

The Challenges of Enforcement for Syariah Criminal Offences Pertaining to *Aqidah* on Social Media

Cabaran Penguatkuasaan Kesalahan Jenayah Syariah Berkaitan Akidah di Media Sosial

SUHAIZAD SAIFUDDIN¹, HANIFAH HAYDAR ALI TAJUDDIN^{*1}, MOHD IZZAT AMSYAR MOHD ARIF¹, FATIMA ABDUL RAHIM ALI AL-MASLMAWI² & SEFRIANI³

¹Faculty of Law, Universiti Kebangsaan Malaysia, 43600, Bangi, Selangor Darul Ehsan, Malaysia

² Department of Law, Al-Mustaqbal University College, Babylon Governorate, 51001, Hilla, Iraq

³ Faculty of Law, Universitas Islam Indonesia, Jl. Kaliurang KM. 14,5 Sleman Yogyakarta 55584, Yogyakarta, Indonesia

*Corresponding Author; email: hanifahhaydar@ukm.edu.my

Received: 22 May 2024/ Revised: 6 February 2025/ Accepted: 13 February 2025/

Publish: 3 June 2025

ABSTRACT

Nowadays, the dissemination of propaganda that undermines the Aqidah or beliefs of Muslims through social media in Malaysia is increasingly concerning. Although social media platforms offer extensive opportunities for communication and information sharing, they have also emerged as channels that distribute content that may undermine Islamic values and beliefs. Enforcement of Syariah criminal law is one mechanism to control the spread of such propaganda. However, implementing Syariah criminal law in today's borderless technological era presents numerous challenges and hurdles. These challenges encompass issues related to jurisdiction, investigations, and the collection and presentation of evidence. As a result, many such offences remain unaddressed. This paper aims to identify Syariah criminal offences related to Aqidah in Malaysia. It also analyses the challenges in enforcing Syariah criminal law against aqidah-related offences committed on social media. The study used a qualitative method. Data were obtained through semi-structured interviews with several legal practitioners and from library research, legal documents, online newspapers, reported cases, and unreported cases. The data were then analysed using content and descriptive methods. The study identified the challenges of applying Syariah criminal law to aqidah-related offenses committed on social media, focusing on aspects such as jurisdiction, punishment, investigations, fatwa issuance, and evidence collection within the country. Consequently, this paper offers several recommendations for enhancing the enforcement of Syariah criminal law for aqidah offences on social media, to achieve more effective implementation that aligns with modern technological advancements.

Keywords: *Syariah Court; Syariah criminal; enforcement; aqidah offences; social media*

ABSTRAK

Dewasa ini, penyebaran dakwah yang menggugat akidah atau kepercayaan umat Islam melalui media sosial di Malaysia semakin membimbangkan. Platform media sosial, walaupun menawarkan peluang yang luas untuk komunikasi dan perkongsian maklumat, juga telah menjadi saluran untuk penyebaran kandungan yang boleh mencabar dan melemahkan kepercayaan Islam. Penguatkuasaan undang-undang jenayah syariah merupakan salah satu mekanisme bagi mengawal penyebaran dakwah tersebut. Walau bagaimanapun, penguatkuasaan undang-undang jenayah syariah dalam era teknologi tanpa sempadan adalah sukar dan menghadapi pelbagai cabaran. Cabaran tersebut, antaranya, berkaitan dengan bidang kuasa, penyiasatan dan pembuktian. Kesannya, banyak kesalahan seperti ini tidak dapat diambil tindakan. Penulisan ini bertujuan untuk mengenal pasti kesalahan jenayah Syariah yang berkaitan dengan akidah di Malaysia. Kemudian, ia juga menganalisis cabaran dalam penguatkuasaan undang-undang jenayah Syariah ke atas kesalahan berkaitan akidah yang dilakukan di media sosial. Penulisan ini menggunakan kaedah kualitatif. Data diperoleh dengan menggunakan temu bual separa berstruktur yang melibatkan beberapa pengamal undang-undang dan daripada dokumen kajian perpustakaan, undang-undang, akhbar dalam talian, kes yang dilaporkan dan tidak dilaporkan. Data tersebut kemudiannya dianalisis menggunakan kaedah analisis kandungan dan deskriptif. Penulisan

ini mendapati terdapat cabaran yang wujud dari segi bidang kuasa, hukuman, penyasatan, fatwa dan keterangan dalam menguatkuasakan kesalahan jenayah syariah terhadap jenayah berkaitan akidah yang berlaku dalam media sosial di negara ini. Justeru, penulisan ini mengemukakan beberapa cadangan berkaitan penguatkuasaan kesalahan jenayah syariah berkaitan akidah yang berlaku dalam media sosial bagi memastikan penguatkuasaan yang lebih berkesan selaras dengan kemajuan teknologi kontemporari.

