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IMPLEMENTATION OF ISLAMIC LAW (SHARI'AH) IN MUSLIM MAJORITY COUNTRIES – CASE STUDY OF PAKISTAN, IRAN AND MALAYSIA

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ABSTRACT
The implementation of Islamic law (Shari'ah) in contemporary Muslim-majority states remains a significant legal, political, and socio-religious issue. This study comparatively examines the experiences of Pakistan, Iran, and Malaysia in institutionalizing Shari'ah within their constitutional and governance frameworks. Employing a qualitative historical-analytical methodology, the research analyses constitutional provisions, legislative measures, judicial structures, and policy initiatives undertaken in these three countries. The study finds that while all three states formally recognize Islam and incorporate Sharīʿah principles into their legal systems, the extent and effectiveness of implementation vary considerably. Pakistan has introduced numerous Islamization measures but continues to face challenges arising from legal pluralism, sectarian diversity, constitutional complexities, and economic constraints. Malaysia operates under a dual legal system in which Sharīʿah courts function alongside civil courts, creating jurisdictional and constitutional tensions. In contrast, Iran has established a comprehensive framework that integrates Sharīʿah into the state's constitutional and political structure through the doctrine of Velayat-e-Faqih. The study concludes that the success and limitations of Shari'ah implementation are closely linked to constitutional design, political commitment, legal coherence, and societal consensus. It recommends legal harmonization, institutional strengthening, and context-sensitive reforms to enhance the effective application of Islamic law in Muslim-majority societies.

Keywords: Islamic Law (Shari'ah), Islamization, Constitutional Governance, Pakistan, Iran, Malaysia

INTRODUCTION
The Law for human beings was given by Almighty Allah. The Supreme Being who created Adam and entire mankind had provide a law, so that people should follow it in order to have a peaceful and successful life here and for eternal success in hereafter. The Islamic law in present form was brought by the last messenger of Allah, Prophet Muhammad (Peace be upon him). The law was revealed in 23 years gradually through verses of Quran and through sayings, actions and approvals of the Prophet. Final revelation of the law was in the form of following verse No. 3 of Chapter Al-Maida, of Quran:

"This day, I have perfected your religion for you, completed My Favour upon you, and have chosen for you Islam as your religion." **(Al-Quran, 8:26–29)**

The law, though had been completed, had also catered for devising rules for new situations, expected to emerge with the passage of time through 'Ijtihad' (consensus). The Islamic law remained implemented through the times of rightly guided Caliphs and subsequent era of Muslim dynasties. However, in dynasties distinct administrative and criminal codes were also enforced. Post-colonial era saw many independent Muslim countries. The sphere of Islamic law was thus curtailed, limiting it to family law only, while introducing secular penal, economic and administrative laws by the governments of these newly independent Muslim countries.

Muslims in different Muslim majority countries, feeling detracted from the right path, desired to re-introduce Islamic law for complete enforcement at the state level. This study will analyse this resurgence in three countries i.e. Pakistan, Iran and Malaysia.

LITERATURE REVIEW
Literature review has been carried out as follows:

1. **The Trail Blazer' by Sardar Muhammad Chaudhry:** The book gives quotes of Quaid-

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e-Azam at various occasions. The book is helpful in studying the concept behind the creation of Pakistan, as perceived by its founder Quaid-e-Azam. **(Chaudhry, 2001)**

