

FINDING COMMON GROUND: Balancing Muslim Burial Practices And State Law in Göttingen

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Abstract. *This article discusses the burial practices of Muslims in Göttingen, Germany. Differences between Islamic law and German state law, both procedurally and substantively, have created problems for German Muslims in carrying out burials. Based on interviews with two respondents who have experience in caring for the deceased, the article argues that the burial process involves elements of both the implementation and neglect of Islamic law. Islamic law is evident in the process of bathing, shrouding, and offering funeral prayers for the deceased. However, during the waiting period between a person's death and burial, as well as during the burial process itself, the respondents leave Islamic law behind and follow the laws of the state. This approach is influenced by two factors: if the times for implementing both laws do not overlap, then German Muslims can apply Islamic law. However, if the times for implementing both legal systems overlap, German Muslims choose to follow state law. Additionally, during the burial process, German Muslims cannot fully implement Islamic law due to limited burial facilities. The limited cemetery space for Muslims prevents them from burying the deceased facing Mecca.*

المخلص. يتناول هذا المقال ممارسات الدفن للمسلمين في جوتنجن، ألمانيا. أدت الاختلافات بين القانون الإسلامي والقانون الألماني، من حيث الإجراءات والمضمون، إلى وجود مشاكل للمسلمين الألمان في إتمام الدفن. استنادًا إلى مقابلات مع شخصين لديهما خبرة في رعاية المتوفين، يرى المقال أن عملية الدفن تنطوي على عناصر من تنفيذ القانون الإسلامي وإهماله. يتضح القانون الإسلامي في عملية الاغتسال والتكفين وإقامة الصلاة الجنائزية على المتوفي. ومع ذلك، خلال فترة الانتظار بين وفاة الشخص والدفن، وأثناء عملية الدفن ذاتها،

يترك المستجيبون القانون الإسلامي ويتبعون قوانين الدولة. وتتأثر هذه النهج بعاملين: إذا لم تتزامن الأوقات المحددة لتنفيذ كلا النظامين القانونيين، فيمكن للمسلمين الألمان تطبيق القانون الإسلامي. ومع ذلك، إذا تزامنت الأوقات المحددة لتنفيذ كلا النظامين القانونيين، يختار المسلمون الألمان اتباع القانون الدولي. بالإضافة إلى ذلك، لا يمكن للمسلمين الألمان تطبيق القانون الإسلامي بالكامل خلال عملية الدفن بسبب القيود على مرافق الدفن. فالمساحة المحدودة في المقابر المخصصة للمسلمين تمنعهم من دفن المتوفى باتجاه مكة

Abstrak: Artikel ini membahas tentang praktik pemakaman yang dilakukan oleh Muslim di Göttingen, Jerman. Adanya perbedaan yang terjadi antara hukum Islam dan hukum negara Jerman, baik secara procedural maupun substansial menjadikan Muslim Jerman menemukan problem dalam pelaksanaan pemakaman. Dengan mendasarkan hasil wawancara dengan dua orang responden yang mempunyai pengalaman mengurus jenazah, artikel ini berpendapat bahwa dalam proses pemakaman jenazah, terdapat proses yang menunjukkan adanya pelaksanaan hukum Islam dan pengabaian hukum Islam dalam proses pemakaman. Penerapan hukum Islam dapat ditemukan pada tahap memandikan, mengkafani, dan menshalatkan jenaah. Sementara itu, pada tahap menunggu pemakaman jenazah dari waktu meninggalnya seseorang sampai dengan penguburan, dan proses penguburan, responden meninggalkan hukum Islam untuk menjalankan hukum negara. Sikap Muslim Jerman seperti ini dipengaruhi oleh dua hal. Jika waktu pelaksanaan kedua hukum tersebut, maka Muslim Jerman dapat menerapkan hukum Islam. Akan tetapi, jika waktu pelaksanaan kedua system hukum tersebut sama, maka Muslim Jerman memilih untuk melaksanakan hukum negara. Selain itu, dalam proses pemakaman jenazah, Muslim Jerman juga tidak menerapkan hukum Islam secara sempurna karena terbatasnya fasilitas pemakaman yang ada. Keterbatasan lahan makam bagi umat Islam menjadikan mereka tidak bisa menguburkan jenazah menghadap kiblat (Mekah).

