

# ISLAMIC JURISDICTION SYSTEM IN SAUDI ARABIC

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## **Abstract**

This paper will discuss the Islamic justice system in the country of Saudi Arabia. Through a normative juridical approach it can be described that Saudi Arabia is an Islamic country that is consistent in implementing criminal law. In contrast to the continental legal system and the anglo saxon which are guided by the policies of the Government, Parliament and the judiciary. In addition, in practice, Islamic criminal law is also guided by the opinion of the school, both the official school, namely the hambali school or other schools. Thus it can be concluded that the judiciary bodies in Arab countries are entirely guided by Islamic law, because Islamic law is the positive law. On the other hand, it also does not codify the law because it can narrow the space for ijtihad to move and the sources of legal making, but this in turn can lead to different judges' decisions. For this reason, there is Majlis al-A'la li al-Qadha (Supreme Court of Justice) to oversee the decisions of the court judges under their ranks. In addition, the hierarchy of judicial bodies in the Arab country consists of three levels, namely the High Court as the Supreme Court, the Court of Appeal and the Court of First instance.

**Keywords : Islamic Justice, Islamic Law, Saudi Arabia**

## **Abstrak**

*Tulisan ini akan membahas tentang sistem peradilan Islam di negara Arab Saudi. Melalui pendekatan yuridis normatif dapat digambarkan bahwa Arab Saudi merupakan negara islam yang konsisten dalam menerapkan hukum pidana. Berbeda dengan sistem hukum kontinental dan anglo saxon yang berpedoman berdasarkan kebijakan Pemerintah, Parlemen dan badan Peradilan. Selain itu dalam prakteknya, hukum pidana Islam juga berpedoman pada pendapat mazhab, baik mazhab yang resmi yakni mazhab hambali ataupun mazhab lainnya. Dengan demikian dapat disimpulkan bahwa badan peradilan di negara Arab seluruhnya berpedoman pada hukum Islam, karena hukum Islam adalah hukum positifnya. Di sisi lain, juga tidak melakukan kodifikasi hukum karena dapat mempersempit ruang gerak ijtihad dan sumber pengambilan hukum, namun hal tersebut pada akhirnya dapat menimbulkan putusan-putusan hakim yang berbeda-beda. Untuk itu, ada Majlis al-A'la li al-Qadha (Majelis Tertinggi Peradilan) untuk mengawasi putusan-putusan hakim pengadilan di bawah tingkatannya. Selain itu, hierarki badan peradilan di negara Arab tersebut terdiri atas tiga tingkat yaitu Pengadilan Tinggi sebagai MA, Pengadilan Tingkat Banding dan Pengadilan tingkat Pertama.*

**Kata Kunci: Peradilan Islam, Hukum Islam, Arab Saudi**

## Introduction

Saudi Arabia is a constitutional monarchy kingdom which although formally does not have a written constitution, it has stated firmly that "the basic principles contained in the Koran and the Sunnah are the constitution of their country".<sup>1</sup> In other words, the Koran and Sunnah were then made into the written constitution for the state of Saudi Arabia. And the logical consequence of this establishment has stated that it is bound by the provisions of Islamic law, including law enforcement and justice. With regard to the source of law in the judiciary, according to the constitution of the kingdom of Saudi Arabia, Islamic sharia is the highest law and is the source of all sources of law that apply in Saudi Arabia. Meanwhile, other laws and regulations, including the Hanbali madhhab fiqh, are only rules that guarantee the enforcement of Islamic law. Therefore, it can be said that the source of judicial law in the kingdom of Saudi Arabia is the Qur'an, the Prophet's Sunnah, laws (Qanun), and fiqh schools, both official schools such as the hambali school or other schools. In addition, the kingdom of Saudi Arabia adheres to the notion of "disapproving" of codified law, because it will narrow the movement, and limit the freedom of judges in determining the law. They have the authority to choose the opinion of legal experts who are considered more appropriate in handling each case. And in turn, this freedom will give birth to different judges' decisions. To overcome this, the government of the Kingdom of Saudi Arabia appointed judges to the Supreme Court (Majlis Qada al-'A'la) who were in charge of overseeing the Judges' decisions in each court. In accordance with the Judiciary Act of 1975, the highest state judiciary is al-Majlis al-'A'la li al-Qadha '(Supreme Court of Justice / MA). Under it are the two appellate courts in Makkah and the appellate court in Riyadh. Under the appellate court are several courts of first instance consisting of the ordinary or general court and the immediate court. Then King 'Abdullah bin' Abd al-'Aziz on October 1, 2007 issued a Royal Order (Titah Raja) on judicial reform. Based on the 2007 Judicial Law, the Supreme Court of Justice no longer acts as the Supreme Court, but as the center of judicial administration, as well as the hierarchy of Courts in Saudi Arabia into three levels, including: High Court as Supreme Court, Court of Appeal and First Level Court. In the two courts there are Civil Courts, Criminal Courts, Family Law Courts, Trade Courts and Labor Courts.