2. **The Politics of Religious Legislation: A Case Study of Pakistan 1979-2000' by Dr Muhammad Muzaffar:** The paper has highlighted that Islam was not given the role to reform the society but was given a role to propagate the political mandate of the rulers. **(Muzaffar, 2017)**
3. **Modern Challenges in implementing Islamic Criminal laws in Pakistan: A Policy Perspective' by Basharatullah** (Basharatullah, 2024)**:** The paper has highlighted that Practical implementation of Islamic law in Pakistan had met considerable challenges. The co-existence of Islamic and secular law within a judicial framework had led to legal ambiguities, causing inconsistencies in judicial interpretations and enforcement mechanisms.
4. **Islamic Law in Malaysia-The challenges of Implementation' by Adnan Trakic (a Report)** (Trakic, 2021)**:** The book has described the challenges faced in implementation of Sharia in Malaysia. It states that Malaysia is often considered as a model Islamic country. Malaysian judiciary has been quite efficient in solving cross judicial issues due dual law. The report provides lesson to those countries who operate both secular and Islamic law.
5. **Quranic Constitutionalism and Moral Governmentality-Further notes on the founding principles of Islamic society and polity' by Wael Hallaq** (Hallaq, n.d.): It states that the Quran originates constitutive epistemic and political structures in the Sharia. The article shows that the Quran laid the foundations for three constitutive features of the Sharia, i.e., (a) its constitutional organization and the practice of the rule of law, (b) its landmark features of jurists' law and ijtihadic apparatus, (c) its moral governmentality.
6. **Political Islam and the west' by John Exposito (**Esposito, n.d.)**:** It argues that Muslim politics at the
dawn of the twenty first century will continue to reveal the significance and impact of political Islam. At the same time, it will challenge the ability of senior policymakers and defense analysts to appreciate and revise strategies in response to changing realities.
7. **Limits of Power in Islamic Governance' by M Hashim Kamali** (Kamali, n.d.)**:** The article states
Different perspectives of power and government in an Islamic state between Muslim scholars and scholars from the West. In Muslim scholars' perspective Islamic government is a limited and responsible system based on the early rule of the four rightly guided caliphs. Whereas Western scholars view it as autocratic based on later historical caliphates. The article argues that the Islamic view is normative and juristic while maintaining the sovereignty of God and accountability of the government to the people and Shariah law, providing theoretical limits on governmental power to ensure justice and public interest.
8. **Salient Features of Iranian Constitution' by Hamza Bilal** (Bilal, n.d.)**:** The article gives the key
elements of Iranian constitution to understand the hybridized system of governance implemented in Iran.
9. **Human Rights in the Islamic Republic of Iran' by Impact Iran organization** (Impact Iran, 2016)**:** The article highlights different cases where people were detained by the authorities.
10. ***The council of expediency: crisis and statecraft in Iran and beyond'* by Maziyar Ghiyabi** (Ghiyabi, 2019)**:** The article highlights the role of Expediency Council. The council is quite influential in statecraft, national policy coordination, and executive supervision.

RESEARCH QUESTIONS

The study has following Research Questions:

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a. Were Muslim countries, Pakistan, Malaysia and Iran able to implement Sharia as law of the country?
b. What hurdles are faced in implementing Sharia in countries, Pakistan, Malaysia and Iran?
c. How Sharia can be completely implemented in countries, Pakistan, Malaysia and Iran?

RESEARCH OBJECTIVES

a. Implementation of Sharia as Law of the country to be studied in case of Pakistan, Malaysia and Iran.
b. Problems faced in implementing Sharia in Pakistan, Malaysia and Iran to be studied.
c. Steps required for the implementation of Sharia completely in Pakistan, Malaysia and Iran to be studied.

METHODOLOGY

Research Methodology adopted is qualitative with nature of research as historical-analytical. Method used is textual analysis having comparative historiography and critical evaluation of narratives.

Here we shall study the case of three countries, namely Pakistan, Malaysia and Iran individually, to apprise ourselves with respect to the implementation of Islamic law (Sharia) in these countries.

The reason for selecting these countries out of all Muslim countries is that these countries made serious attempt to implement Islamic law Sharia at state level. However, in our case i.e. Pakistan and Malaysia, the countries did not remain fully successful. Iran remained successful and therefore its inclusion will allow a comparative study.