Keywords: Death and burial, Muslim burial, Islamic Law, State Law.

INTRODUCTION

Germany is a western European country with the second largest Muslim population after France. At least 6,500 Muslims were living in Germany in 1961. Over the next two and a half decades, this number increased to 1.8 million, and it continues to rise. In 2002, it was estimated that there were 3.4 million Muslims, and by 2019, the number had grown to 5.5 million Muslims in Germany, which is 6.6% of the total population of 83.1 million people. The majority of German Muslims, 2.5 million (over 40%), come from Turkey,¹ most of whom are migrant workers.² The presence of Turkish Muslim migrants as the majority of Muslims in Germany has had a significant impact on the daily religious practices and implementation of Islam in Germany. The secularization process that took place in modern Turkey since the 1920s, during Ataturk's era, made it easier for them to live in a secular German environment. From the perspective of the government and the state, the secularization that occurred in Turkey made the German government more accepting of Turkish Muslim migrants and more accepting of Islam compared to other countries such as France and the United Kingdom.³

Although the majority of German Muslims have experienced living in a secular environment, some religious practice barriers are still faced by the Muslim community. Islamic religious practices in Germany often conflict with state policies in areas such as family

¹ Katrin Pfündel, Anja Sticks, and Kerstin Tanis, "Executive Summary of the Study "Muslim Life in Germany 2020"," 2021, https://www.ssoar.info/ssoar/bitstream/handle/document/75547/ssoar-2021-pfundel_et_al-Executive_Summary_of_the_study.pdf?sequence=1&isAllowed=y&lnkname=ssoar-2021-pfundel_et_al-Executive_Summary_of_the_study.pdf.

² Ceri Peach and Günther Glebe, "Muslim Minorities in Western Europe," *Ethnic and Racial Studies* 18, no. 1 (January 1, 1995): 26–45, <https://doi.org/10.1080/01419870.1995.9993852>.

³ John R. Bowen and Mathias Rohe, "Juridical Framings of Muslims and Islam in France and Germany," in *European States and Their Muslim Citizens*, 2015, 135–63.

law,⁴ burial regulations,⁵ the slaughter of animals,⁶ recognition of Islamic holidays,⁷ and even places of worship.⁸ Public discussions are also characterized by a pull and push between acceptance and rejection of Muslims, not only in the general population but also among officials. The pros and cons of government officials can be seen from the statements of Wolfgang Schäuble (2006) and Angela Merkel (2015) accepting Islam as part of Germany,⁹ and Horst Seehofer (2018) rejecting Islam.¹⁰ The pros and cons of the presence of Muslims in Germany have an impact on the process of Muslim integration into German society in their daily lives.¹¹ Some Muslims experience integration problems and feel unable to fully become part of German society.¹² This problem is evident in the statement of Mesut Ozil, a German football player from a Turkish immigrant family, ‘I am German when we win, but I am an immigrant when

⁴ Peter Heine, “Contacts and Conflicts over Worship and Burial in the Kreuzberg District of Berlin,” in *Urban Planning and Cultural Inclusion: Lessons from Belfast and Berlin*, ed. William J. V. Neill and Hanns-Uve Schwedler, Anglo-German Foundation for the Study of Industrial Society (London: Palgrave Macmillan UK, 2001), 138–39, https://doi.org/10.1057/9780230524064_9.

⁵ Heine, 138–39.

⁶ Dorothee Brantz, “Stunning Bodies: Animal Slaughter, Judaism, and the Meaning of Humanity in Imperial Germany,” *Central European History* 35, no. 2 (June 2002): 167–93, <https://doi.org/10.1163/15691610260420656>.

⁷ Jolanda van der Noll, “Religious Toleration of Muslims in the German Public Sphere,” *International Journal of Intercultural Relations* 38 (January 1, 2014): 34, <https://doi.org/10.1016/j.ijintrel.2013.01.001>.

⁸ Stefano Allievi, *Mosques in Europe: Why a Solution Has Become a Problem* (London: Alliance, 2010).

⁹ “Merkel Says Islam ‘belongs to Germany’ Ahead of Dresden Rally,” *Reuters*, January 12, 2015, sec. World News, <https://www.reuters.com/article/us-germany-islam-merkel-idUSKBN0KL1S020150112>.

