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HARMONISATION OF SHARI'AH AND INTERNATIONAL LAW IN TREATY MAKING, TREATY RATIFICATION AND INTERNATIONAL NORM CREATION

[HARMONISASI SYARIAH DAN UNDANG-UNDANG ANTARABANGSA DALAM PEMETERAIAN TRITI, RATIFIKASI TRITI DAN PENCIPTAAN NORMA ANTARABANGSA]

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Abstract

This article discusses the progress and achievements in harmonisation of Shari’ah and international law in the processes of treaty making, treaty ratification and norm creation. This article focuses only on several treaties and declarations. Some of these instruments were drafted in the aftermath of World War II, and the other category is mainly international human rights law instruments. This research analyses the drafting history of the treaties and declarations while examining some of the provisions of the instruments in comparison with the position of the Shari’ah, and determines the Muslim majority States’ attitude towards those instruments. Areas covered include prohibition of the use of force, freedom to change religion, women’s rights and freedom of expression. The progress of harmonisation varies from one area to another. There are areas where harmonisation is easy, but there are other areas where it is impossible, or very difficult and unlikely. Total and comprehensive harmonisation of Shari’ah and international law is neither possible nor permitted by the Shari’ah. © 2024, International Islamic University Malaysia-IIUM. All rights reserved.

Author keywords

Freedom of Expression; Freedom to Change Religion; Harmonisation; International Law; Prohibition of Use of Force

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