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<sup>1</sup>Ahmad Muhammad Ibrahim, *Moeslem Doctrine and Human Rights Islam* (Bairut: Dar al-Kitab al-Lubnany 1972), Pages 80-81

## Method

To discuss the normative juridical aspects, this article uses a textual-interpretive descriptive method. This method is used to view a number of legal texts and regulations related to the Islamic judicial system, which are contained in the constitution, sources of written law and history. Then, to discuss the juridical aspects, this article uses the taqin method. This method is used to see possible contributions from historical normative sources for law enforcement and justice in Saudi Arabia. Furthermore, for the historical aspect, this article uses the narrative-interpretive-correlational method. This method is used to connect a number of information which comes from the results of previous studies with the theories contained in the literature sources.

## Discussion

Islamic judicial system in Saudi Arabia Based on Article 1 Chapter 1 King's Order No. A / 90 dated 27 Sha'ban 1412 H regarding the Basic Law of Government determined that the kingdom of Saudi Arabia is a sovereign Islamic state, its religion is Islamic, its constitution is the book of Allah, Al Qur an al-Karim and the Sunnah of the Prophet SAW. Islam as the basis of the State of Saudi Arabia, the Qur'an and the Sunnah of the Prophet are the constitution of the state, and shari'ah is the basic law that is implemented by syar'iyah courts (courts) with ulama as judges and advisors. Referring to Muhammad Qutb's book, *Islam the Misunderstood Religion*, it is clear that Islamic law is also a misunderstood law. There are several issues that are subject to misunderstanding of Islamic law and many instances that are often regarded as misunderstanding by many. For example, slavery, polygamy, taxes for dzimmi infidels and others. In addition, misunderstandings and attacks are often directed against Islamic criminal law, even this is voiced even louder. Some of these misunderstandings are because the community has not really mastered the meaning and content contained in Islamic law, especially Islamic criminal law. Empirical evidence shows that the implementation of Islamic criminal law in Arab countries is able to reduce the crime rate to a very low point. In fact, Freda Adler entered this country into the ten countries with the title "Countries with the lowest crime rate" compared to other countries in the world (Freda Adler, Mueller and William, 1991: 170-171) When crime has become a frightening thing, Islamic Criminal Law proves to be therapeutic. In the records of a few months after the establishment of the kingdom of Saudi Arabia which upholds Islamic shari'a, the

robbery that filled the streets in the middle of the desert was completely cleared. In a period of 25 years, only sixteen times the execution of the sentence of cutting off the hand was recorded. People can also see money changers in the city of Mecca which are only covered with cloth when the owner is left with prayer. Islamic criminal law fulfills the requirements of a modern criminal law. This law also recognizes the principles or principles of criminal law, both those that are known to western law or not. Like the principle of legality, the principle of not retroactive and others. One thing that is clear is that Islamic criminal law is different from Western law which does not recognize religious aspects. This law is in fact closely related to religion as a way of human life. There are still several advantages and advantages of Islamic criminal law, so that with these advantages it makes many people interested in formulating it into an official rule in a regulatory system that applies in a government system.