¹⁰ “Horst Seehofer: Islam Does Not Belong to Germany, Says New Minister,” *BBC News*, March 16, 2018, sec. Europe, <https://www.bbc.com/news/world-europe-43422770>.

¹¹ Franz Erhard and Kornelia Sammet, “Everyday Lived Islam of Young People from Muslim Migrant Families in Germany,” in *Young People and the Diversity of (Non) Religious Identities in International Perspective*, ed. Elisabeth Arweck and Heather Shipley, *Boundaries of Religious Freedom: Regulating Religion in Diverse Societies* (Cham: Springer International Publishing, 2019), 221–39, https://doi.org/10.1007/978-3-030-16166-8_13; Pfündel, Stichs, and Tanis, “Executive Summary.”

¹² Paul Bisceglia, “Yes, I’m Muslim—and German: The Takeaway,” *Zócalo Public Square* (blog), February 5, 2016, <https://www.zocalopublicsquare.org/2016/02/05/yes-im-muslim-and-german/events/the-takeaway/>.

we lose’,¹³ and also Maha Walter-Kamano, a politician from the BIG Party (Alliance for Innovation and Justice): ‘I am a Muslim, I was born and bred in Germany, but I do not identify as a German.’¹⁴

In the context of Islamic law studies, the position of Muslims in Germany that is marked by pros and cons as mentioned above makes works on the relationship between Islamic law and state law in Germany in daily life quite varied. Some works discuss the tension between Islamic law and state law in several areas such as marriage/family law procedures and substance,¹⁵ burial practices and regulations,¹⁶ the prohibition of slaughtering animals to obtain halal meat,¹⁷ the construction of places of worship/mosques,¹⁸ and the recognition of religious holidays as days off for Muslims.¹⁹ Some other works show the functional side of Islamic law and its contribution to the state. Islamic law becomes an important reference for German civil courts in handling civil cases involving Muslim immigrants.²⁰ In the daily lives of Muslims, Zada and Irfan even show that Islamic law practices in Germany, especially in religious rituals, do not conflict

¹³ Gijs van Campenhout and Henk van Houtum, “‘I Am German When We Win, but I Am an Immigrant When We Lose’. Theorising on the Deservedness of Migrants in International Football, Using the Case of Mesut Özil,” *Sport in Society* 24, no. 11 (November 2, 2021): 1924–40, <https://doi.org/10.1080/17430437.2020.1865314>.

¹⁴ “I Am a Muslim, I Was Born and Bred in Germany but I Do Not Identify as a German View,” euronews, March 27, 2019, <https://www.euronews.com/2019/03/27/i-am-muslim-i-was-born-and-bred-in-germany-but-i-do-not-identify-as-a-german-view>.

¹⁵ Andrea Büchler, *Islamic Law in Europe?: Legal Pluralism and Its Limits in European Family Laws* (London: Routledge, 2016), 34–36, <https://doi.org/10.4324/9781315590028>.

¹⁶ Heine, “Contacts and Conflicts over Worship and Burial in the Kreuzberg District of Berlin,” 138–39.

¹⁷ Brantz, “Stunning Bodies.”

¹⁸ Allievi, *Mosques in Europe*:

¹⁹ van der Noll, “Religious Toleration of Muslims in the German Public Sphere,” 34.

²⁰ Bowen and Rohe, “Juridical Framings”; Büchler, *Islamic Law in Europe?*; Mahmoud Jaraba, “‘Khul’ in Action: How Do Local Muslim Communities in Germany Dissolve an Islamic Religious-Only Marriage?,” *Journal of Muslim Minority Affairs* 40, no. 1 (January 2, 2020): 26–47, <https://doi.org/10.1080/13602004.2020.1737414>; Mathias Rohe, “Islamic Law in German Courts,” *Hawwa* 1, no. 1 (2003): 46–59, <https://doi.org/10.1163/15692078-00101001>; Diana Schawlowski, “The Islamic Mahr in German and in English Courts,” *Yearbook of Islamic and Middle Eastern Law* 16 (2011 2010): 147–66, <https://doi.org/10.1163/22112987-12345688>.