Kata kunci: Mahkamah Syariah; jenayah Syariah; penguatkuasaan; kesalahan akidah; media sosial

INTRODUCTION

Aqidah (religious belief) is fundamental to the life of a Muslim. It was the primary focus of the Prophet (PBUH) when he sought to transform the Jahiliyyah Arabs' religion to Islam, guiding them to embrace *Aqidah* through belief in Allah SWT. The importance of *aqidah* is underscored by the Quranic verses revealed during the first thirteen years of the Prophet's mission in Makkah. Indeed, *aqidah* is the cornerstone of Islamic teaching, and a person with a compromised *Aqidah* risks falling into polytheism and losing their faith. Those who deliberately damage their faith or abandon their *aqidah* may face severe punishment in Islam for apostasy (Sulong 2016). The core principle of *aqidah* in Islam is *tawhid*, which encompasses all aspects of the religion. *Tawhid* signifies the unity and oneness of God, and the rejection of any partnership with Him. It means that God is the sole owner and creator of all things on earth (Saujan and Razick 2021). *Aqidah* in Islam encompasses the core beliefs that define a Muslim's faith. It provides the essential framework for understanding Allah, His creation, and the ultimate purpose of life, guiding Muslims in their spiritual, ethical, and moral conduct.

Issues related to social concerns and weakened *aqidah* among Muslims are frequently discussed and debated. These concerns often revolve around the challenges posed by modernity, globalization, and cultural influences that may conflict with or dilute traditional Islamic beliefs. These issues significantly impact society, contributing to various social phenomena and highlighting deficiencies in religious knowledge among Muslims. The Islamic community faces several concerns regarding *aqidah*, a situation not confined to Malaysia but also observed in other Muslim countries such as Brunei (M. Müller 2020). In Malaysia, the government is increasingly alarmed by various issues, including deviant teachings, apostasy, human rights demand from certain groups, and religious extremism. These concerns have the potential to disrupt national security and compromise the sanctity of Islam (Mat Hussin et al. 2023). Religious cases brought

to court, such as those involving apostasy, religious insults, hudud law, and the use of specific terms, illustrate ongoing conflicts that continue to arise. Such conflicts are not uncommon, given the diverse backgrounds and varying interpretations of culture and religion among people (Ahmad Sabri and Abdullah 2022).

LITERATURE REVIEW OFFENCES RELATING TO AQIDAH IN MALAYSIA

In the era of globalization, technological advancements have unfortunately exacerbated issues related to the widespread propagation of deviant teachings concerning *aqidah*. This situation presents unique challenges that require a new approach to effectively address these issues. It is crucial for religious scholars and technologists to collaborate in finding the best strategies to tackle these problems (Mohd Noor and Mohd Mokhtar 2021). Crimes related to *aqidah* in Islam involve actions that deviate from the true Islamic beliefs. Under Syariah criminal legislation, these acts are classified as offences such as wrongful worship, takfir, false doctrine, and false claims, among others. These crimes are not a recent phenomenon; they have persisted since the time of the Prophet (PBUH) and continue today. The presence of doctrines that diverge from authentic Islamic *aqidah* can be attributed to factors such as ignorance, stubbornness, or an excessive attachment to personal opinions and beliefs.

Crimes that threaten the *aqidah* in the country must be taken very seriously. These are akin to a virus that can undermine the foundational beliefs of Muslims and disrupt their unity. If not addressed appropriately, such crimes could also pose a threat to national security. For instance, the murder of a Chief Assistant Director of the Religious Enforcement Division of Pahang's Islamic Religious Department on 10 November 2013 was a stark example. The victim was shot at point-blank range by a follower of a deviant group known as 'Tuhan Harun.' This tragic incident underscores the severe consequences of inadequate handling of false doctrine offences.