According to Rifyal Ka'bah (2009: 31) it is explained that the Saudi Arabian judiciary is formed based on Islamic shari'a and is inseparable from the role of King Abdul Aziz bin Abdul Rahman as-Saud who embraced the regions. Saudi Arabia's judiciary can be one of the choices of a modern justice system and it is interesting to study because of several things, including: a. Saudi Arabia is the birthplace of the Prophet Muhammad and Islam has become a role model for people around the world, but this country has a different system of government than other Muslim countries. b. This country cannot be categorized as a civilian state, but the law enforcement process in this country can run in an orderly manner even though it does not use a civil law system. c. Saudi Arabia does not recognize the separation of legislative, executive and judicial powers. The power of this state runs under the King in harmony and is always upholding Islamic law. d. The state of Saudi Arabia has progressed or modernized but they adhere to Islamic law and continue to use the old traditions. The judiciary body of Saudi Arabia is called the Supreme Council of Judiciary (SCJ), which functions as an institution that regulates the administration of justice and matters regarding judicial authority. This high judicial council consists of 11 (eleven) members who are chosen from among the most prominent scholars in Saudi Arabia. Institutions that have the authority to resolve legal issues in Saudi Arabia are the Syar'iyah Court and the Fatwa Institute. These two institutions have different powers. Judges at the Shari'ah Court in examining a case where no legal basis is found in the Qur'an or the Sunnah of the Prophet or the basic law of government, then they are given the freedom to practice ijtihad. Ijtihadhakim is either based on a judge's decision on a previous case with the same nature and characteristics of

the case, or uses the ideas of classical Islamic law scholars. Even like the application of Islamic law in other Islamic worlds, the decision of the syar'iyah court judges as jurisprudence for judges in facing cases that have the same characteristics and characteristics. Fatwa Institution functions to provide legal decisions on matters relating to the general benefit, both concerning issues of citizenship rights and political issues both at home and abroad. The Fatwa Institution's legal decisions are binding for and for all citizens of Saudi Arabia.

Oyo Sunaryo Mukhlas (2011: 111-112)<sup>2</sup>, said that based on the provisions of the kingdom of Saudi Arabia dated 06 Safar 1346 Hijriyah or August 12, 1927 AD, all judicial institutions that were previously abolished and Saudi Arabia courts consist of 3 levels, as follows: a. Al Mahakim Al Musta'jilah / Mahakim Juz'iyah, namely immediate trial. This judicial institution is the first level court, which is tasked with resolving urgent cases, both in the civil and criminal fields. Criminal field concerns crimes that cause injury, relating to light ta'zir and hudud. Does not apply to the punishment of cutting off hands and the death penalty (qisas). The civil affairs sector is concerned with the issue of money which is not more than 300 riyals, does not include decisions that violate religion and ijma' (consensus of Islamic jurists). The law enforcer who is assigned to this first court is a single judge. b. Al Mahakim Asy-syar'iyah, namely the shari'ah judiciary. This court has the authority to handle serious criminal cases, such as cutting off hands and death sentences. It is also authorized to settle the case of al ahwal al syakhsiyah, which includes: marriage, divorce, reconciliation, will and al mal whose value is above 300riyal. The legal apparatus on duty at this appellate court consists of 3 (three) judges (panel), a chairman, two members. Each decision is given based on the majority of votes, while in serious criminal cases, such as the punishment of cutting off hands and the death penalty, it is carried out through a plenary session of the court. c. Hay'ah Muraqabah al-Qadha'iyah, namely the Judicial Supervisory Body. This judicial supervisory body is known as the Supreme Syari'at Court. The duties and authorities of this institution include: 1) adjudicate cases of appeal against the existing judicial decisions 2) under it; 3) controlling administration and supervising the courts; 4) issue a fatwa which is requested to him; 5) supervise educational institutions and educational curricula; and 6) supervision of amar ma'ruf nahi mungkar institutions In general, judicial institutions in Saudi Arabia adhere to a dual legal system, which consists of 2 (two) types, namely first, independent judiciary which is autonomous, but does

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<sup>2</sup>Oyo Sunaryo Mukhlas. 2011. *Perkembangan Peradilan Islam dari Kahin di Jazirah Arab ke Peradilan Agama di Indonesia*. Bogor: Ghalia Indonesia.

not contradict shari'ah, the two syar'iyah courts (Islamic sharia justice). which is fully based on shari'ah. Justice stands alone, namely judiciary that is administrative in nature. This judiciary is not specifically based on Islamic Shari'ah, but is designed to comply with the principles of Shari'a by paying attention to and taking the spirit of the law in general (Rifyal Ka'bah, 2009: 37-40)<sup>3</sup>.