with state law.²¹ Bowen and Rohe portray the daily lives of Muslims in Germany as more complex. Daily practices of Muslims are marked by tension and differences between Islamic law and state law, as well as being intertwined and negotiated as a result of the attitudes of German Muslims towards Islamic law and the state law of the country where they live.²²

This article focuses on the problems faced by Muslims in Germany when it comes to burial practices in the midst of a legal system that is procedurally and substantively different from Islamic law. Balkan and Milewski and Otto have shown that German Muslims face burial problems in terms of state regulations and the limited availability of Muslim burial grounds.²³ This work is in line with both of these articles, discussing Muslim burials in the context of the differences between state laws and Islamic law as well as the limitations of Muslim burial grounds. However, this text continues the argument by stating that German Muslims strive to consistently apply Islamic teachings in the process of burying the deceased, such as washing, shrouding, and praying for the deceased. This process can be carried out because it does not directly conflict with the different state laws. In the burial process, they must compromise with the different state laws and the limited facilities of Muslim burial grounds.

The work is based on interviews with several Muslim respondents in Göttingen, Germany, including two German converts to Islam, two Indonesian immigrants, and a second-generation German-Indonesian Muslim immigrant. The discussion includes the challenges faced by Muslim communities in Germany, their experiences with the burial of their deceased loved ones, and the compromises they make to follow Islamic burial practices within the context of German law.

²¹ Khamami Zada and M. Nurul Irfan, "Negotiating Sharia in Secular State: A Case Study in French and Germany," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 47–63, <https://doi.org/10.22373/sjhk.v5i1.9753>.

²² Bowen and Rohe, "Juridical Framings."

²³ Osman Balkan, "Burial and Belonging: Burial and Belonging," *Studies in Ethnicity and Nationalism* 15, no. 1 (April 2015): 124–26, <https://doi.org/10.1111/sena.12119>; Nadja Milewski and Danny Otto, "The Importance of a Religious Funeral Ceremony Among Turkish Migrants and Their Descendants in Germany: What Role Do Socio-Demographic Characteristics Play?," *Journal of Intercultural Studies* 37, no. 2 (March 3, 2016): 165, <https://doi.org/10.1080/07256868.2016.1141760>.

DEBATE ON MUSLIMS' EXISTENCE IN GERMAN: INTEGRATION PROBLEM

Muslims have been present in Germany for decades, with Turks being the largest group of Muslim immigrants in the country. In recent years, the Muslim population in Germany has grown due to the influx of refugees and asylum seekers from Muslim-majority countries. According to a study by the Pew Research Center, the Muslim population in Germany is projected to reach 8.7 by 2050.²⁴ Despite their long-standing presence in the country, Muslims face challenges in terms of integration and discrimination Islamophobia, and freedom of religion.

Integration is a key challenge faced by Muslims in Germany. While some Muslim immigrants have successfully integrated into German society, others struggle with language barriers, cultural differences, and discrimination. There are concerns that some Muslim immigrants in Germany are not integrating into German society and are maintaining their own cultural enclaves. Another problem is about radicalization among Muslim immigrants in Germany, particularly in the wake of terrorist attacks in the country. Research has shown that there is no single pathway to radicalization, and that factors such as social exclusion, marginalization, and discrimination can contribute to the phenomenon.²⁵ Besides that, Islamophobia is also another problem faced by Muslims in Germany.²⁶

The problems faced by Muslims in Germany when integrating with German society are reflected in public discussions. Discussions and discourses in German public spaces, which are not only conducted by the general public but also involve government officials, are coloured by discussions and debates about the acceptance and rejection of Muslims in Germany. Acceptance of Islam is clearly reflected in the statement made by the Minister of the Interior (Wolfgang Schäuble)

²⁴ Travis Mitchell, "The Growth of Germany's Muslim Population," *Pew Research Center's Religion & Public Life Project* (blog), November 29, 2017, <https://www.pewresearch.org/religion/2017/11/29/the-growth-of-germanys-muslim-population-2/>.

²⁵ Michaela Pfundmair et al., "How Social Exclusion Makes Radicalism Flourish: A Review of Empirical Evidence," *Journal of Social Issues* n/a, no. n/a, accessed April 11, 2023, <https://doi.org/10.1111/josi.12520>.