The influence of such groups has grown significantly, aided by social media, which accelerates the dissemination of their teachings. Social media also facilitates the spread of terrorist or militant movements that exploit religion to 'market' their ideologies and recruit new followers to confront authorities. The Daesh group, for example, has utilized platforms like Facebook and YouTube to propagate their ideologies and issue security threats (Abu Hassan 2016).

Beyond deviant teachings, threats to the *aqidah* of Muslims can also arise from organizations that advocate liberal ideologies, such as Sisters in Islam (SIS) and Musawah. These groups are vocal in their promotion of feminist ideals, which call for equal rights for women. They argue that religious and cultural restrictions must be eliminated to achieve such equality, which they term 'Islamic feminism.' This concept closely aligns with Western feminist ideas and challenges traditional Islamic teachings (Ahmad 2022).

Furthermore, based on the SIS's human rights ideology and their alignment with the Progressive Islam school of thought, there is a noticeable similarity between SIS's movement and the principles of Liberal Islam, particularly regarding feminism. This connection is evident through their involvement with Malaysia's growing liberal organizations and communities, such as G25, the Islamic Renaissance Front (IRF), and the Liberal Islamic Network (JIL) in Indonesia (Ismail and Haji Hassan 2021). Criticisms of Muslim women's rights in Malaysia have also gained international attention. Religious laws are often perceived as deeply conservative and unsupportive of women, even when they aim to be reform-oriented (G. Peletz 2018).

Additionally, atheism poses a significant challenge to civilizational sustainability in Malaysia. Atheism, which rejects the existence of a higher power, fundamentally challenges religious authority and traditional belief systems (Ramli et al. 2024). New atheists argue that science can determine human values and that moral values do not require a deity. They claim that religion inadequately guides morality and suggest that natural selection, social pressure, and the development of social sciences can replace religious moralities. Consequently, atheists advocate for minimizing the role of religion in moral development (Rehman 2020).

Meanwhile, in Islam, law and morals are deeply intertwined and cannot be separated, as they share

a common goal. There are no clear boundaries between them because both aim to achieve the same ethical objectives. According to Islamic principles, law, derived from reason, and morals, derived from religion, cannot contradict each other. In other words, reason and revelation are in harmony and cannot be at odds (Saputro and Salman 2024). This perspective underscores the belief that reason and revelation work together to guide human behavior, ensuring that legal rulings and moral principles align in the pursuit of justice and righteousness.

The advancement of technology has made it possible for groups promoting false doctrines to disseminate their messages to virtually anyone with internet access, regardless of their location or time. For those seeking to spread their ideologies and deviant thoughts, social media provides an ideal platform to ensure their message reaches a wide audience. This significantly heightens the threat to Muslims and Islam. Ideologies that contradict *aqidah*, such as secularism and liberalism are increasingly accessible to young Muslims, who are the primary consumers of technology and digital media. Open discussions by groups advocating atheism, indie beliefs, and agnosticism have led some Muslims to question their *aqidah* (A. Harris 2021).

Furthermore, ideas that were once deemed unacceptable, such as LGBTQ rights, nudism, and excessive demands for freedom, are now being openly discussed and accepted in the country (Musa and Abd Rahman Shah 2020). The fear is that exposure to these discussions may lead Muslims to become skeptical of their own beliefs and question the established standards of Islam (Syed Abdul Rahman et al. 2022). This concern is particularly significant when Muslims lack a firm grasp of their religion. Consequently, ideologies such as liberalism and extremism are propagated through social networking technologies like *Facebook*, *WhatsApp*, and *Twitter*. While these technologies facilitate communication, they also pose significant dangers with far-reaching social implications. The sophistication of these platforms has enabled the widespread dissemination of extreme and radical ideas (Ismail et al. 2018).

OFFENCES RELATING TO *AQIDAH* IN SOCIAL MEDIA

In 2017, a group practices atheism attempted to disseminate their belief and more than that, they

aggressively attacked Islam on the Facebook platform on a page called “Warung Atheist”. They used a lot of emotional approaches in express their dissatisfaction with divine concepts and religious issues, especially with Islam. At the same time, few commentators expressed their views supporting it, while others used their logical fallacies making their conclusions on certain issues discussed, which deviated from the Islamic *aqidah* (Ashaari and Sabri 2018). There are as well several Malay atheist groups that are active on social media. They not only founded the Malay atheist movement, but they are also active in writing about their views against Islam, using social media platforms (Razali et al. 2023).

