *Journal of Islamic Economics and Finance Studies* 5, no. 1 (2024): 42–66, <https://doi.org/10.47700/jiefes.v5i1.7712>.

⁶¹ Arcangelo Leone de Castris, "Types of Platform Transparency: An Analysis of Discourse Around Transparency and Global Digital Platforms," *Public Integrity*, 2024, 1-15, <https://doi.org/10.1080/10999922.2024.2304741>.

⁶² Alotaibi, "The Challenges of Execution of Islamic Criminal Law in Developing Muslim Countries: An Analysis Based on Islamic Principles and Existing Legal System."

⁶³ Sandra Gillner et al., "The Challenges of Regulatory Pluralism," *Health Policy* 149 (2024): 105164, <https://doi.org/10.1016/j.healthpol.2024.105164>.

⁶⁴ Alotaibi, "The Challenges of Execution of Islamic Criminal Law in Developing Muslim Countries: An Analysis Based on Islamic Principles and Existing Legal System."

offenses subject to fines, nullification and sanctions, while maintaining procedural protections such as due process and legal protection rights.⁶⁵

Capacity building initiatives, joint workshops for judges, prosecutors and sharia experts to foster a common understanding and standardize evidentiary requirements. In addition, the *regulatory sandbox* allows for voluntary and time-bound experimentation with shariah-inspired crime prevention measures, such as mandatory disclosure thresholds or board-level disciplinary powers, prior to full legislative adoption.⁶⁶ Furthermore, it can also involve international Islamic finance bodies, such as the *International Islamic Finance Bodies* (IFSB), *Accounting and Auditing Organization for Islamic Financial Institutions* (AAOIFI) or *International Islamic Financial Markets standards* (IIFM).⁶⁷

Islamic banking offers a well-documented laboratory for Shariah integration. Bank Islam Malaysia Berhad pioneered a dual compliance framework in the 1980s, where in addition to central bank supervision, the bank's SSB issues a fatwa for each new product, and the *Sharia Audit Division* reviews transaction data quarterly. This structure has enabled Islamic Banks to innovate in asset-backed sukuk instruments and profit-sharing deposits while maintaining zero tolerance for *riba* and *gharar*. Empirical analysis shows that Islamic Banks' tight internal controls correlate with lower default rates and higher customer retention compared to conventional banks.⁶⁸

In the area of microfinance, *Akhawat Foundation* in Pakistan implements an interest-free loan model or *qardhul hasan*, which is funded from community donations and zakat collections. *Akhawat Foundation's* disbursement contracts stipulate group guarantee mechanisms and mandatory financial literacy workshops, which instill the values of trustworthiness and honesty into borrower relationships. Despite serving economically vulnerable communities, they report a repayment rate of over 98%.⁶⁹ This underscores how lending based on trust and communal accountability can mitigate moral hazard. This case study illustrates that with customized governance and community engagement, Shariah principles not only comply with religious mandates, but also provide pragmatic benefits: higher ethical standards, financial stability, and better social impact.

⁶⁵ Zulfahmi et al., "Criminal Sanctions for Extortionists in the Perspective of Positive Law and Islamic Criminal Law: A Comparative Analysis."

⁶⁶ Faza' and Badwan, "Compliance of Sharia Audit in Islamic Banks and Islamic Financial Institutions in Palestine: A Literature Review."

⁶⁷ M. Kabir Hassan et al., "A Survey on Islamic Finance and Accounting Standards," *Borsa Istanbul Review* 19 (2019): S1–13, <https://doi.org/10.1016/j.bir.2019.07.006>.

⁶⁸ Fazlurrahman Sharif, "Regulatory Framework for Islamic Financial Institutions: Lesson Learnt between Malaysia and Indonesia," *Journal of Halal Product and Research* 2, no. 2 (2019): 79, <https://doi.org/10.20473/jhpr.vol.2-issue.2.79-85>.

⁶⁹ Abidullah Khan et al., "Achieving Social Well-Being and Financial Inclusion Through Islamic Microfinance: A Case Study of Akhawat Islamic Microfinance," in *The Future of Islamic Finance*, ed. Edib Smolo and Mohamed Mahees Raheem (Leeds: Emerald Publishing Limited, 2024), 83-102, <https://doi.org/10.1108/978-1-83549-906-120241006>.

Benefits of Islamic Criminal Law Integration in Modern Business

The integration of Islamic criminal law into corporate governance provides a powerful preventive effect against economic misconduct by embedding moral imperatives at every level of organizational decision-making.⁷⁰ Through the codification of honesty mandates as enforceable norms,⁷¹ companies establish clear boundaries of behavior that can prevent embezzlement, fraud, and other white-collar offenses before they occur. For example, *ta'zir* sanctions ranging from financial restitution and public censure to temporary suspension of operating licenses, create a credible threat that reinforces day-to-day compliance,⁷² while *maslahah-inspired* mandatory disclosure regimes ensure that improper transactions are promptly flagged and investigated.⁷³ Islamic criminal law mobilizes legal and ethical deterrents, reducing the incidence of economic crime and reducing reliance on costly law enforcement by framing violations not only as breaches of contract, but also as violations of divine trust.