According to Rifyal Ka'bah (2009: 40), it is said that the Shari'ah Judiciary (Islamic Sharia Court), which is a court that is fully based on Shari'ah. Sharia Court, consists of 4 (four) levels of justice, namely: a. Majelis al-Qadha al-A'la (Supreme Court), which administratively, this court has the authority to appoint, regulate promotion, transfer and leave arrangements for judges, while juridically, it has the authority to review the judicial decisions of lower levels, as in the death penalty verdict, cutting off hands and punishment. b. The Court of al-Tamyiz (Court of Appeal), which has the authority to review all civil and criminal decisions ruled by judges in courts of lower level. In this court, decisions are taken collectively by the panel of judges (three judges), except in the case of death penalty, cutting off hands, and stoning which must be decided by 5 (five) judges. c. Al-Mahakim al-'Ammah (Ordinary Court), which is authorized to hear all kinds of cases. This decision is taken by a judge, except in cases of murder, adultery (stoning), and theft (cutting off hands) where the decisions are made by 3 (three) judges. d. Al-Mahakim al-Juz'iyah (Immediate Court), which has the authority to try light cases, such as cases that have ta'zir law, punishments for drinking alcoholic beverages, and cases of debts not exceeding 8,000 riyals. This case is viewed lightly and can be resolved immediately. Rifyal Ka'bah (2009: 41) further explained that King Abdullah bin Abd al Aziz on October 1, 2007 issued a Royal Order (Titah Raja) regarding judicial reform. Based on this new rule, the Shari'at Court hierarchy becomes three levels, namely: a. High Court as the Supreme Court. b. Court of Appeal, which consists of: 1) Civil Court; 2) Criminal Court; 3) Family Law Court; 4) Trade Court; and 5) Labor Court. c. The third is the Court of First Instance which consists of: 1) General Court; 2) Criminal Court; 3) Family Law Court; 4) Trade Court; and 5) Labor Court.

### Source of law

The main source of law in Saudi Arabia is Islamic Sharia. Sharia is derived from the Koran and Muhammad's hadith contained in the Sunnah, ijma, or

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<sup>3</sup> Rifyal Ka'bah. 2010. Peradilan Islam Kontemporer: Saudi Arabia, Mesir, Sudan, Pakistan, Malaysia dan Indonesia. Jakarta: Universitas Yarsi.

scientific consensus on the meaning of the Qur'an and Sunnah developed after Muhammad's death; and Qiyas, or analogical reasoning applied to the principles of the Koran, Sunnah and ijma. The Wahhabi renditions of Islam used in Saudi Arabia use qiyas only in cases of "extreme necessity".

Muslim countries that maintain or adopt Sharia usually determine which parts of the Sharia can be enforced and codify (and thus modernize) them. Unlike other Muslim countries, Saudi Arabia considers the whole unmodified Sharia to be the law of the country and does not interfere with it. Therefore, it is unique not only in comparison to the Western system, but also in comparison to other Muslim countries, and according to one source is the system that is closest in the modern world to the form of Sharia adopted at the time of the arrival of Islam.

The lack of codification of Sharia led to considerable variations in interpretation and application. Furthermore, there is no judicial precedent system, because Wahhabism rejects imitation of past science (*taqlid*) and supports independent reasoning (*ijtihad*). But Saudi judges are expected to consult six medieval texts from the Hanbali school of jurisprudence before reaching a decision. The Hanbali school is well known for its literalist interpretation of the Koran and hadith. If an answer is not found in the six Hanbali texts, the judge can then consult the jurisprudence of the other three main Sunni schools of thought or apply its independent judgment and legal considerations, known as *ijtihad*. However, since judges are empowered to ignore previous judgments (either their own or other judges) and can apply their personal interpretations of Sharia to certain cases via *ijtihad*, different rulings emerge even in seemingly identical cases.

There are opinions against canceling a decision based on *ijtihad*. This principle is important in two ways. First, to concentrate the substance of law in the hands of judges, as a result, there is an assumption that only judges who carry out *ijtihad*, not kings or parliaments, can determine God's law. Second, the judge's decision is practically immune to the cancellation of the appeal. The role of *ijtihad* has led to calls for Sharia to be codified to provide clarity and remove uncertainty. As a result, in 2010, the Minister of Justice announced plans to implement a codification of Sharia law, although resistance from religious institutions reportedly delayed its implementation.