In 2021, our country was hit by shocking news about a woman named Masitah Ab Jalar, also known as “Sittah Annur” who was a leader of a teaching called *Perjalanan Mimpi Yang Terakhir* [PYMT] (The Journey of the Last Dream). She has been spreading teachings relating to *Aqidah* on various online and social media platforms such as YouTube, Facebook and TikTok. Among her contents that went viral over the internet, was a confession made by her claiming that she could directly communicate with Allah (SWT), the angels and Prophet Muhammad (PBUH). She also claimed the dream of the last journey was revealed to her as Allah’s guidance for other fellow Muslims and that the lives of those who hurts or prevents her from spreading her teaching can be taken away by Allah. This woman was arrested, detained, and investigated by the authorities under Section 298A of the Penal Code and Section 233 of the Communications and Multimedia Act 1998 for causing disharmony, division or enmity by improper use of network facilities or network services. However, she was not charged in court after making a public declaration of repentance (Razali 2021). In that same year, police detained a non-Muslim man who had previously angered Muslims through videos on social media, regarding his actions of apostatizing Muslim women. The man in question had uploaded a video clip lasting three minutes and eleven seconds through the YouTube platform under the name of the Happy Family Malaysia account in mid-February and the investigation was carried out by Section 4(1) of the Sedition Act 1948, Section 298 and section 505 (c) of the Penal Code and Section 233 of the Communications and Multimedia Act 1998 (Mokhtar 2021).

In 2022, a man was charged with mocking and insulting Muslim community, Islam, and the Prophet

Muhammad (PBUH) by intentionally creating and circulating offensive communication on YouTube with the intent to annoy another person. This Muslim man was charged under section 233(1)(a) of the Communications and Multimedia Act 1998. He pleaded guilty and was sentenced to a fine of RM50,000.00 or 6 months imprisonment in default of payment (Ahmad 2022). In 2023, in *Pendakwa Syarie v. Wan Masri Wan Mohd* [Criminal Case No: 2302-H0205-614-0107], a woman who was the founder of deviant teaching called Kumpulan Zikir Asmaul Husna, was charged in the Syariah High Court in Seremban for spreading false teachings to a group of Muslims by claiming to be the secretary of Allah. The accused was charged under Section 52 of the Syariah Criminal Enactment (Negeri Sembilan) 1992, as amended in 2019. However, she pleaded not guilty and requested a trial. Although the prosecution did not involve offences committed through social media, it was widely known that these teachings had spread through social media. A few months later, Muslim community in this country was once again shocked by a viral TikTok video, in which four men claimed to support the teachings of Si Hulk or Suhaini Mohammad and made statements deviating from the Islamic *aqidah*, including referring to the Prophet Muhammad (PBUH) as God. In addition, there are several more TikTok videos that spread the confessions of several families in relation to supporting the teachings of Si Hulk. However, the authorities identified the perpetrators, but no further action was reported (Dass 2023).

In November 2023, the Terengganu Fatwa Committee decided that the teachings of Mhd Mohib Khouli Nazem were heretical and contradicted the Islamic faith. However, what is worrying is that even though it has been fatwa as a heretic, the individual known as ‘Mohid Khouli’ on Facebook is still active in giving lectures and actively promoting his perverse teachings (Razak 2023). In December, the situation involving Khairul Adha, who has claimed to be Imam Mahdi on Facebook, has indeed attracted significant attention. The Malaysian Islamic Development Department (JAKIM), along with the cooperation of the Selangor Islamic Religious Department (JAIS), has identified his address and plans to call him in for advice. This response is part of the authorities’ efforts to address claims that could potentially affect the religious beliefs of the community (Sinar Harian, 2023). In Islam, Imam Mahdi is a prophesied figure believed to be a righteous leader sent by Allah to establish

justice on earth. Claims of being Imam Mahdi are taken seriously as they relate to the core beliefs of Muslims and the anticipation of major events in Islamic eschatology. Therefore, such claims are subject to scrutiny by religious authorities to prevent the spread of unverified and potentially misleading information.

METHODOLOGY

This paper examines the enforcement of Syariah criminal law concerning offences related to Aqidah in Malaysia, with a particular focus on legal issues arising from such offences on social media. It analyzes the challenges faced by authorities in managing these Syariah criminal offences online and proposes solutions to address these challenges. The goal is to highlight the complexities of enforcing religious laws in the digital era and to propose enhancements to Syariah law enforcement in this context. The study employs a qualitative research design, utilizing library research and interviews to gather necessary data. The analysis encompasses a range of documented materials, including books, journals, articles, working papers, newspapers, reported and unreported cases, and legal statutes.

