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“From Pakistan to Malaysia and Morocco: Comparative Case Studies on Reforming Capital Punishment under Islamic Jurisprudence”

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ABSTRACT

These studies were compare case studies from Pakistan, Malaysia, and Morocco in order to examine the developing debates around the death penalty in Islamic jurisprudence. Despite having a similar basis in Islamic legal customs, these nations have taken distinct stances on abolishing the death penalty in reaction to contemporary social, political, and global forces. The interpretation of Hudood laws, which define punishments based on divine commands, and Qisas laws, which emphasize retaliation for murder, is one area where Pakistan still struggles to strike a balance between Sharia principles and international human rights commitments. In order to strike a balance between Islamic teachings, constitutional principles, and international human rights expectations, Malaysia recently enacted significant legislative changes, including provisions that enforce the mandatory death penalty. Using a qualitative comparative case study methodology, this research draws from secondary sources like academic literature, human rights reports, and international legal analyses in addition to primary legal texts, state legislation, judicial interpretations, and policy documents. The study examines how each nation balances Islamic jurisprudence with international human rights frameworks by combining comparative methods with doctrinal legal analysis. Although the legal framework still permits executions, Morocco offers a clear example of an attempt to bring Islamic jurisprudence into line with modern constitutional monarchy and international human rights standards by gradually reducing the use of the death penalty and moving toward a de facto moratorium, or temporary halt to executions. By examining these instances, the study shows how different interpretations of Islamic law affect the possibility of legal reform while also posing difficulties for governments attempting to balance civil liberties, justice, and human rights. It becomes clearer how abolitionist norms arise, spread, and partially internalize throughout Pakistan, Malaysia,



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and Morocco when the comparison is framed using constructivism and transnational advocacy networks (TAN).

Keywords: Human Rights, Legal Reform, Hudood And Qisas Laws, Islamic Jurisprudence, The Death Penalty, And Comparative Case Studies.

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Introduction

The application of the death penalty under Islamic law has been the focus of intense debates, as it is a topic of longstanding moral and legal controversy. The Hudood and Qisas laws, which establish retributive justice based on the "an eye for an eye" principle, contain the death penalty, which is fundamental to the Islamic legal system (Kakar, 2018). However, the discussion surrounding the death penalty in Muslim nations has also evolved as global human rights norms and abolitionist trends gain traction. This study examines how the reform of the death penalty in three nations Pakistan, Malaysia, and Morocco addresses the conflict between Islamic law and international human rights norms. I approach abolition as a traveling norm through a constructivist perspective, monitoring its spread through domestic norm entrepreneurs and TAN activities (UN, Amnesty, bar councils).

Death penalties for certain offenses are compulsory in Malaysia, most notably drug trafficking and homicide. The Malaysian legal system places a strong focus on the deterrent effect of capital punishment. There has, however, been increasing controversy regarding the fairness of the mandatory sentences (Dhillon, 2012). I discuss "how Islamic law influences Malaysia's death penalty policy as well as international human rights regimes that Malaysia is obligated to obey. While Malaysia has moved in the direction of reexamining its stance on capital punishment, the problem is balancing Islamic justice with shifting global trends" This is an example of a norm-cascade moment, where the anti-mandatory-death norm becomes more salient due to external pressure and increased elite discourse.

Morocco offers an additional example in the form of its de facto ban on the death penalty, despite maintaining legal grounds for its use. Morocco's pragmatic compromise between Islamic law and human rights concerns is demonstrated by its politically motivated moratorium. According to Ayesha Tariq's, Morocco's stance on the death penalty is the result of a combination of internal political pressure and outside pressure, especially from abolitionist human rights organizations. The legal system in Morocco serves as an example of how political will can drive fundamental changes in the way Islamic criminal law is administered (Tariq, 2021). Morocco serves as an example of norm internalization; despite the no-execution norm's formal repeal, a de facto moratorium indicates that it has been ingrained in policy practice.