²⁶ Ivan Kalmar and Nitzan Shoshan, "Islamophobia in Germany, East/West: An Introduction," *Journal of Contemporary European Studies* 28, no. 1 (January 2, 2020): 1–14, <https://doi.org/10.1080/14782804.2020.1727867>.

in 2006, which stated that Islam is a part of German society. “*Islam is part of Germany and part of Europe, it is part of our present and part of our future. Muslims are welcome in Germany.*” This statement was reaffirmed nine years later by Chancellor Merkel (2015) with the words ‘These Muslims belong to Germany, and also their religion of Islam belongs to Germany.’²⁷ On the other hand, rejection of Islam can be seen in the statement of Horst Seehofer, the Minister of the Interior, in 2018.²⁸ Seehofer at that time clearly stated that Islam is not part of Germany, saying ‘Islam does not belong to Germany. Germany is characterized by Christianity.’²⁹

Therefore, it is not surprising that some immigrants, especially Muslim immigrants, cannot feel fully integrated into German society due to these debates. This can be seen in the statement of a German politician, Maha Walter-Kamano, who said that she cannot fully identify as German because she is of Lebanese descent, “I am a Muslim, I was born and bred in Germany but I do not identify as a German.”³⁰ Similar statements that received wider attention were made by Mesut Ozil, a professional football player and former German national player, who said “I am German when we win, but I am an immigrant when we lose” and announced his resignation from the German national football team. Ozil’s statement represents a minority group of migrants in Germany in terms of social integration and the division of immigrants’ hearts between the country they live in and their country of origin.³¹ Gartner and Orgi (2012) also show that although some second-generation Muslims living in Germany are able to deal with the dual culture they experience, Islam and the West, others find themselves confused between their two identities, as Muslims and as German citizens.³²

²⁷ “Merkel Says Islam ‘belongs to Germany’ Ahead of Dresden Rally.”

²⁸ “Horst Seehofer.”

²⁹ Ayhan Simsek, “‘Islam Does Not Belong to Germany’: Interior Minister,” Anadolu Agency, March 16, 2018, <https://www.aa.com.tr/en/europe/islam-does-not-belong-to-germany-interior-minister-/1090588>.

³⁰ “I Am a Muslim, I Was Born and Bred in Germany but I Do Not Identify as a German.”

³¹ van Campenhout and van Houtum, “‘I Am German When We Win, but I Am an Immigrant When We Lose’. Theorising on the Deservedness of Migrants in International Football, Using the Case of Mesut Özil.”

³² Cristel Gärtner and Zehra Ergi, “The Relation of Religious Identity and National Heritage among Young Muslims in Germany,” in *Religious Identity and*

The problem of Muslim integration in German society is not only experienced by immigrants, but also by native Germans, white Germans who choose to convert to Islam, as shown by Özyürek's work.³³ Her research on German converts to Islam shows that they do not only negotiate their new identity as both German and Muslim in a society that is increasingly anxious about Islam and multiculturalism, but also feel alienated and even discriminated against. These individuals face the challenge of integrating into a society that is often hostile to their religious identity, and their conversion to Islam affects their sense of belonging to their national and cultural identity.

It seems that Özyürek's thesis is also confirmed by two respondents that I managed to interview, Olaf and Greg. Both are native Germans who married Indonesians. Olaf, who is low-profile, sometimes feels like he is seen as strange by his colleagues. Meanwhile, Greg, who talks more, expresses his problems as a Muslim and native German. He feels alienated in the place where he was born and raised. He envies Muslim immigrants who come from countries with a Muslim majority, including Muslim-majority Indonesia. He says he feels more comfortable living in Indonesia because he can feel the Islamic atmosphere in daily life, and the community in his wife's hometown can accept him more as a convert to Islam.

However, what Olaf and Greg experience seems to be different from what Silvia, Olaf's daughter with an Indonesian mother, experiences. She, states that being Muslim does not mean she cannot be German at the same time. She feels that both can be done simultaneously without any problem. Although he follows a different lifestyle and religion than her peers, and her friends know that she is Muslim, she claims to have no problem interacting with her peers. The problem of interacting with peers only arises when she has a new friend who does not yet know that she is a Muslim. Her new friend always looks at her strangely when she prays. However, after knowing that she is a Muslim, her friend will accept her. It seems

National Heritage. Empirical-Theological Perspectives (Leiden - Boston: Brill, 2012), 73–90.