Additionally, the study involves interviews with experienced Syariah law practitioners, including two Syariah prosecuting officers and a religious enforcement officer, referred to as Informant A, Informant B, and Informant C. These interviews aim to gather insights and perspectives on the challenges associated with enforcing Syariah criminal law in Malaysia. By incorporating views from these seasoned legal professionals, the study seeks to gain a deeper understanding of both existing and emerging issues and to identify effective solutions. Data analysis involves content analysis and descriptive methods to refine the information and provide a comprehensive understanding of the challenges and potential resolutions.

RESULT AND DISCUSSION

JURISDICTION OF SYARIAH CRIMINAL LAW ENFORCEMENT IN MALAYSIA

Under List II of the State List in the Ninth Schedule of the Federal Constitution, the enforcement of Syariah criminal law falls within the jurisdiction of the states. However, the maximum penalties for

Syariah criminal offences are defined by federal legislation, specifically the Syariah Court Act (Criminal Jurisdiction) 1965 (Amendment 1984) (Act 355). According to Section 2 of the 1965 Act, the maximum punishments include imprisonment not exceeding three years, a fine not exceeding RM5,000, whipping not exceeding six strokes, or any combination thereof. To ensure consistency, all punishments for offences under state enactments must align with the maximum limits established in Act 355.

The enforcement of Syariah criminal law is carried out by state authorities as specified in the Federal Constitution. Consequently, a Muslim can be prosecuted under the state enactment where the offence occurred, as outlined in Section 67 of the Selangor Syariah Criminal Procedure Enactment 2003. Similar provisions are found in other states' Syariah Criminal Procedure enactments, including the Syariah Criminal Procedure (Federal Territories) Act 1997 and the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003. The State List also restricts the application of Syariah criminal law to Muslims. Thus, if an offence is committed by both Muslims and non-Muslims, the Syariah Criminal Offences legislation applies solely to the Muslim participants. This was demonstrated in the case of *Pendakwa Syarie v. Fahyu Hanim, Noni Mohamad & Sharina Shaari* [Criminal Case Nos: 238/239/240 Year 1997 and 510/511/512 Year 1997], where the offenders were charged under Section 31 for indecent acts in public places and Section 12(c) for defying fatwa under the Selangor Syariah Criminal Offences Enactment 1995. The offenders, arrested during a beauty pageant involving both Muslims and non-Muslims, were prosecuted within the Syariah court's jurisdiction due to their actions contradicting Islamic principles. To ensure effective prosecution in cases related to Aqidah, local authorities such as religious enforcement units and Syariah prosecution departments must adhere to proper procedures for arresting suspects, conducting searches, gathering and documenting evidence, and carrying out prosecutions and trials.

SYARIAH CRIMINAL OFFENCES RELATING TO AQIDAH

According to the Syariah Criminal Offences (Selangor) Enactment 1995, there are a few offences that relate to *Aqidah* listed in Table 1 below:

TABLE 1. Offences That Relate To *Aqidah*

No	Types of Offences	Section	Name of Offence
1.	Offences Relating to <i>Aqidah</i>	Section 4	Wrongful Worship
2.	Offences Relating to <i>Aqidah</i>	Section 5	Declaration of Being a Non- Muslim to Avoid Action
3.	Offences Relating to <i>Aqidah</i>	Section 6	Takfir
4.	Offences Relating to <i>Aqidah</i>	Section 7	False Doctrine
5.	Offences Relating to <i>Aqidah</i>	Section 8	False Claim
6.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 9	Deriding etc., Verses of Al-Quran or Hadith
7.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 10	Insulting or Bringing into Contempt, etc., the Religion of Islam
8.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 11	Destroying or Defiling Place of Worship
9.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 12	Contempt of Religious Authorities
10.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 13	Opinion Contrary to Fatwa
11.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 14	Teaching Without Tauliah
12.	Offences Relating to the Sanctity of the Religion of Islam and its Institution.	Section 16	Religious Publication Contrary to Islamic Law

Source: Syariah Criminal Offences (Selangor) Enactment 1995

Based on the above schedule, there are 12 offences that are classified as crimes relating to *aqidah*. Other than the provisions in the states' Syariah criminal offences enactments, there are also other Syariah criminal offences provided in the states' administration of Islamic law enactments that relate to *aqidah* such as teaching without *tauliah* in Section 119 of the Administration of Islamic Law (Selangor) 2003. There are overlapping provisions between Section 14 Syariah Criminal Offences (Selangor) Enactment 1995 and Section 119 of the Administration of Islamic Law (Selangor) 2003 for teaching without *tauliah* offence.