The application of Shariah penal principles in preventing crime contributes to the expansion of ethical business practices, resulting in tangible benefits in terms of reputation, customer loyalty and long-term financial performance. Companies that publicly commit to implementing sharia-compliant sanctions signal seriousness in terms of integrity and social responsibility, thereby attracting ethically-minded investors and customers who value transparency and fairness.⁷⁴ Empirical evidence from Islamic financial institutions suggests that DPS-regulated portfolios exhibit lower volatility and loan default rates, in part because clients and managers operate within a trust-based framework that discourages opportunistic risk-taking.⁷⁵ Procedural rigor in Islamic criminal law demands high standards of proof and provides rights to the accused,⁷⁶ which can reinforce due process norms in corporate disciplinary systems, thereby fostering a culture of accountability rather than capricious punishment. As ethical considerations become increasingly important to global stakeholders, businesses that integrate Islamic criminal law enjoy a

⁷⁰ Deif (ضيف أحمد) and Cochrane (كوكران لوجان), "A Values-Based Approach for Development: An Islamic Perspective [التنمية القائم على القيم: منظور إسلامي نهج]." [الأمانة والثقة وحسن الظن في]

⁷¹ Eggen (أكين نورة), "Trust, Trusting and Trustworthiness in Ethical Discourse [الخطاب الأخلاقي]"; Wijaya and Moro, "Trustworthiness and Margins in Islamic Small Business Financing: Evidence from Indonesia."

⁷² Djalaluddin et al., "The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law."

⁷³ Firdaus and Ahmad, "Islamic Economic System: Maslahah in a Muslim State Economy."

⁷⁴ Alwi, Parmitasari, and Shariati, "An Assessment on Islamic Banking Ethics through Some Salient Points in the Prophetic Tradition"; Ghafran and Yasmin, "Ethical Governance: Insights from the Islamic Perspective and an Empirical Enquiry."

⁷⁵ Wijayanti and Setiawan, "The Role of the Board of Directors and the Sharia Supervisory Board on Sustainability Reports."

⁷⁶ Khan, Saleem, and Ali, "Concept of Crime and Punishment in the Context of the Legal System of Islam and Public Policy Perspective."

competitive advantage through increased equity and reduced compliance costs over time.

The social and economic impact of Islamic integration extends far beyond individual companies, contributing to broader societal well-being and sustainable development. Asset-backed finance and partnerships share risk by channeling capital into interest-free financing, the Islamic penal framework encourages productive investment and prevents speculative bubbles that could destabilize the economy. The reparative dimension of *ta'zir* that emphasizes restitution, communal apology, and moral rehabilitation, helps restore victims' rights and reintegrate perpetrators into society,⁷⁷ this reduces the social fragmentation that often follows corporate scandals. This restorative approach is also aligned with zakat and waqf instruments, where companies allocate a portion of profits to social programs, such as poverty alleviation, and education, thus strengthening the social safety net.⁷⁸ This mechanism fosters trust in the market over time, lowers transaction costs associated with due diligence and fraud prevention, and fosters an entrepreneurial ecosystem based on ethical collaboration.⁷⁹ The incorporation of Islamic criminal law into business management not only upholds the divine mandate, but also yields measurable benefits in terms of stability, social cohesion, and inclusive economic growth.

CONCLUSIONS

This research shows that Islamic criminal law principles such as trustworthiness, honesty, and calibrated application of *hudud* and *ta'zir* sanctions, can be systematically woven into business management to prevent economic crime, from operations to the design of policy frameworks and guidelines. Embedding these principles through empowered Shariah Supervisory Board (DPS) oversight, internal Shariah audits, and reporting systems for *riba*, *gharar*, and *maysir* violations become concrete controls that promote risk-sharing financing models, based on empirical evidence of lower default rates and increased stakeholder confidence. The contribution of this research lies in the development of an integrative framework that translates *fiqh al-jinayah* norms into modern corporate policies, including *hudud* and *ta'zir* provisions, filling a gap in the literature that previously focused only on Islamic governance and financial product design without a penal dimension.

⁷⁷ Djalaluddin et al., "The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law."

⁷⁸ Rizal Fahlefi, Asyari Hasan, and Alimin Alimin, "Management Model of Zakat Collection and Its Distribution for Zakat Agency," *Uluslararası Ekonomi İşletme ve Politika Dergisi* 3, no. 2 (2019): 171–82, <https://doi.org/10.29216/ueip.561657>.

⁷⁹ Alwi, Parmitasari, and Shariati, "An Assessment on Islamic Banking Ethics through Some Salient Points in the Prophetic Tradition"; Ghafran and Yasmin, "Ethical Governance: Insights from the Islamic Perspective and an Empirical Enquiry"; Deif (ضيف أحمد) and Cochrane (كوكران لوجان), "A Values-Based Approach for Development: An Islamic Perspective [التنمية القائمة على القيم: منظور إسلامي نهج]."

This research has limitations in that the geographical coverage is limited to the literature and has not involved field surveys or interviews with practitioners for further empirical validation. Therefore, this framework needs to be re-tested in other sectors and regions. The government is expected to codify sharia-based offenses, such as embezzlement and bribery, as corporate crimes with calibrated sanctions and sharia compliance trial mechanisms based on *fiqh al-jinayah*. Business leaders are encouraged to institutionalize ethics through Shariah Supervisory Board (DPS), asset-backed financing structures and *real-time* transparency platforms. Academics are expected to extend this research by developing quantitative measures and standardized audit checklists and conducting longitudinal impact studies. Such measures will strengthen the trust-based economic ecosystem, bringing together Islamic criminal law and business ethics to prevent economic crimes and promote sustainable business growth.

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