³³ Esra Özyürek, *Being German, Becoming Muslim: Race, Religion, and Conversion in the New Europe*, Princeton Studies in Muslim Politics (Princeton, New Jersey: Princeton University Press, 2015), <http://site.ebrary.com/id/10953515>.

that Silvia's case confirms Gartner and Ergi's statement that second-generation migrants in Germany are able to creatively use their living environment and German cultural conditions to help them in their daily lives in a creative way. The second-generation Muslim migrants combine Western culture and religion.³⁴

MUSLIM BURIAL PROBLEMS IN GERMANY:

Legal Issues, Land Limitations, and Social Stigma

Germany is a country that has strict regulations regarding the death of its citizens. The funeral procession must follow secular state laws that have a strong Christian/Catholic influence.³⁵ Regulations for burials in Germany are governed by state laws and are consistent throughout the country, but may vary from one state to another.

In general, burial regulations in Germany require that the deceased must be buried in a coffin made of environmentally safe materials that can withstand the weight of the soil without collapsing to prevent contamination of the soil and groundwater. The coffin must also be tightly sealed to prevent the escape of fluids. The grave must be at least 1.5 meters deep to prevent the spread of disease and to protect the environment. Most cemeteries in Germany allow grave markers, but they must be made of durable and environmentally friendly materials. Before burial, a permit must be obtained from the local health department to ensure that the deceased did not die from an infectious disease. Cremation is also allowed in Germany, and the ashes can be either buried or scattered. However, state intervention in burials through funeral homes (*Bestattungsunternehmen/Beerdigungsinstitut*) can also be a problem, as families/individuals may have difficulty adhering to Islamic law in the burial process.³⁶ In Göttingen, as part of Lower Saxony, burial follows the Funeral and Cemetery Act of Lower Saxony (*Bestattungsgesetz und Friedhofsgesetz Niedersachsen*), which requires that burial can only take place at least four days after death.

³⁴ Gärtner and Ergi, "The Relation of Religious Identity," 88.

³⁵ Osman Balkan, "Between Civil Society and the State: Bureaucratic Competence and Cultural Mediation among Muslim Undertakers in Berlin," *Journal of Intercultural Studies* 37, no. 2 (March 3, 2016): 150, <https://doi.org/10.1080/07256868.2016.1141757>.

³⁶ Balkan, "Burial and Belonging."

These rules differ from Islamic burial practices in at least two ways. First, the requirement to use a coffin presents a problem for Muslims, as Islamic law requires direct burial in the ground without a coffin (*lahd* or *syaq*). However, since 2014, as a result of the struggle of German Muslims, 11 out of 16 federal states, including Berlin, have allowed direct burial in the ground without a coffin.³⁷ Second, the burial rules in Lower Saxony, which require a waiting period of at least 4 working days after death, present a challenge for Muslims who are commanded by Islamic law to bury the deceased as quickly as possible.³⁸ Some states have accelerated the burial process to within 48 hours after death.

Despite the law problem, Muslim funeral rituals and burial practices among Turkish migrants in Germany have been shaped by the challenges and opportunities presented by the multicultural society of Germany. Challenges arise due to the limited number of Muslim cemeteries in Germany and legal requirements that often conflict with Islamic burial practices³⁹. Regarding this, one of the main challenges is the limited access to suitable burial sites. Islamic tradition requires that graves be oriented towards Mecca. In Germany, however, there are few cemeteries that allow for this orientation. This can make it challenging for Muslims to find suitable burial sites for their loved ones⁴⁰. These issues lead to considerable stress for Muslim families, who are already grieving the loss of their loved ones.

In addition to these practical issues, Muslims in Germany also face a lack of understanding and awareness about their burial practices. Many Germans are not familiar with the specific rituals and traditions required in Islamic burials, which can lead to misunderstandings and difficulties in accommodating Muslim burial needs.⁴¹ This lack of understanding is further compounded by the fact that Muslims in Germany are a minority group, making up only around 5% of the population. This means that Muslim practices are often not well understood or accepted by the wider society, which

³⁷ Balkan, "Between Civil Society and the State," 150.