PAKISTAN

CASE BACKGROUND

Pakistan got independence from British colonial rule of Sub-continent. Population of majority Muslim areas of western and eastern part of the Sub-continent led a movement for an independent Muslim state under the leadership of Quaid-e-Azam. The vision was to have a separate homeland from Hindus, as the two could not live together peacefully due to difference in ideologies. This homeland had to provide a working model of a modern Islamic welfare state. Quaid-e-Azam on number of occasions had expressed his desire to form a state that should run on Islamic principles. Thus, the law for the country suggested was Islamic law. Quaid-e- Azam in his speech to Shahi Darbar, Sibbi, (Baluchistan) said on 14 February 1947 (Chaudhry, 2001)**:**

"It is my belief that our success lies in following the perfect way guided to us by Prophet Muhammad (Peace be upon him), as a law giver. We must lay our democratic foundations on Islamic ideals and principles in true sense."

In his address at Islamiyah College Peshawar, on 13 January 1948, he said in clear terms the purpose of the creation of Pakistan, as follows (Chaudhry, 2001):

"Islam is the basic source of our life and existence. We demanded Pakistan not for merely having a piece of land, rather we wanted a testing place where we could verify the Islamic principles."

Hence, need for a separate homeland was clear before getting independence, i.e. establishing a place having Islamic law functional in all spheres of government and public life. The idea was to present a model of Islamic governance to the world, after 1300 years of the advent of Islam. The Objectives Resolution was passed by the constituent assembly of Pakistan on March 12, 1949. This document laid out the guiding principles for Pakistan's constitutional and political future. It proclaimed that sovereignty over entire universe belongs to Almighty Allah and the authority delegated to the state shall be exercised by the people of Pakistan through their chosen

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representatives. Its most important paragraph with respect to implementation of Islamic law was (Pakistan, n.d.):

"The Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah."

The Objectives Resolution that was the Preamble of the Constitution of 1973, was made part of the constitution, under article 2A of the constitution.

The Legislature thus formally enacted Islamic law in Pakistan through the Enforcement of Shari 'ah Act, 1991 and the historical Hudood Ordinances, 1979. Additional key legislation enforcing Islamic principles includes the Zakat and Ushr Ordinance, 1980 and the Qasas and Diyat Ordinance, 1990. Details of the same are as follows:

1. **Enforcement of Shari 'ah Act, 1991.** This legislative milestone declared the Sharia (the injunctions of the Holy Quran and Sunnah) as the supreme law of Pakistan. It mandated that all existing laws be brought into conformity with Islamic teaching and directed the state to take steps to eradicate obscenity, bribery, and social evils while promoting Islamic virtues. (Pakistan, n.d.)

Islamic Provisions of the Constitution: (Pakistan, n.d.):

2. **Hudood Ordinances, 1979.** Enacted by President General Muhammad Zia ul Haq codified core Sharia principles into the Pakistani penal and judicial systems, as follows:

a. *The Offence of Zina (Enforcement of Hudood) Ordinance, 1979*: Criminalizes extramarital sexual relations (zina) and rape, replacing sections of the colonial penal code.
b. *The Offences against Property (Enforcement of Hudood) Ordinance, 1979:* Enacted Islamic punishments (like amputation) for theft, robbery, and haraabah (highway robbery).
c. *The Prohibition (Enforcement of Hadd) Order, 1979:* The law prohibits any kind of production, sail and drinking alcohol or intoxicants for Muslims.
d. *The Offence of Qazf (Enforcement of Hadd) Order, 1979:* This order makes a person liable for punishment who wrongly accuses somebody for adultery without evidence prescribed in Islamic law.

3. **Zakat and Ushr Ordinances, 1980.** The order formalises the collection of Zakat and Ushr by the government for distribution to those in need through a government run system.
4. **Qisas and Diyat Ordinance, 1990.** The ordinance deals with harm and killing of a person in accordance with Islamic law. It formalises Qisas (retribution in kind) and Diyat (compensation through payment), to have compromise among the parties.