By examining how each country strikes a balance between Islamic jurisprudence and the expanding trend of international human rights norms, this study aims to critically analyze the changing practices of the death penalty in these three nations. This study will provide an insightful analysis of the opportunities and challenges associated with balancing Islamic law with modern international standards of justice by comparing the death penalty reforms in Pakistan, Malaysia, and Morocco (Mahil, 2025).

Background on Capital Punishment and Islamic Jurisprudence

Capital punishment, in Islamic jurisprudence, is strongly rooted in the fields of retributive justice, as observed in Hudood and Qisas laws. These laws, which are based on the Quran and Hadith, are anchored in the divinely established concept of justice. Hudood refers to punishments ordained for some offenses such as theft, adultery, and apostasy, while Qisas involves the law of "an eye for an eye" where a victim or victim's relative is entitled to seek revenge but can also forgive or be compensated (Kakar, 2018). There is no solid form of the Islamic death penalty but rather is determined by the



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interpretations of Sharia by the various schools of thought. Analytically, I combine this doctrinal diversity with constructivist norm diffusion as the exogenous pressure influencing which interpretations become popular and with *ijtihad* as an endogenous change mechanism. The Hanafi, Maliki, Shafi'i, and Hanbali schools may differ marginally in their interpretations of the kinds of crimes punishable with death, the trial processes, and the extent of evidence needed (Karimullah, 2024). Whereas some Islamic thinkers believe that the imposition of the death penalty is essential to maintain divine justice, others are keen to underline mercy and forgiveness, such as through Quranic teachings that place high value on pardon and reconciliation (Reprieve, 2019).

Islamic understanding of justice in relation to the death penalty closely relates to the ideals of deterrence, punishment, and rehabilitation. Under Islamic law, the death penalty is meant to be a deterrent for the most abhorrent crimes, including murder, apostasy, and treason. The use of these punishments, though, is subject to strict procedural requirements, and the prosecution has to prove its case against the accused. For example, where adultery or apostasy is concerned, four male witnesses are required to bear testimony to the offense, or the accused has to confess themselves, making sure that the punishment is enforced only in the most rigorous circumstances (Rifai, 2021).

Even though Islamic law has a clear legal basis for enforcing capital punishment, its use today has been questioned, particularly in the context of international human rights standards. In this case, TANs serve as amplifiers, encapsulating moral and legal reasons (ICCPR, dignity) that local actors might use within the framework of Islamic thinking. The expanding role of international human rights law has exerted immense pressure upon Muslim nations to rethink their position on the death penalty. The United Nations, via the International Covenant on Civil and Political Rights (ICCPR), advocates for a global moratorium on the use of the death penalty, with numerous member states calling for its abolition (Olusegun, 2025). This tension between Islamic legal schools and international human rights norms has resulted in differing implementations of capital punishment in nations like Pakistan, Malaysia, and Morocco.

The death penalty is codified under both the Sharia and civil laws in the country's legal framework in Pakistan. However, it has proven extremely difficult for the nation to harmonize its practices with global human rights conventions, particularly the right to life conventions. The Pakistan Capital Punishment Study (Reprieve, 2019) identifies the country's struggle with reform, whereby religious leaders have a tendency to justify capital punishment as an appropriate means to impose divine law and human rights groups promoting its abolition or reform.

Moreover, in Morocco, the death penalty is still possible but not traditionally used, with a *de facto* moratorium since 1993. This shift in Morocco's application of the death penalty illustrates how political and social change and international pressure have impacted the country's understanding of Islamic law. As (Mahil, 2025) points out, the legal stance of Morocco in relation to the death penalty is increasingly guided by human rights issues, although the country adheres to Islamic values in other areas of law.