³⁸ Balkan, "Burial and Belonging," 124–26; Milewski and Otto, "The Importance of a Religious Funeral Ceremony Among Turkish Migrants and Their Descendants in Germany," 165.

³⁹ Balkan, "Between Civil Society and the State."

⁴⁰ *Balkan*.

⁴¹ Balkan, "Burial and Belonging."

can result in discriminatory attitudes and behaviours towards Muslim burials.⁴² Muslim communities in Germany face complex issues related to burial, including differences in laws and regulations, social discrimination, and limited burial space. These challenges have led some Muslim migrants to choose repatriation of their deceased family members to their countries of origin, despite the complicated procedures and high costs associated with the repatriation process. Nonetheless, repatriation remains the best option for those who want to bury their loved ones in accordance with Islamic teachings.⁴³

How is the practice of Muslim funeral in Germany? A respondent (an Indonesian national married to a German) living in Göttingen, Germany, shared her experience in arranging her husband's funeral. As a Muslim woman, she wanted her husband's burial, who was also a Muslim, to be in accordance with Islamic law. After her husband had been ill for some time and treated in a hospital, he eventually passed away. As a Muslim woman, and with her husband being a convert to Islam, she wanted him to be buried according to Islamic customs. She wished for her husband's funeral to be conducted immediately. All Islamic funeral procedures, from washing the body to burial, were carried out on the day her husband passed away. However, she had to compromise with the country's regulations which require burial to take place within 4 working days after someone passes away. This means that her husband's funeral could not be conducted quickly.

In addition, the burial process also involves the hospital and funeral home (*Bestattungsunternehmen/Beerdigungsinstitut*). The family cannot handle the burial of their loved one by themselves. The involvement of the hospital and funeral home in the burial process can indeed ease the burden on the bereaved family. However, their involvement also brings up issues in the process of burying her husband. None of the funeral home staff understood the Islamic funeral process, whereas she wanted her husband to be buried according to Islamic customs. The regulations do allow the family to be involved in the burial process, whether directly or by appointing

⁴² Martin Klapetek, "Muslim Areas at Municipal Cemeteries in Germany and Austria," *Studia Religiologica. Zeszyty Naukowe Uniwersytetu Jagiellońskiego* 50, no. 3 (2017): 203–20.

⁴³ Milewski and Otto, "The Importance of a Religious Funeral Ceremony Among Turkish Migrants and Their Descendants in Germany," 165.

someone to represent the family in the process of managing the body and burial to ensure that the burial process is in line with the family's wishes. She requested permission for a family member to be involved in the burial process. She decided to appoint another person who was a German Muslim and was considered to be familiar with the burial process of Muslims to oversee the process and provide all the necessary burial equipment.

In the process of managing the body, she felt that it was somewhat complicated. Because the person she asked for help had no experience in managing a body, the preparations for managing the body were incomplete. The person she asked for help had to go back and forth to prepare all the necessary items for managing the body, including preparing equipment for washing the body and shrouds. Despite the complications, the process of managing her husband's body went relatively smoothly until the prayer time. The family and several Muslims were given the opportunity to perform the prayer at the funeral home.

However, during the burial, the respondent was a bit doubtful about the position of her husband's body when it was buried because it was not buried in a special Islamic cemetery, whether the position of her husband's body when buried was truly facing Mecca or not. Here, after she had previously compromised on the waiting time for her husband's body to be buried, she had to compromise again with the country's regulations regarding the position of her husband's body when buried. In addition to being buried in a public cemetery, her husband's body was already in a coffin at the time of burial. But that was the maximum effort she could make in the funeral process of her husband. Greg, the person appointed to handle her husband's funeral and who had helped a lot in the funeral process, confirmed what the respondent said. However, he stated that he had done his best to bury the body according to what he believed.

REACHING A MIDDLE GROUND WITH STATE LAW

Germany is a country that has strict rules regarding its citizens who pass away. The funeral procession must follow the secular laws of the country, which have many Christian/Catholic nuances.⁴⁴ Therefore, Muslim funerals are not an easy matter. Indeed, Muslims

⁴⁴ Balkan, "Between Civil Society and the State," 150.

who wish to have an Islamic burial can apply for permission to carry out the burial process according to Islamic teachings, starting from washing the body, shrouding, performing prayer, and burying.