Royal decrees (*nizam*) are another major source of law but are referred to as regulations rather than laws to show that they are subject to Sharia. Royal decrees complement Sharia in areas such as employment, commercial and corporate law. Apart from that, other forms of regulation (*lai'hah*) include Royal

Orders, Council of Ministers Resolutions, Ministerial Resolutions and, Ministerial Circulars, and are also subject to Sharia. Every Western law or commercial institution is adapted and interpreted from the point of view of Sharia law. In addition, traditional tribal laws and customs remain important. For example, judges will enforce tribal customs relating to marriage and divorce.<sup>4</sup>

### **Absolute and Relative Competence**

Saudi Arabia is a country that has a government system that is different from other Muslim countries. This country cannot be categorized as a civilian state, but the law enforcement process in this country can run in an orderly manner even though it does not use a civil law system. Saudi Arabia does not recognize the separation of legislative, executive and judicial powers. The power of this state runs under the King in harmony and always adheres to Islamic law, and even though this country is progressing or modernizing, it still adheres to Islamic law and continues to use the old traditions.<sup>5</sup>

Saudi Arabia is a constitutional monarchy kingdom which, although formally it does not yet have a written constitution, but has stated firmly that the main principles contained in the Alquran and Sunnah are the Basic Laws of the State.

Departing from this stance, the Kingdom of Saudi Arabia is obliged to apply all the provisions of Islamic law and in particular all the principles related to Islamic democracy, so that at the level of application, this country is then claimed to be an Islamic state in an essential meaning.<sup>6</sup>

The judiciary is an institution that has the authority to resolve all legal disputes in accordance with their respective areas of duty, as stated by Scholten, cited by H. Rochmat Soemitro (1976: 4), it is said that the court is a sub-sector of the apparatus, namely an agency that establishes general regulations. the abstract contained in the law in certain cases. In Indonesia, the judicial body that exercises judicial power is the Supreme Court, which oversees the general judiciary, religious courts, military courts and state administrative judiciary bodies. Religious courts, military courts and state administrative courts are special courts. General judicial bodies are judiciary bodies for the people in general, while special

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<sup>4</sup>[https://translate.google.com/translate?u=https://en.wikipedia.org/wiki/Legal\\_system\\_of\\_Saudi\\_Arabia&hl=id&sl=en&tl=id&client=srp&prev=search](https://translate.google.com/translate?u=https://en.wikipedia.org/wiki/Legal_system_of_Saudi_Arabia&hl=id&sl=en&tl=id&client=srp&prev=search)

<sup>5</sup>Anonim, "Peradilan pada Kerajaan Saudi Arabia", <http://scarmakalah.blogspot.co.id.>, diakses tanggal 25 Juni 2017

<sup>6</sup>Muhammad Tahir Azhari, 1992, hal 161-164



judicial bodies examine and adjudicate cases in certain areas of law or regarding certain groups of people.<sup>7</sup>

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- d. The state of Saudi Arabia is experiencing progress or modernization, but they still adhere to Islamic law and continue to use the old traditions. The Saudi Arabian judiciary is called the Supreme Council of Judiciary (SCJ), which functions as an institution that regulates the administration of justice and issues regarding judicial authority. . This high judicial council consists of 11 (eleven) members who are chosen from among the most prominent scholars in Saudi Arabia.

Institutions that have the authority to resolve legal issues in Saudi Arabia are the Syar'iyah Court and the Fatwa Institute. These two institutions have different powers. The Shari'ah Court has absolute authority and relative authority. The Shari'ah Court examines criminal cases (jinayah) civil cases (muamalah), and their jurisdiction is limited based on their relative competence.

Judges at the Shari'ah Court in examining a case where no legal basis is found in the Qur'an or the Sunnah of the Prophet or the basic law of government, then they are given the freedom to practice ijtihad. Judge Ijtihad is based either on a judge's decision on a previous case with the same nature and characteristics of the case, or uses the results of the thinking of classical Islamic law scholars. Even like the application of Islamic law in other Islamic worlds, the decision of the syar 'iyah court judge serves as jurisprudence for judges in facing cases that have the same characteristics and characteristics.

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<sup>7</sup>Bagir Manan, 1998, hal ; 33

Fatwa Institutions function to provide legal decisions on issues relating to the general benefit, both relating to issues of citizenship rights and political issues, both domestic and foreign. The Fatwa Institute's legal decisions are binding for and for all citizens of Saudi Arabia.