PRESENT SCENARIO

The implementation of Islamic law has come across certain problems, as Islamic jurisprudence is different from modern constitutional governance. (Basharatullah, 2024)

The reasons are as follows:

1. **Conflict between legal Systems.**

Pakistan has hybrid legal system, a combination of old pre partition law and Islamic principles. All laws are to be brought in accordance with Quran and sunnah, according to Pakistani constitution. However, resistance from secular thinking makes it difficult to practically implement this.

2. **Sectarian and School of Thought Divisions.**

There are various schools of thought (Fiqh); Hanafi, Shafii, and Jafri. Because these schools often have difference of opinion it makes difficult for the government to make a law acceptable to all.

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3. **Human Rights and Modernity.**
   Islamic punishments are strict and seems to be harsh in view of modern human rights. Therefore, there remains a debate between the proponents of the two, causing an atmosphere of friction where law cannot be made as per Islamic principles.
4. **Methodological Challenges in implementation.**
   Applying historical Islamic jurisprudence to a contemporary nation-state presents practical dilemmas. Determining strict evidentiary standards (eg. The number and character of witnesses required for certain crimes) within a modern police and judicial framework is highly challenging. This has led to contradictions where the letter of the law is enacted but rarely applied in practice.
5. **Economic Complexity.**
   Reforming Pakistan's economy to align with Islamic law- has been intensely debated. While the Federal Sharia Court has issued directives to eliminate interest from the financial system, practically transitioning a modern, globally integrated economy without severely disrupting banking, investments, and inflation management has delayed full implementation.

ANALYSIS

Pakistan was created in the name of Islam. Implementation of Islamic law Sharia may lead our country to prosper. Pakistan as a country is answerable as it has remained unsuccessful in implementation of Sharia completely.

The Holy Quran in verses 26-29, the situation has been depicted perfectly, while also giving a way ahead. These verses remind us that in sub-continent we, as Muslims, were less in number and considered week, fearing of our elimination. In such a miserable condition, Allah provided us an independent safe land and strengthened us with His help. Additionally, He provided us with good things, giving us an opportunity to be thankful. After reminding us of this great favour, Allah has called upon us to remember the promise we made with Him, while creating this homeland; asking us not to betray Him and take care of the 'Amaana' (the promise of implementing Islamic law in the given homeland).

He now asks us to be careful and not to exchange the promise with worldly gains. Allah then says that even now if we fear him and abide by the promise, we made with Him, He will bless us with 'Furqan' [(a criterion to decide between right and wrong), or ('Makhraj', i.e. a way for getting out from every difficulty)], and will expiate us for not abiding by the promise uuntil now.(Al-Quran, 8:26–29)

Through the aforementioned verses, we are demanded very clearly to abide by the promise the founders of this country made with Allah for implementing His law in the given homeland.

MALAYSIA

CASE BACKGROUND

Islamic law in Malaysia operates in a dual legal system, co-existing with English common law. It dates to 14th century Malacca Sultanate but was codified and formalized in its modern context under the Federal Constitution of Malaysia in 1957 (Esther Agbaje, 2015).

1. **Historical Roots (Pre Colonial).**

a. *The Inscription of Terengganu.* This is evidence of Islamic law in Malaysia which dates to 1303, before the Malacca Law Code. (Nik Adzrieman Abd Rahman et al, 2012)

b. *The Malacca Sultanate.* In the region when Islam got a foothold, Islamic law was introduced in state affairs, judiciary, and governance at grass root level, combining with local customs (Mustafa, 2019).

2. **The British Colonial Era.**

a. During colonization, British administration preserved Islamic law mostly for personal and family matters (e.g. Marriage, divorce and inheritance) for Malay-Muslims.

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b. Secular English common law was widely introduced, shaping the overarching judicial system and commercial law.