Theoretical Framework: Reforming Capital Punishment in Islamic Jurisdictions Constructivist Theory of International Relations

According to constructivism, social relationships, norms, and identities all influence international relations in addition to material power. In this case, the worldwide abolitionist movement regarding capital punishment can be seen as a process of norm



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diffusion and internalization. States do not merely change because of enforcement but because they begin to internalize certain moral standards namely, the belief in the right to life and the incompatibility of the death penalty with human dignity. This process of norm emergence, cascade, and internalization is evident in the cases of Pakistan, Malaysia, and Morocco, where states have either shifted towards or have been forced into rethinking their stance on capital punishment due to the growing prominence of international human rights norms (Rifai, 2021).

Norm Emergence: Human rights groups like Amnesty International and the UN questioned the death penalty's validity under contemporary human rights frameworks, leading to the establishment of the norm against the death sentence in all three nations.

Norm Cascade: Other countries started to push for reforms as a result of international pressure and the growing clout of international human rights organizations. For example, worldwide pressure to abolish mandatory death sentences gained momentum in Malaysia.

Norm Internalization: A de facto moratorium allowed Morocco to internalize the norm against the death penalty. Despite the death penalty's continued legality, there haven't been any executions since 1993, suggesting that the nation's political and judicial systems have successfully assimilated the norm against execution.

Islamic Jurisprudence and Capital Punishment

The legal position on the death sentence in Pakistan, Malaysia, and Morocco is based on Islamic law, particularly the Hudood and Qisas legislation. For major offenses like murder and apostasy, these rules stipulate the death penalty; nevertheless, they are also subject to stringent procedural restrictions, such as the demand for unambiguous and trustworthy proof. In addition to explain kindness and forgiveness, the Qisas concept permits retribution "an eye for an eye", which opens the door to other kinds of justice (Olusegun, 2025).

This essay demonstrates how Islamic law both contradicts and enhances international human rights frameworks. Even though Sharia law includes the death penalty, current discussions in these nations indicate that legal reform is possible. For example:

Pakistan finds it difficult to balance international human rights standards, especially the right to life, with its Islamic legal traditions. Even while the death penalty is still widely used in the legal system, this conflict is visible in the sporadic moratoriums on executions (Tariq, 2021).

Morocco, with its de facto moratorium, shows how *ijtihad* (independent legal reasoning) can be used to reinterpret Islamic principles and move towards abolition in line with evolving global human rights standards (Mahil, 2025).

Malaysia, despite the mandatory death penalty for crimes like drug trafficking, has seen growing calls for reform, influenced by both Islamic scholars and international human rights groups who challenge the idea that the death penalty is a necessary or effective deterrent (Dhillon, 2012).

Transnational Advocacy Network Theory

The Transnational Advocacy Network (TAN) Theory places a strong emphasis on how the media, human rights organizations, and non-governmental organizations (NGOs) influence state policy. Acting as "norm entrepreneurs," these players promote international norms that frequently



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contradict regional customs and norms. When it comes to the death penalty, groups like Amnesty International, the UN, and the National Human Rights Council (Morocco) have played a significant role in promoting reforms by offering legal frameworks like the International Covenant on Civil and Political Rights (ICCPR) to challenge state practices as well as moral arguments (Karimullah, 2024).

Public campaigns and action have had a big impact on national discussions about the death penalty, particularly in Morocco among young people and artists. An excellent illustration of how civil society may influence legislation through activity and public debate is the "Draw Me the Abolition" campaign.

Case Study of Pakistan

Pakistan's capital punishment policy is clearly in line with Islamic principles and is deeply ingrained in the country's legal and constitutional traditions. The death penalty has been upheld by Pakistan's judiciary as a standard component of its criminal justice system due to the influence of Islamic law and colonial British legislation. Over the years, Pakistan has applied the death penalty to a variety of crimes, including blasphemy, terrorism, and murder. The death penalty became even more ingrained in Pakistani law with the integration of Sharia law into the nation's legal system, especially after General Zia-ul-Haq introduced the Hudood Ordinances in 1979 (Kakar, 2018). Pakistan serves as an example of norm contestation from a constructivist perspective, as abolitionist and religious-legal scripts coexist and result in sporadic moratoria rather than consistent policy change. The ordinances, drawing largely from the Islamic code of laws, prescribed the death penalty for offenses such as adultery, theft, and apostasy, which have been controversial relative to global human rights standards.