Oyo Sunaryo Mukhlas, said that based on the provisions of the Kingdom of Saudi Arabia dated 06 Safar 1346 Hijriyah or 12 August 1927 AD, all judicial institutions that were previously abolished and Saudi Arabia courts consist of 3 levels, as follows:

- a. Al Mahakim Al Musta'jilah / Mahakim Juz'iyah, namely immediate trial. This judicial institution is the first level court, which is tasked with resolving urgent cases, both in the civil and criminal fields. Criminal field concerns crimes that cause injuries, relating to light ta'zir and hudud. Does not apply to the punishment of cutting off hands and the death penalty (qisas). In the civil field, regarding the issue of money that is not more than 300 riyals, decisions that violate religion and ijma '(consensus of Islamic jurists) do not apply. The law enforcement apparatus who served in this first court was a single judge.
- b. Al Mahakim Asy-syar'iyah, namely the shari'ah judiciary. This court has the authority to handle serious criminal cases, such as cutting off hands and the death penalty. It is also authorized to settle the case of al ahwal al syakhsyah, which includes: marriage, divorce, reconciliation, will, and al mal whose value is above 300 riyals. The legal apparatus on duty at this appellate court consists of 3 (three) judges (panel), a chairman, and two members. Each decision is given based on the majority of votes, whereas in serious criminal cases, such as cutting off hands and death penalty, it is carried out through a plenary session of the court
- c. Hay'ah Muraqabah al-Qadha'iyah, namely the Judicial Supervisory Body. This judicial supervisory body is known as the Supreme Syari'at Court. The duties and authorities of this institution include:
  - 1) adjudicate cases of appeal against judicial decisions that are under it;
  - 2) controlling administration and supervising the courts;
  - 3) issue a fatwa which is requested to him;
  - 4) supervise educational institutions and educational curricula; and
  - 5) supervision of amar ma'ruf nahi mungkar institutions.<sup>8</sup>

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<sup>8</sup>Oyo Sunaryo Mukhlas. 2011. *Perkembangan Peradilan Islam dari Kahin di Jazirah Arab ke Peradilan Agama di Indonesia*. Bogor: Ghalia Indonesia.

In general, judicial institutions in Saudi Arabia adhere to a dual legal system, which consists of 2 (two) types, namely first, independent judiciary which is autonomous, but does not contradict shari'ah, secondly syar'iyah court (shari'a justice ' at Islam) which is fully based on Shari'ah. The judiciary stands alone, namely the judiciary that is administrative in nature. This judiciary is not specifically based on Islamic Shari'ah, but is designed to be in accordance with the principles of Shari'ah by taking into account and taking the spirit of Shari'ah in general.

According to Rifyal Ka'bah, it is said that the Shari'ah Judiciary (Islamic Sharia Court), which is a justice based entirely on Shari'ah. Shari'ah Judiciary, consisting of 4 (four) levels of justice, namely:

- a. Majelis al-Qadha al-A'la (Supreme Court), which administratively, this court has the authority to appoint, regulate promotion, transfer and leave arrangements for judges, while juridically, it has the authority to review the judicial decisions of lower levels, as in the sentence of death, cutting off hands and stoning.
- b. The Court of al-Tamyiz (Court of Appeal), which has the authority to review all civil and criminal decisions made by judges in lower-level courts. In this court, decisions are taken collectively by the panel of judges (three judges), except in the case of death sentences, cutting hands, and stoning, which must be decided by 5 (five) judges.
- c. Al-Mahakim al-'Ammah (Ordinary Court), which is authorized to hear all kinds of cases. This decision is taken by a judge, except in cases of murder, adultery (stoning), and theft (cutting off hands) where the decisions are made by 3 (three) judges.
- d. Al-Mahakim al-Juz'iyah (Immediate Court), which has the authority to hear light cases, such as cases that are subject to ta'zir law, penalties for drinking alcoholic beverages, and cases of debts not exceeding 8,000 riyals.