3. The 1957 Federal Constitution. (Pakistan, n.d.)

a. Official Religion.
Under Article 3(1) of the Federal Constitution, Islam is the religion of the Federation, but other faiths may be practiced in peace and harmony (Pakistan, n.d.)

b. State Jurisdiction.
The Constitution grants individual Malaysian states the primary authority to administer Islamic law. State Sultans act as the heads of Islam within their respective states, supported by religious councils (Pakistan, n.d.)

4. Jurisdiction and Scope.

a. Sharia Courts.
The Sharia judiciary has jurisdiction only over Muslims. Its powers are constrained to matters such as marriage, divorce, inheritance, and religious offences (e.g. Consumption of Alcohol, missing Friday prayers).

b. Civil vs Sharia.
The administration of Islamic law falls under state jurisdiction. This means each of the 9 Malay states has its own legislative power over Sharia law.

5. Modern reforms and Institutional strengthening.

a. Islamic Policies. Starting in the 1980s, driven in part by legal scholars like the late Professor Anwar Ibrahim, the government, sought to systematically expand and standardized Sharia Institutions.

b. Article 121 (1). A crucial 1988 constitutional amendment barred civil courts from interfering in matters that fall within the jurisdiction of the sharia courts (Pakistan, n.d.)

c. State enactments. Since the 1990s and 2000s, states have continually updated their administration of Islamic law enactments to introduce clear guidelines on issuing fatwas, handling Halal compliance, and regulating offences against the precepts of Islam.

PRESENT SCENARIO

Implementing Islamic law in Malaysia faces major hurdles due to its dual legal system (Sharia and Civil law). Core challenges include jurisdictional conflicts with the secular constitution, inconsistencies in state level Sharia laws, human rights tensions, and concerns among non-Muslim minorities regarding national integration.

1. Dual-Legal System and Jurisdictional Conflicts.
Often a civil issue (for example a divorce) lends into Sharia territory (for example spouse converting to Islam) is a cause of dispute. Different judgements are issued by a civil court and a court passing judgement as per Sharia, causing limbo.

2. Absence of Uniformity among States.
The Sultan of each state determines Islamic law, therefore there is a lack of uniformity. An offence in a state, may not be punishable in other state.

3. Constitutional Supremacy.
Jurisdiction of Sharia courts are restricted. Constitutionally limitation is there in type and strictness of punishments they can give. Therefore, implementation of severe punishments as per Islamic law cannot be carried out.

4. Tension caused due Apostasy.
Instances where Muslims leave Islam go through indepth scrutiny. Civil courts often rule that jurisdiction over apostasy belongs to Sharia courts, which are generally highly reluctant to approve conversions out of Islam. This leads to friction with constitutional guarantees of religious freedom.

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ANALYSIS

The problem in implementation of Islamic law completely in Malaysia is the dual system. Till the time the Muslim citizens and the government is not destined to implement Sharia fully, the situation will remain as it is. This is a dilemma of Muslims everywhere. As Allah says in verse 208, Chapter Al-Baqara of Quran:

"O you who believe! Enter perfectly in Islam (by obeying all the rules and regulations of the Islamic religion)." (Al-Quran, 2:208)

So the Muslims are ordered to embed Islam in all their affairs. Malaysia as a country may progress ahead in implementation of Sharia completely, if the government and the Muslims of Malaysia resolve to do so.

IRAN

CASE BACKGROUND

The implementation of Islamic law in Iran was institutionalized during the 1979 Islamic Revolution, driven by Ayatollah Ruhollah Khomeini's Velayat-e-Faqih (Gaurdianship of the Islamist Jurist) theory. Iran was made an Islamic republic where all laws must be according to Islam.

