



Vol. 3 No. 10.1-International Conference on Re-imagining Justice (October, 2025)-  
Special Issue

## **“Balancing Tradition and Modernization in Law making: A Comparative Study of Pakistan and Tunisia”**

### **Ms. Abida Muneer**

Bachelors Scholar, Department of Political Science and International Relations,  
Government College Women University, Faisalabad, Pakistan

Email: [abidamunir071@gmail.com](mailto:abidamunir071@gmail.com)

### **Ms. Amna Nawaz**

Bachelors Scholar, Department of Political Science and International Relations,  
Government College Women University, Faisalabad, Pakistan

Email: [amnanawaz539@gmail.com](mailto:amnanawaz539@gmail.com)

### **Dr. Tayba Anwar** (Corresponding Author)

Incharge, Department of Political Science & International Relations, Government College  
Women University, Faisalabad, Pakistan

Email: [taybaanwar@gcwuf.edu.pk](mailto:taybaanwar@gcwuf.edu.pk)

### **ABSTRACT**

This research investigates how Tunisia and Pakistan contend with the need for balance between modernity and tradition in their respective law-making processes. How do the two states maintain an Islamic identity while attending to the modern imperatives of governance, democracy, and the protection of human rights? To answer the question, the paper analyses constitutions, statutory reforms, secondary literature and compares Pakistan’s dual legal system here principles of Shariah and parliamentary democracy coexist against Tunisia’s more progressive secular-civil system and the Islamic values espoused in the Tunisian constitution. Pakistan’s legal institutions such as the Federal Shariat Court and the Council of Islamic Ideology, and the secular post-2011 Tunisian constitutional bodies, are discussed as exemplifying and institutionalising the principles of pluralism and equality self-imbued in the analysands of the research. Specifically, faith and modernity as conceptual and legal constructs are dynamic, and such in the research context, are defined through the lens of colonial history, political leadership, and societal constructs. The success of any legal reform depends on how far and in what manner such reforms achieve and align with the unchanging international principles of governance, rights, and maqāṣid al-sharī‘ah (objectives of Islamic law) justice, welfare, and human dignity.

**Keywords:** Legal Reform, Islamic Constitutionalism, Shariah, Pakistan, Tunisia, Democracy, Human Rights, Gender Equality, Constitutionalism, Governance, Islamic Law, Shariah



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## Introduction

In the Muslim world, integrating modern governance with religious tradition is, without doubt, one of the greatest political and intellectual challenges. Debates surrounding authority, legitimacy, and reform, remain lively within the context of Islam and modernity. In this regard, law is one of the areas within which such debates are played out, and such is the case with Pakistan and Tunisia. Politically, Pakistan and Tunisia are distant, yet, notwithstanding their ideological commitments to nations built around Islam, Pakistan and Tunisia share colonial history and nation-building struggles. Also, with respect to legislation and lawmaking, one country has undergone significant positive divergence whereas the other remains stagnant. Pakistan illustrates constant struggles in which Islamization of laws conflicts with other nation building legal objectives. Since 1947, Pakistan has negotiated such laws that both reflect and advance Islamic principles, socio-economic development, and political stability (Karimullah, 2023).

The Constitution of 1973 recognizes Islam as the state religion; this was to be the first of many laws of the country that reflect Islam, however, it was and is the first to guarantee democracy, as well as fundamental rights to all citizens. In juxtaposition to Pakistan,



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Tunisia seeks to 'redefine' Islam according to modernity, as demonstrated by the Islamic Code reinstated by Bourguiba. I seek to illustrate how Islamic principles in modernization can co-exist without contradiction, as demonstrated in the two case studies. This paper distinguishes the two states for their individual, yet complementary, approaches to harmonizing religion and contemporary governance. This is done through the study of their constitutions, institutions, and legal reform (Kamna, 2024).