THE CHALLENGES OF ENFORCEMENT

The jurisdiction of Syariah criminal law in Malaysia primarily covers Muslims and addresses matters related to family law and religious observance. The Syariah Courts, established by state legislatures or, for the Federal Territories, by Parliament, are designated to handle offences under Islamic law as prescribed by written statutes.

One of the main challenges in enforcing Syariah criminal law arises from the jurisdictional issues related to offences committed on social media. According to Section 67 of the Syariah Criminal Procedure Enactment (Selangor) 2003, a suspect

can be prosecuted either at the location where the offence was committed or where its consequences occurred. However, as noted by Informant A and Informant B, social media does not constitute a physical location as required by this provision. The determination of the offence's location is crucial and must be specified under Section 79 of the same enactment. The limitation imposed by the requirement for a physical location presents difficulties in addressing offences that occur in the virtual realm of social media, which lacks a tangible place of occurrence. This virtual nature of social media poses challenges for local jurisdiction, as it necessitates material evidence rather than a clearly defined physical location. Social media platforms, by their nature, transcend geographical boundaries, making it difficult to determine the appropriate jurisdiction for prosecuting online offenses under Syariah law. The global reach of social media means that content created in one country can be accessed in another, leading to legal challenges in applying Syariah principles to actions that may involve cross-border elements. This jurisdictional ambiguity complicates the enforcement of Syariah criminal law, as authorities may struggle to establish the appropriate legal framework for addressing such offences, particularly when the involved parties or the content are outside the direct control of the legal system in question. This challenge underscores the

need for clear legal guidelines to effectively enforce Syariah law in the digital age.

Punishment plays a crucial role in crime prevention. Under the Syariah Courts (Criminal Jurisdiction) Act 1965, the Syariah Courts are authorized to impose sentences for offences against Islamic principles committed by individuals professing Islam. However, this authority is restricted to offences punishable by imprisonment of up to three years, a fine not exceeding RM5,000, whipping not exceeding six strokes, or any combination of these penalties.

This limitation presents a significant challenge, particularly when Syariah courts are observed to favor fines over imprisonment, caning, and other forms of punishment. For instance, in *Pendakwa Syarie Negeri Sembilan v. Habib Shah Firdaus* [Criminal Case No. 2212-H0105-621-0015], the accused, who claimed to be Imam Mahdi, was fined RM4,500 after pleading guilty to charges of spreading deviant teachings. Informant A noted that these penalties are considerably lower than those available under the Communications and Multimedia Act 1998 and the Penal Code, which are within the purview of civil courts. This disparity highlights the need for a reassessment of the punitive measures under Syariah law to ensure they are effective in addressing contemporary issues related to deviant teachings and other related offences.

The success of prosecuting criminal cases is closely tied to the diligence of religious enforcement officers during investigations. Any negligence or errors in the investigative process can undermine the prosecution's case, potentially leading to a miscarriage of justice (Saifuddin et al. 2020). In Islam, the pursuit of justice aims to foster harmonious relationships between humans and their Creator, among individuals, and with the environment. Islamic justice is characterized by its commitment to obligation, equality, truth, and balanced relationships (Ismail et al. 2024).

Challenges in investigating Syariah criminal offences related to Aqidah on social media further complicate enforcement efforts. Informant A and Informant C indicated that investigations into such cases often require Religious Enforcement Officers (REO) to access digital content on devices used in the commission of offences. However, REO lack the authority granted to police officers under Section 249(1) of the Communications and Multimedia Act. This section criminalizes the refusal to provide access to computer data, with violations punishable

under Section 242 of the same Act or Section 186 of the Penal Code. The absence of similar provisions for REO limits their ability to compel telecommunications companies to provide necessary information during investigations. Additionally, the lack of legal provisions for remand detention to facilitate further investigation, as outlined in Section 117 of the Penal Code, presents another significant challenge. This limitation affects the REO ability to conduct more thorough and effective investigations.