This case was viewed lightly and could be resolved immediately Rifyal Ka'bah further explained that King Abdullah bin Abd al-Aziz on October 1, 2007 had issued a Royal Order (Titah Raja) regarding judicial reform. Based on this new rule, the Shari'at Court hierarchy becomes three levels, namely:

1. High Court as the Supreme Court.
2. The Court of Appeal, which consists of:
  - 1) Civil Court;
  - 2) Criminal Court;

- 3) Family Law Court;
  - 4) Trade Court; and
  - 5) Labor Court.
3. Third is the Court of First Instance which consists of:
- 1) General Court;
  - 2) Criminal Court;
  - 3) Family Law Court;
  - 4) Trade Court; and
  - 5) Labor Court.

According to the new rules, the Diwan al-Mazhalim Court changed to an Administrative Judiciary Body which has a hierarchy similar to the Shari'at Court hierarchy, which consists of:

1. High Administrative Court.
2. Administrative Appeal Court, consisting of:
  - 1) Disciplinary Sector;
  - 2) Administrative Division;
  - 3) Subsidiary Sector; and
  - 4) Other areas of specialization.
3. Administrative Court, consisting of:
  - 1) Disciplinary Sector;
  - 2) Administrative Division;
  - 3) Subsidiary Sector; and
  - 4) Other areas of specialization.

Based on the explanation above, it can be concluded that the Shari'ah Court (Islamic Court) in Saudi Arabia, namely:

- a. The Shari'ah Court in Saudi Arabia was established by law.
- b. The implementation of the authority of the Shariah Court in Saudi Arabia, the exercise of its authority is based on Islamic law contained in the Qur'an and Sunnah which includes civil, criminal, family law and trade.
- c. Legal remedies in Saudi Arabia, legal remedies are up to the level of cassation to the Supreme Court.

### **Judge Appointment Process**

In the kingdom of Saudi Arabia a person who will be a judge must meet predetermined criteria. The criteria for a Qodi according to the statutory provisions of the Kingdom of Saudi Arabia are as follows:

1. Citizen of Saudi Arabia

2. Have a good background and origin.
3. Fulfills the requirements to become a qadi as required by syara '. This means that all the requirements of a qadi above, are completely taken.
4. Obtain a diploma from one of the Sharia Faculties in Saudi Arabia, or another university which is of course equal and recognized.
5. At least 40 years old (for Qadi tamyiz) and 22 years old for other Qadis.

### **Product of law**

The legal product produced by the judiciary in Saudi Arabia is the judge's decision. Where the judge's decision is a statement of the judge who decides a case. The judge's decision is not subject to any other power other than the power of Islamic Sharia as stated in Article 46 of the Judicial Law which states that: "Justice is an independent power. The verdict of the judges will not be subject to any power other than that of the Islamic Sharia. " Immediate Judiciary (al-mahakim al-musta'jilah) in Saudi Arabia has both civil and criminal powers. the authority concerning this financial issue includes civil authority. Decisions concerning financial matters of no more than 300 riyals cannot be appealed except for decisions that violate nushuh (religious text) and ijma '(kensusus of Islamic jurists).<sup>9</sup> Then in the Sharia Court, decisions are given based on ijma 'or majority vote.

Then with Diwan al-Mazhalim, the verdict is usually taken by a majority of votes a few weeks after the complaint was submitted. The team can reject the complaint / grant it. If an objection is made to the decision, then the objection can only be submitted to the Cabinet or the Council of Ministers.

### **Closing**

Arab as an Islamic country that places Al-Quran and Sunnah as the basic laws of the country, making the judiciary body must be in accordance with Islamic law. In an Arab country with an Islamic legal system, law enforcement and judiciary based on Islamic law as confirmed by the Royal Decree, the King must comply with sharia (Islamic law), which relies on the al-Qur'an and Hadith. Saudi Arabia is an Islamic country that is the most consistent in implementing Islamic law in its positive law. Until now, judicial bodies in Arab countries have also

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<sup>9</sup>Rifyal Ka'bah, *Sistem Peradilan Saudi Arabia*, <http://islamic-law-in-indonesia.blogspot.com/2010/02/sistem-peradilan-saudi-arabia.html>, diakses tanggal 28 Desember 2020 Pukul 12.26 WIB

experienced development with three levels of justice, namely the High Court as the Supreme Court, the Court of Appeal and the Court of First instance. In these two courts there are Civil Courts, Criminal Courts, Family Law Courts, Trade Courts and Courts Labor.

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