### **Theoretical Framework**

#### **Theoretical Background: Islamic Modernization and Constitutional Frameworks Colonial and Legal Legacies of Pakistan and Tunisia**

The colonial and legal legacies of Pakistan and Tunisia are different but equally significant in shaping their post-independence constitutional development. During the British colonial era, personal status laws for Muslims in the Indian Subcontinent were codified, alongside a patchwork implementation of English common law. This created a dual legal system in Pakistan—one rooted in Islamic jurisprudence (Shariah) and the other in colonial secular law—that has operated in tension and disengagement from one another (Isar, 2024). Pakistan inherited both the bureaucratic centralization and secular bias of the British legal system, as well as the administrative inefficiencies embedded in colonial governance. In contrast, Tunisia's French protectorate (1881–1956) replaced traditional Islamic legal courts with civil courts based on French law, while still allowing family matters to remain under Islamic jurisdiction (Gul, 2025).

Almost immediately after independence, Habib Bourguiba's government embarked on constructing a new secular modernity. Religious courts were abolished, and the landmark Code of Personal Status (1956)—the first of its kind in the Arab world—prohibited polygamy and required mutual consent in marriage. While Pakistan retained institutional Islamization, Tunisia institutionalized secular modernity, redefining Islam as a moral and cultural reference rather than a legislative foundation. Despite these divergent paths, both nations faced the challenge of balancing tradition and modernity, seeking to reconcile Islamic legitimacy with modern constitutional and institutional governance. These contrasting historical experiences laid the foundation for how each state would later integrate Islamic tenets into their legal and political system (Ustaoglu, 2023).

#### **Pakistan's Constitutional Framework and Islamic Integration**

As one of the most complex modern constitutional democracies, Pakistan has sought to implement Islamic law within a modern constitutional framework. Although Pakistan's governance structure stems from diverse historical influences, the country's identity has been defined and framed as an Islamic Republic from the very beginning. This identity is a product of colonial legacy combined with the Western legal and administrative systems inherited from British rule. As a result, two parallel sources of legitimacy—religious and secular—have shaped and continue to influence Pakistan's law-making processes. The 1973 Constitution represents a pivotal moment in Pakistan's legal history, embodying a deliberate attempt to balance Islam and democracy. The Constitution explicitly recognizes Islam as the state religion under Article 2, and Article 227 mandates that no law shall be enacted that is repugnant to the injunctions of Islam as laid down in the Qur'an and Sunnah. Further, Articles 228–231 provide for the establishment of the Council of Islamic Ideology (CII), an advisory body tasked with ensuring that parliamentary legislation remains consistent with Islamic principles (Kennedy, 2007).



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At the same time, the Constitution guarantees fundamental rights such as freedom of religion, equality before law, freedom of expression, and the right to political participation. This dual structure Islamic and democratic illustrates the constitutional duality of Pakistan as a modern Islamic state. However, the interpretation and implementation of these provisions have varied depending on the political context. Under civilian governments, constitutional Islamization has tended to be progressive and interpretive, focusing on parliamentary supremacy and a modern understanding of Islamic principles. In contrast, military regimes have often pursued direct Islamization as a means of legitimizing authoritarian control. For instance, General Zia-ul-Haq's era (1977–1988) witnessed an extensive Islamization campaign, introducing Hudood Ordinances and Shariah-based judicial reforms. These efforts not only deepened the integration of religion into governance but also influenced the political calculus of power, merging religious legitimacy with state authority. Thus, lawmaking in Pakistan is not merely a legal mechanism but a continuous process of ideological negotiation, balancing religious authenticity with modern governance requirement (Gul, 2025).

### **Modernization Theory and Islamic Contexts**

Modernization theory in its classical form suggested that societies evolve from the “traditional” to the “modern” through phases of industrialization, secularization, and rationalization. Early theorists viewed modernization as a linear and universal process that would eventually lead societies toward Western-style democracy and capitalism. However, later scholarship introduced the concept of “multiple modernities,” arguing that modernization could take different cultural and civilizational paths. This framework recognizes that Muslim societies could modernize while maintaining their religious and cultural foundations. In Islamic societies, modernization has not meant a rejection of religion but an adaptation of Islamic norms to modern institutions. This means that religious authenticity and social reform can coexist though the balance often depends on the state's political will, historical legacies, and societal pressures. Pakistan's modernization has been uneven and cyclical, largely due to the shifting balance between civilian and military power (Allie, 2019). Civilian leaders promoted reforms in education, industrialization, and social welfare, while religious groups resisted, equating modernization with Westernization. Despite this resistance, Pakistan's 1973 Constitution itself represents an attempt to merge modernization with Islamic legitimacy (Alraggad, 2024).