Several cases have been brought before the civil courts challenging the procedures followed by religious enforcement officials, resulting in judicial reviews due to procedural misconduct. One notable case is *Kassim @ Osman Ahmad v. Dato' Seri Jamil Khir Baharom & 3 Others* [2015] 1 LNS 1424, in which the High Court acquitted the accused applicant. The acquittal was based on the failure of the religious enforcement unit to follow proper procedures in making a lawful arrest. Another case is *Berjaya Book Sdn Bhd Ors v. Jabatan Agama Islam Wilayah Persekutuan & Ors* [2014] 8 CLJ, involving the arrest of a bookstore manager by the Religious Enforcement Unit of the Islamic Religious Department of the Federal Territories (JAWI). The arrest was predicated on the belief that she controlled books sold in the bookstore. The civil High Court ruled in favor of the accused applicant, ordering her acquittal due to procedural errors.

Besides, fatwas play a significant role in the enforcement of Syariah criminal laws in Malaysia, particularly for offences relating to *aqidah*. Fatwas play an important role in the enforcement of Syariah criminal laws when they are gazetted because they are laws that must be obeyed. Only gazetted fatwas can bind Muslims in a state and Muslims are obliged to obey them. This gazetted fatwa is also important from the point of view of legal implications for Muslims who fail to comply with the gazetted fatwa and the law in force. Legal action can only be taken if a fatwa is gazetted. All these interests are related to the effective enforcement of syariah criminal law. So that it can provide facilities for fatwas to be used as a basis for strengthening rules on heresy and must be obeyed and recognized by every court throughout the state (Ilahi et al. 2024). In addition, the gazetted of fatwas is important to assist the enforcement in obtaining strong evidence for the prosecution to present to the court. Gazetted Fatwa also becomes an authority and reference in court (Saifuddin et al. 2024). For example, in the case of *Pendakwa Syarie Negeri Sembilan v. Baharin Salleh Criminal*

Case [Criminal Case No. 05003-137-0081-2016], the founder of Pakcu Baharin's teachings, who was arrested in 2016 in Kuala Pilah. The accused could not be charged with the offence of deviant teachings and several other offences due to the absence of a gazetted fatwa regarding the prohibition of those teachings at that time. Instead, the accused was only charged with the offence of teaching without *tauliah* under Section 53 of the Syariah Criminal Enactment (Negeri Sembilan) 1992, which carries a lower punishment jurisdiction. The same situation occurred in the case of *Pendakwa Syarie Negeri Sembilan v. Ahmad Fuat Mohd Hashim* [Criminal Case No. 05007-137-0202-2019], where the accused was a follower of Millah Abraham's teachings and was arrested at a house in Tampin in 2019. However, according to Informant A and Informant B, due to the problem of the absence of a gazetted fatwa regarding those teachings, the accused could only be charged with the offence of teaching religion without *tauliah*. Based on these cases, it can be understood that gazetted fatwas are a requirement and a strong form of evidence as a basis for enforcing offences related to faith, including those that occur in social media in this country.

Fatwas play a crucial role in the enforcement of Syariah criminal laws in Malaysia, particularly concerning offences related to Aqidah. When a fatwa is gazetted, it becomes a binding law that Muslims are required to follow. Only gazetted fatwas have legal authority over Muslims within a state, and failure to comply with them can lead to legal consequences. Therefore, gazetting fatwas is essential for the effective enforcement of Syariah criminal law, as it ensures that fatwas are recognized and upheld by the courts throughout the state (Ilahi et al. 2024).

Gazetted fatwas also provide vital support in legal proceedings by serving as authoritative references and strong evidence for prosecution. For instance, in *Pendakwa Syarie Negeri Sembilan v. Baharin Salleh* [Criminal Case No. 05003-137-0081-2016], the accused, who was involved in deviant teachings, could not be charged with the offence of spreading such teachings due to the lack of a gazetted fatwa prohibiting them at the time. As a result, the accused was only charged under Section 53 of the Syariah Criminal Enactment (Negeri Sembilan) 1992 for teaching without *tauliah*, which carries a lesser penalty. Similarly, in *Pendakwa Syarie Negeri Sembilan v. Ahmad Fuat Mohd Hashim* [Criminal Case No. 05007-137-0202-2019], the accused,

a follower of Millah Abraham's teachings, was charged with teaching religion without *tauliah* due to the absence of a gazetted fatwa against those teachings. According to Informant A and Informant B, these cases highlight the necessity of gazetted fatwas as both a legal requirement and a substantial form of evidence for enforcing offences related to faith, including those occurring on social media.