The issues experienced by respondents during the process of burying their husband, as described above, confirm the findings of several previous studies. Balkan (2015) and Milewski & Otto (2016) have shown that the long waiting time from someone's death to burial creates an obstacle to the application of Islamic teachings in the burial process.⁴⁵ Furthermore, Balkan (2015) has also shown that the limited burial land for Muslims in Germany also creates a challenge in burying the deceased in the proper direction towards Mecca according to Islamic teachings. Therefore, compromise became the option for respondents in facing these limitations and challenges. At a practical level, the respondents' experiences also confirm some of the challenges and obstacles faced by Muslims in the funeral process. The challenges are not only at the regulatory level but also at the infrastructure level, in the form of limited burial land for Muslims.

In addition, the respondents' experiences also indicate that whether or not there is a compromise in the funeral process is determined by the intention and quality of the interaction that occurs between Islamic law and state law. Muslims can apply Islamic law because the intersection between Islamic law and state law does not meet at the same time and place. If Islamic law and state law must be carried out at the same time and place, then German Muslims choose to compromise with state law, or in some existing studies, choose repatriation as an alternative to ensure that Islamic law can be properly applied.

Consistency in applying Islamic law can be seen in the process of washing, shrouding, and praying over the deceased. All of these processes are carried out in accordance with Islamic law. These three processes can be carried out because the state does not provide rules regarding the treatment of the body before the funeral. In addition, state law provides opportunities for Muslims to take care of their family's deceased according to their wishes. Therefore, German Muslims can carry out Islamic law well.

⁴⁵ Balkan, "Burial and Belonging," 124–26; Milewski and Otto, "The Importance of a Religious Funeral Ceremony Among Turkish Migrants and Their Descendants in Germany," 165.

Consistency in the process of washing to praying over the deceased as mentioned above is different from the waiting time from death to funeral. The state provides different rules than the provisions of Islamic teachings. Lower Saxony, where Göttingen is located, stipulates that the waiting time for a deceased person from the time of death until burial is a minimum of four working days. This means that the deceased can be buried at the earliest on the fourth day after death. This regulation is different from the rule of Islamic law which commands the prompt burial of the deceased. The funeral should be carried out on the same day as the death. In this case, Muslims cannot avoid the state's provisions. This happens because the implementation time between state law and religious law is at the same point. Therefore, German Muslims must compromise with state law and ignore Islamic law.

In addition to the simultaneous implementation of Islamic law and state law during the waiting period for burial, the neglect of the perfection of the implementation of Islamic law is also evident in the burial process. However, this neglect is not due to legal provisions, but rather due to the limited cemetery land for Muslims. In Islamic teachings, during the burial process, the deceased should be facing towards the qibla, the Kaaba in Mecca, like in prayer. However, limited cemetery land forces the respondents not to strictly bury the deceased facing the qibla. This is done due to the limited cemetery land for German Muslims, which does not allow burying the deceased facing the Kaaba. Therefore, respondents choose to neglect the perfection of the burial process.

CONCLUSION

As a minority group, the existence of Muslims in Germany has been marked by both support and opposition, not only among the general public, but also among government officials. These pros and cons have made it difficult for Muslims to integrate into German society, which is reflected in their daily lives. The burial process carried out by German Muslims can serve as an example. They face several problems in the funeral procession of their family members, ranging from differences in regulations between the state and Islamic law, limited burial land for Muslims, to discrimination.

Despite that, the burial process can also show how German Muslims follow Islamic law. German Muslims can follow religious teachings if the state does not regulate them precisely. In addition, the timing of the implementation does not coincide with the timing of state law. If the state has regulated with precise provisions, or the timing of implementation is the same between the two legal systems, then German Muslims choose to obey state law. This fact further reinforces the opinion of Balkan (2015) and Milewski & Otto (2016) that German Muslims face problems in burial due to state regulations that differ from Islamic law and the limited burial land for Muslims. Therefore, Muslims cannot carry out burials in accordance with Islamic law perfectly if buried in Germany. As a result, some German Muslims, especially those from Turkey and Morocco, choose to repatriate, returning the bodies of their deceased family members to their home countries so that their burials can be carried out according to Islamic teachings perfectly.

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