By embedding democratic freedoms, parliamentary governance, and Islamic conformity clauses, Pakistan's constitutional framework embodies a hybrid modernization model one that is neither purely secular nor entirely theocratic. On the other hand, Tunisia's modernization followed a secular and state-driven path under Bourguiba. Education reform, women's empowerment, and economic regulation were central to his modernization strategy. The 1956 Code of Personal Status became a symbol of social progress, abolishing polygamy and ensuring women's consent in marriage while Islam was retained as a moral compass for justice and equality. Bourguiba's vision treated Islam as compatible with modernity but separated it from legislative authority. Through this lens, Pakistan and Tunisia embody two distinct forms of Islamic modernization. Pakistan's modernization is rooted in Islamic constitutionalism, where Islam is embedded in legal frameworks to guide political identity and law-making. Tunisia's modernization, by contrast, stems from secular rationalism, where Islam serves as a



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cultural and ethical reference. Both cases demonstrate that modernization in Muslim societies is not uniform but rather a dynamic negotiation between tradition, reform, and state power (Faizi, 2024).

### **Tradition, Reform, and the Search for Balance**

The attempts by Pakistan and Tunisia to reconcile Islamic authenticity with democratic articulation reflect broader tensions between tradition and reform. In both contexts, the interpretation of Shariah remains central not only as a source of law but also as a moral authority shaping national identity. However, the state's interpretation of Shariah often reflects political pragmatism rather than theological purity. In Pakistan, the incorporation of Islamic provisions often responds to pressures from religious elites and political Islamists, whereas in Tunisia, Islam's role in governance has been largely symbolic and institutionalized through constitutional moderation. The interplay between legal modernizations and Islamic legitimization defines the ongoing challenge for both states (Musawah, 2021).

Pakistan's experience shows that institutional Islamization, while offering moral legitimacy, can also complicate legal uniformity and human rights enforcement. Conversely, Tunisia's secular modernization, while advancing social reforms, has sometimes been critiqued for marginalizing religious identity. Ultimately, both nations illustrate that modernization within Islamic contexts is not a process of abandoning faith but one of reinterpreting it to meet contemporary governance needs. The balance between Islamic authenticity and democratic reform remains the cornerstone of their constitutional evolution an evolving experiment in aligning divine principles (Hussain, 2020).

### **Islamic Constitutionalism**

This form of Islamic governance attempts to reconcile the moral tenets of Islam and the modern constitutional state by bridging the gaps of divine law and democracy (Brown, 2017; March & Rubin, 2019). The doctrine of *maqāṣid al-sharī'ah* the objectives and ultimate aims of Islamic law, is central to this approach jurisprudence, and legislation. These elements of religion are the protection of religion, life, intellect, lineage, and property (Kamna, 2024). When responded to, the democracy objectives of the law become participatory governance, justice, and equality. For Pakistan, this is a more developed model of Islamic constitutionalism.

The Constitution, Article 227, declares that all legislation must align with Islamic teachings, the laws are reviewed by the Federal Shari'at and Islamic Ideology Council and Court and the Council. Tunisia, in contrast, is said to be a more symbolic model of Islamic constitutionalism, citing Article 1 of the 2014 Constitution. It states that "Islam is the religion of the state," yet legislative authority resides in elected institutions. Islamic law acts as a moral guide and the laws as a constraint. These suggest that religious legitimacy is reinterpreted in the two cases in a fashion that embraces modern Islamic frameworks. How bills are introduced, assessed by the Council of Islamic Ideology (CII), and passed through the Federal Shariat Court, etc. Parliament and Islamic Provisions (Articles 227-231) Zia-ul-Haq's Key Reforms, Islamization Periods, Women's and Criminal Laws, the 18th Amendment Updates (Abbas, 2023).