The Islamic law was introduced in following stages.

a. Pre-1979 Secular Pahlavi Era. Western laws were implemented in Shah Regime, having a combination of secular civil laws and traditional laws. The secular face was not acceptable to the new Islamic regime.
b. The 1979 Revolution. After widespread unrest, the return of Ayatollah Khomeini from exile resulted in culmination of 2500 year old monarchy. In March 1979, Iranians voted tremendously for establishment of Islamic Republic of Iran.
c. Judicial alignment (1982-1983). The Supreme Court of Iran in the year 1982, abolished laws of Shah Regime that were against the Sharia. The 1983 Islamic Penal Code subsequently institutionalized traditional punishments, including retributions (qisas) and corporal chastisement for various offences. (LAWYERS COMMITTEE FOR HUMAN RIGHTS, 1993)
d. The Expediency Council (1988). A council was established having a mandate to resolve legislative issues between the parliament and the Guardian Council. The aim of Expediency Council was to protest the interest of state for interpretations Sharia (Ghiyabi, 2019). The council has influence over national policy coordination.

PRESENT SCENARIO

Iran legal system is based on Islamic law (Sharia), requiring all civil, penal, and financial laws to comply with Islamic rules. The implementation is hybridized to suit modern governance and to implement checks and balances.

The constitution of Iran presents a hybridized form combining theocracy with democracy elements (Bilal, n.d.). It bases laws and state functions in Sharia, oversee by the concept of *velayat-e faqih* (Guardianship of the Islamic Jurist). Its basic elements are as follows:

a. The Supreme Leader: The supreme leader is the head of the state, having final political and religious say. He controls the military and also appoints the judicial heads.
b. Velayat-e-Faqih: The concept is that the supreme cleric (faqih) is overseer of state governance, ensuring it is run in accordance with Islamic principles.
c. The Guardians Council: It is a body of six clerics and six jurists. The body has veto power. It vets candidates for presidency and parliament. It also ensure that legislation is in accordance with Islamic law.
d. The Presidency and Parliament: The president is the head of government, elected by the public. Parliament makes legislation, though its actions are subject to the Guardian Council's approval.

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e. Assembly of Experts: An elected body of 86 Islamic scholars responsible for choosing, supervising, and potentially dismissing the Supreme Leader.
f. Judiciary: It ensures that the laws remained aligned with the Islamic principles.

Human rights in Iran have remain the subject of a critical, ongoing international debate (Impact Iran, 2016). Key areas of contention include the regime's systemic repression, use of the death penalty and asking women for hijab.

In present crisis the political system driven through hybridized system, having Islamic law as supreme, has proved its success. USA and Israel failed to execute regime change operation. The supreme leader was targeted, though its martyrdom resulted in display of exemplary unity among the masses and government entities. Hence practical demonstration of success of Islamic law has been observed during the crisis.

ANALYSIS

Iran is the Islamic country in which Islamic law is implemented without any parallel dual system. The nation has progressed in peace despite sanctions of last forty years. The performance of the country in present crisis is manifestation of success of the Islamic law**.** The same is likely to continue in future.

As Allah says in verse 71 of Chapter Al-Ahzaab of Quran:

"And whosoever obeys Allah and His Messenger, he has indeed achieve a great achievement." (Al-Quran, 35:71)

CONCLUSION

Islam is the guidance for the Muslims. It is mandatory on Muslims to follow it as directed by Almighty Allah. Implementation of Islamic law in Muslim majority states is thus a necessity and a duty, rather a matter of choice. Iran has implemented the same and its successful survival in present crisis is the result of governing through Islamic law. Pakistan and Malaysia has implemented Islamic law to a much larger extent. It is necessary in Pakistan to transform the laws repugnant to Quran and Sunna, as already provisioned in the constitution to implement the Islamic law in totality. In Malaysia, dual system raises legal problems and are likely to continue. It is therefore important to implement Islamic law in totality. It is the implementation of Islamic law in totality that may lead Pakistan and Malaysia to progress and prosper.

In this regard we would like to recommend that all laws in Pakistan are to be transformed so as to align with Quran and Sunnah. Dual system in Malaysia is required to be transformed to one system as per Islamic injunctions. Pakistan should provide a model of modern Islamic welfare state to other Muslim countries and to the world in general, according to the vision of the founder of the nation.

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