Furthermore, challenges related to evidence presentation in court pose significant obstacles for the prosecution. Evidence is crucial because the burden of proof falls on the prosecution, and the strength of the case relies heavily on the evidence collected during the investigation. Without robust evidence, it is challenging for the prosecution to substantiate allegations. The outcome of a case, including the conviction or acquittal, depends on the quality of evidence presented by both the prosecution and the defense (Saifuddin 2024). Effective evidence presentation aids the judge in uncovering the truth and ensuring a fair and just verdict.

Informant B noted that the lack of legal provisions governing the admissibility of computer-generated documents, as outlined in Sections 90A, 90B, and 90C of the Evidence Act, hampers the prosecution's ability to present digital evidence such as images and receipts. The significance and admissibility of computer-generated documents have been addressed in cases like *Gnanasegaran a/l Pararajasingam v. PP* [1997] 3 MLJ 1 and *Hanafi Mat Hassan v. PP* [2006] 4 MLJ 134. These provisions are crucial for facilitating the presentation of digitally printed documents in court.

Moreover, Informant B highlighted that the absence of specific provisions related to presumptions, as outlined in Section 114A of the Evidence Act, complicates the prosecution's ability to prove certain material facts. Without these provisions, establishing the identity of individuals involved in online transmissions, whose names are unknown, becomes challenging. According to subsection 1, a presumption about a particular fact applies only if the prosecution successfully establishes another related fact. For instance, a presumption that a suspect posted on a Facebook account would be valid if the prosecution can prove that the suspect's name appears as an administrator of that account. If the prosecution fails to establish this fact, the presumption cannot be applied (Zakaria and Baharudin 2021). The application of this provision has been illustrated in cases such as *Ahmad Abdul Jalil v. PP* [2015] 5 CLJ 480 and *PP*

v. *Aszroy Achoi* [2018] 8 CLJ 762. Additionally, the definition of a computer in the Evidence Enactment of each state is considered outdated compared to the Evidence Act, which has updated the definition to better suit contemporary cases as of 2012.

The issues threatening the *Aqidah* of Muslims are becoming increasingly severe and complex. Acts such as the perversion of beliefs and ideologies require rigorous control and serious attention, as they pose risks to local harmony and the integrity of the Islamic faith. A reform of the law can play a crucial role in safeguarding the beliefs and convictions of Muslims (Mat Hussin et al. 2023). To address these challenges effectively, proactive measures are essential to ensure that Syariah criminal law remains relevant and is enforced in accordance with contemporary developments (Ab Razak 2023).

CONCLUSION

This paper identifies five key challenges in enforcing laws related to *Aqidah* offences in the country. These challenges represent significant obstacles in efforts to control the spread of such offences, particularly on social media. Currently, most cases involving social media offences are prosecuted in civil courts due to the existing legal framework that permits these cases to be heard and decided there. However, the concerns addressed by the Syariah court regarding offences affecting *Aqidah* differ from those of the civil court, making the Syariah court a more appropriate venue for such cases. Therefore, competent authorities must take immediate and proactive measures, including amending relevant laws, to ensure that individuals who use social media to spread harmful ideologies are not able to evade prosecution under Syariah criminal legislation. Without such actions, the enforcement of laws against social media offences will fail, potentially threatening the *Aqidah* of Muslims both now and in the future. Additionally, this paper calls for ongoing research into the problems associated with deviant teachings of *Aqidah* on social media, aiming to develop effective solutions and curb the spread of such ideologie.

ACKNOWLEDGEMENTS

This research is financially supported by Geran Galakan Penyelidik Muda (GGPM), Universiti Kebangsaan Malaysia (UKM), project code GGPM-2024-024.

AUTHORS' CONTRIBUTIONS

Suhaizad Saifuddin; Writing original draft preparation and conducting data analysis, Hanifah Haydar Ali Tajuddin, Mohd Izzat Amsyar Mohd Arif; Provides main supervision, conceptualization and writing review, Fatima Abdul Rahim Ali Al-Maslmawi, Sefriani; Provides co-supervision and writing review. All authors have read and agreed to the published version of the manuscript.

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