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### **Challenges in Modernization**

How effective modernization is supported through Islamic constitution section 7 case study: Tunisia lawmaking under the 2014 constitution. structure of the assembly of the representatives of the people, constitutional court, and the balance of civil and Islamic law the symbolic role of Islam in legislative debates. Post the 2011 revolution, reforms in family laws, gender equality, freedom of conscience. Role of Ennahda, political dynamics, and secular coalitions, and their judicial review. assessment against modern rights tied to Islamic morals (Hussain, 2020).

### **Colonial Experiences**

The colonial and legal legacies of Pakistan and Tunisia are different but significant. During the British colonial era, personal status laws for Muslims in the Indian Subcontinent were codified, along with a patchwork implementation of common laws. This created a dual legal system for Pakistan, with Shariah and colonial laws operating and disengaged from one another (Lau, 2006). Pakistan received the British legal system's inefficiency and secular bias and administrative colonialism in equal measure. Tunisia's French protectorate (1881 to 1956) replaced Islamic legal courts with civil ones based on French law, though family matters were still under Islamic jurisdiction (Gul, 2025). Almost immediately after independence, Bourguiba's government constructed new secular modernity. Abolishing religious courts, he initiated the Code of Personal Status in 1956, the first in the Arab world to abolish polygamy and require mutual consent in marriages. Tunisia established secular modernity while Pakistan retained institutional Islamization. The colonial and legal legacies of Pakistan and Tunisia are different but equally significant in shaping their post-independence legal and political trajectories. During the British colonial era, personal status laws for Muslims in the Indian Subcontinent were codified alongside a patchwork implementation of English common law. This process created a dual legal system in which Islamic (Shariah) and colonial legal frameworks operated side by side yet remained largely disengaged from one another (Lau, 2006).

Consequently, Pakistan inherited the British legal system's bureaucratic inefficiency, secular orientation, and administrative colonialism, which prioritized governance stability over indigenous legal authenticity. The British model's secular bias, coupled with codified personal laws, left Pakistan with a complex legal heritage—one that attempted to balance Islamic morality with inherited colonial rationality. In contrast, Tunisia's colonial experience under the French protectorate (1881–1956) resulted in the almost complete replacement of Islamic judicial institutions. The French authorities dismantled traditional Shariah courts and introduced civil courts based on the French legal system, leaving Islamic law to operate only in matters of personal status. However, even within these restricted domains, the colonial administration ensured French oversight. When Tunisia gained independence, Habib Bourguiba's government swiftly initiated reforms to establish a secular, modern national identity. The most transformative measure was the Code of Personal Status (1956) a pioneering legal instrument in the Arab world that abolished polygamy, emphasized mutual consent in marriage, and improved women's legal standing in society. These reforms symbolized Tunisia's effort to redefine Islam through the lens of modernity, rationalism, and gender equality, creating a model for reformist Arab governance. While Tunisia moved toward a secular modern state, Pakistan retained and institutionalized Islam as a cornerstone of its legal



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and political identity (Mustafa, 2024).

The creation of the Council of Islamic Ideology (CII) and the constitutional recognition of Islam as the state religion embedded religious principles into the fabric of governance. Pakistan's postcolonial legal development thus became a continuous negotiation between Islamization and modernization, with leaders attempting to harmonize inherited colonial laws with Islamic jurisprudence. This dual legacy has made Pakistan's reform process more contested and gradual, compared to Tunisia's assertive secularization. Ultimately, these contrasting colonial inheritances continue to define both nations' paths of modernization—Pakistan's pursuit of Islamic authenticity within modern institutions, and Tunisia's ongoing struggle to reconcile secular reforms with religious identity. The colonial legacy, therefore, remains not just a historical backdrop but a living influence shaping each country's contemporary debates on law, governance, and the role of religion in the state (Allie, 2019).

### **Post-Independence Evolution**

Islamic aspirations would be formally included in the 1956 and 1962 constitutions, while Pakistan's early constitutional experiments would reflect the bureaucracy's modernization aspirations. The 1973 Constitution issued under Prime Minister Zulfikar Ali Bhutto marked a turning point by declaring Pakistan an Islamic Republic and embedding religious oversight within the constitution. General Zia-ul-Haq would only expand these changes in 1977 with his Islamization program, introducing Hudood Ordinances, Shariat courts, and the Zakat and Ushr laws (Karimullah, 2023).

On the other hand, Tunisia pursued the opposite approach. Bourguiba promoted state control of religion, and secular education, and women's emancipation (CanLII, 2003). His successor, Ben Ali (1987-2011), did little to change authoritarian secularism, masking the state with Islamic rhetoric. The 2011 Jasmine Revolution brought democratic pluralism, while the Ennahda movement proposed a "civil state" reconciled with Islam. The 2014 Constitution marked a new phase in modern Tunisia by institutionalizing freedom of belief, gender equality, and decentralization (M. Hussain & Akhtar, 2025).

### **Case Study: Pakistan Tradition and Modernization in Lawmaking**

As one of the most intricate modern constitutional democracies, Pakistan continues to struggle with reconciling the demands of Islamic law and modern governance. The country's journey since 1947 reflects an ongoing effort to strike a balance between divine sovereignty and popular will, between tradition and modernity, and between moral legitimacy and political pragmatism. Although Pakistan's political institutions and administrative systems bear the deep imprint of its British colonial legacy, its founding ideology was profoundly Islamic aspiring to construct a state that embodied Islamic values of justice, equality, and moral responsibility. From its inception, Pakistan defined itself as an Islamic republic, not merely as a political label but as an assertion of ideological distinctiveness from secular India. This identity served to unite diverse ethnic and linguistic groups under the shared banner of Islam, yet it also introduced an enduring paradox how could a state simultaneously adhere to divine law while functioning as a modern constitutional democracy. This question remains central to Pakistan's constitutional discourse and continues to shape the evolution of its governance framework (Saleem, 1998).



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### **The Colonial Legacy and Dual Sources of Legitimacy**

English common law, emphasizing secular rationality, bureaucratic hierarchy, and judicial formalism. However, alongside this, the British had also codified personal status laws for Muslims, allowing limited space for Islamic jurisprudence. After independence, Pakistan found itself managing this dual legal structure, where Islamic and colonial laws coexisted but rarely converged. This legacy created what legal scholars describe as a “hybrid legal consciousness,” where both religious and secular justifications of law cohabit and occasionally clash. As a result, Pakistan’s legal development has always been influenced by two competing sources of legitimacy (Faizi, 2024).

Divine sovereignty asserting that all authority belongs to Allah, and the state must function according to His commandments.

Popular sovereignty emphasizing that power derives from the will of the people expressed through representative democracy. These twin legitimacies are both constitutionally recognized, yet they create an ongoing ideological tension that defines Pakistan’s legal-political identity.

### **The 1973 Constitution: Reconciling Islam and Democracy**

The 1973 Constitution stands as a milestone in Pakistan’s constitutional evolution. It emerged after years of political turmoil and the traumatic separation of East Pakistan, reflecting a collective desire to rebuild a stable and unified state. The framers of the Constitution sought to establish a political order that respected democratic principles while embedding Islam as the moral foundation of the state. Article 2 declares Islam as the state religion, while Article 227 mandates that no law shall be enacted that is repugnant to the injunctions of Islam as laid down in the Qur’an and Sunnah. In addition, Articles 228 to 231 provide for the creation of the Council of Islamic Ideology (CII), an advisory body responsible for evaluating existing laws and proposing reforms to bring them into conformity with Islamic principles (Hussain, 2020). These provisions institutionalized Islam within the state apparatus, transforming religious conformity from a moral obligation into a constitutional requirement. At the same time, the Constitution guarantees fundamental rights such as equality before law, freedom of religion, freedom of expression, and the right to political participation in Articles 8 to 28. Thus, Pakistan’s Constitution simultaneously upholds Islamic supremacy and individual liberties, illustrating the nation’s ongoing effort to blend divine guidance with democratic governance. This delicate balance has come to symbolize Pakistan’s constitutional duality—the coexistence of Islamic and democratic ideals within a single framework (Haddad, 2025).

### **Islamization and the Politics of Power**

The interpretation and application of these constitutional provisions have fluctuated according to the prevailing political context. During periods of civilian rule, governments have generally adopted a more pragmatic and reformist interpretation of Islamic principles. Leaders such as Zulfikar Ali Bhutto sought to integrate Islam with socialism, promoting economic justice and social equality under the banner of “Islamic socialism.” However, these attempts often faced opposition from religious scholars (ulema) who viewed them as politically motivated reinterpretations of religion. The most transformative phase of Islamization occurred under General Zia-ul-Haq’s military regime (1977–1988). Zia sought to legitimize his rule through the rhetoric of Islamic



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revival, introducing far-reaching legal and institutional changes (Abbas, 2023).

His policies included the promulgation of the Hudood Ordinances (1979), which criminalized certain acts such as adultery and alcohol consumption under Islamic law, and the establishment of the Federal Shariat Court (1980) to examine the conformity of laws with Islam. Zia's Islamization drive marked the first systematic attempt to translate Islamic injunctions into enforceable state law, yet it was also a political strategy to consolidate authoritarian control. Religion thus became intertwined with political legitimacy, setting a precedent that future regimes would invoke in varying degrees. Post-Zia governments have oscillated between reform and restraint, reflecting the enduring struggle to define the appropriate role of Islam in public law. While successive civilian governments under Benazir Bhutto, Nawaz Sharif, and others emphasized modernization and democratic continuity, the structural imprint of Zia's Islamization remained embedded in Pakistan's constitutional framework and legal institutions (Haddad, 2025).

### **Judicial Interpretation and Institutional Dynamics**

The judiciary in Pakistan has played a crucial role in mediating between the competing claims of Islamization and constitutionalism. The Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court have served as key arbiters in determining whether particular laws comply with Islamic injunctions. Some landmark decisions, such as the rulings on *riba* (interest) and the status of women's testimony, illustrate the judiciary's attempts to balance traditional Islamic jurisprudence with modern constitutional principles. However, this judicial engagement has also been controversial. Critics argue that inconsistent interpretations have led to legal uncertainty, while supporters contend that judicial reinterpretation allows Islam to remain relevant in changing social contexts. The judiciary's oscillation between activism and restraint reflects the broader political volatility of the state where judicial decisions often mirror the ideological priorities of the ruling regime. Socio-Political Implications and contemporary Challenges Pakistan's governance, social order, and human rights discourse (Ahmad, 2022).

On one hand, it has reinforced the moral legitimacy of the state, providing citizens with a sense of religious continuity and identity. On the other hand, selective implementation and politicization of Islamization have generated inequalities and contradictions. Women's rights, minority protections, and freedom of expression have often become arenas of contestation, illustrating how religious law can be used both as a source of empowerment and as an instrument of control. Moreover, the coexistence of Islamic and secular laws has produced a fragmented legal order. Family law, criminal justice, and economic regulation often operate under different interpretive frameworks, leading to procedural inconsistencies. The Council of Islamic Ideology, despite its constitutional mandate, remains only advisory and lacks binding authority, reflecting the state's reluctance to fully theocratize governance. In recent years, debates over Shariah compliance, women's rights, and democratic freedoms continue to shape Pakistan's political landscape. The rise of religious political parties, constitutional petitions invoking Islamic provisions, and the influence of transnational Islamist movements have further complicated the effort to harmonize Islamic authenticity with modern governance. Yet, Pakistan's legal system also demonstrates a degree of adaptability — judicial reinterpretation, legislative reforms, and public discourse indicate a gradual evolution toward a more contextual understanding of Islamic constitutionalism (Isar,



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## **Inter-Institutional Mechanisms of Islamization**

There are two institutions that articulate Pakistan's attempt to institutionally Islamize the law within the framework of contemporary governance.

### **The Council of Islamic Ideology (CII)**

As a constitutional and advisory entity, the CII evaluates legal proposals and existing legislation and provides recommendations to the legislature. The CII's recommendations are not mandatory, and, although the CII's recommendations have had some influence in the shaping of public debates around family law, economic relations (e.g., interest-free banking), and the law governing relations of women, the CII has remained largely ineffective.

### **The Federal Shariat Court (FSC)**

The FSC, created under General Zia-ul-Haq in 1980, may assess and strike down enactments that contravene Islam, including within the Christian and fiscal domains. While the Constitution remains outside the FSC's jurisdiction, its focus, in part, on the criminal law, means its control over a critical legal sphere is expanded. Appeals from the FSC's decisions may be brought to the Shariat Appellate Bench of the Supreme Court. The two institutions are described as the first points of persuasion between legislative law and divine law. However, a lack of clarity within the instrument of the Constitution, to the detriment of the institutions, is manifest where the judiciary's perspective is at variance with the legislature's (Arif, 2014).

## **Legal Reforms and Modernization**

Pakistan has sought a balance between social, economic, and, particularly, gender relations modern reforms, and Islamic principles.

### **Economic Reforms**

The efforts and proposed frameworks aimed at Islamic banking and Islamic finance are an extension of, and in some cases, an attempt to, balance Islamic principles with contemporary capitalism and its demands. The removal of *riba* (interest) remains a crucial component of Islamization, while blended modern financial instruments with profit-loss sharing is already a part of Pakistan's contemporary banking system (Faizi, 2024).

### **Family Law**

Before the 1973 Constitution, the Muslim Family Laws Ordinance (1961) was and continues to be one of the most avant guard codifications of the Muslim world. It limited the practice of polygamy, required the registration of marriages and divorces, and protected a woman's right to inherit. While many may argue the conservative position, the Ordinance of 1961 clearly illustrates the interrelation of Islamic law and social equity (Haddad, 2025).

### **Criminal Law and Hudood Ordinances**

The introduction of the Hudood Ordinances (1979) implied the addition of Islamic sanctions on theft, adultery, and the consumption of alcohol. Critics argue the law



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disproportionately harms women, especially in rape cases, where the laws required men to provide the evidence. The Control of the Women (Criminal Laws Amendment) Act 2006 was the first of the legal overhauls aimed to bring the laws in line with the Charter of Human Rights (Hussain, 2020).

### **New Developments**

Recent and current governments with a focus on the procedural side of modernisation have promoted the digitalisation of courts, Increased women's representation in parliament, and the blending of Islamic law with world law. The Protection Against Harassment of Women at Workplace Act (2010) and The Transgender Persons (Protection of Rights) Act (2018) modernise the Islamic principle of dignity of man with modern human rights (Alraggad, 2024).

### **Synthesis**

Pakistan's model of Islamic constitutionalism is an exemplification of pluralism. Its uniqueness is from the institutionalization of diverse interpretive frameworks as legislative, judicial, and religious authorities harmonize the contested ideals of contemporary Islam. However, this modernity is conditional on the design of educational systems, public agreements on the Islam-democracy nexus, and the school systems alongside curricular design to institutional educational revisions. Case Study: Tunisia Modernization through Reinterpretation Tunisia is a modernized and reinterpretative contrast and complementary example; In contrast to Pakistan's approach, it defended a top down secular strategy with a 'modernization' approach in the post-independence era, only to later reintroduce Islamic moral discourse within a democratic framework. Its evolution indicates the potential for an Islamic identity to harmonize with contemporary civil governance through reinterpretation rather than the institutionalization of Islam (Ahmad, 2022).

### **Recommendations**

**Institutional Synchronization:** Pakistan should define the jurisdictional boundaries of Shariat and civil courts, and Tunisia should strengthen the constitutional limits on the executive branch.

**Curriculum Change:** Incorporate Islamic law into the civics and human rights curriculum.

**Women's Rights:** Position the reforms on women's rights to maqāṣid al-sharī'ah's justice and welfare.

### **Conclusion**

Tunisia and Pakistan offer two different yet complementary approaches to modern lawmaking that retains an Islamic heritage. Pakistan's approach reasonably embeds Islamic law into its institutions, and Tunisia's approach ethically integrates Islamic principles into its democracy. These cases illustrate that secularization is not an inevitable component of modernization; it can involve a reinterpretation of Islam. Sustainable development calls for the presence of radical pluralism, strong civil institutions, the Islamization of social reforms, and the democratic legitimization of Islam. The mixture of tradition and modernization is a contradiction; rather, it is a continuum, reflecting the adaptability of Islamic law to the ever evolving needs of



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humanity. This comparison shows that Islamic constitutionalism can be, and is not limited to, conservative interpretations. When aligned with justice, dignity, and the welfare of the people, Islamic constitutionalism has the potential to uphold modern governance in a culturally and morally grounded manner.

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