The death penalty is applied in a special context because of Pakistan's legal system's constitutional enshrinement of Islamic principles. The state must enforce Sharia law, which includes the death penalty for certain crimes specified in the Hudood and Qisas enactments, as stipulated by Pakistan's Constitution. For instance, retribution for homicide is enforced by the Qisas law, which also grants the victim's family the right to request the death penalty or compensation (diyya) for the loss of life. The legal system has been a challenge to Pakistan in aligning the use of the death penalty with international human rights norms, given the complex interplay between religious law and international human rights norms (Olusegun, 2025).

Muhammad Sadiq Kakar's analysis is insightful about the intricacies of Pakistan's capital punishment system and the conflict between Sharia jurisprudence and modern human rights norms. Based on his study, Kakar explains the real-world difficulties in implementing the death penalty in accordance with Islamic law in Pakistan, and the contradictions between Sharia law's compatibility with the death penalty and international human rights conventions. For instance, the International Covenant on Civil and Political Rights (ICCPR), to which Pakistan is a signatory, includes the abolition of the death penalty or at least the imposition of a moratorium on its application. Pakistan's reluctance to sign the ICCPR Second Optional Protocol aimed at abolishing the death penalty demonstrates the tension between international human rights demands and Pakistan's religious and legal commitments (Kakar, 2018). Reformist protections can be portrayed as Islamic rather than external through Qisas procedures, but domestic gatekeepers limit uptake despite the boomerang consequences of Transnational Advocacy Network TAN pressure (ICCPR, litigation NGOs).

Despite such challenges, Pakistan has been from time to time bullied into reforming its



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death penalty regime because of both domestic and global pressure for reform. The country has from time to time experienced temporary moratoriums on the death penalty, such as 2008–2014 when the government suspended the death penalty in a bid to calm human rights concerns (Tariq, 2021). These moratoriums have not been accompanied by abolition, however, since political and religious leadership is likely to resist abandoning capital punishment for it because it's viewed as compatible with Islamic justice.

Recommendations on how Pakistan's international human rights commitments may be reconciled with Islamic values are put forth by Kakar, noting how the legal framework must be amended in order to ensure the death penalty is implemented in a manner consonant with Sharia law and international standards. One of the significant recommendations is to have stricter safeguards in the trial and sentencing process, such as the right to a fair trial, the right to counsel, and the appropriate validation of evidence before capital punishment is given. In addition, Kakar suggests exploring other forms of punishment more conducive to Islamic ideals of justice but aligned with modern human rights standards, such as restitution- and rehabilitation-oriented restorative justice systems (Kakar, 2018).

Reform proposals also include the potential for expanding the scope of mercy in Islamic law, which offers forgiveness and compensation as alternatives to retribution. Such changes would help Pakistan address global human rights concerns while following the Islamic doctrine of justice. The challenge is, however, convincing political and religious leaders to embrace such changes, especially in the face of conservative elements in Pakistan's society that advocate for harsh applications of Sharia law (Reprieve, 2019).

Pakistan's experience attests to the subtlety of reconfiguring capital punishment in a state that functions under Islamic law and global human rights obligations. Despite enormous challenges in reconciling the two systems, the argument now and academic work by the likes of Kakar establish a template for an evenhanded and equitable legal reaction. As global human rights norms continue to develop, how the future of capital punishment will unfold in Pakistan will be dependent on its ability to reconcile Islamic teachings with prevailing modern human rights norms.

Case Study of Malaysia

Malaysia has a formal legal system that includes the death penalty and mandatory sentences for certain crimes, mostly murder and drug trafficking. Due to Malaysia's strict drug laws, drug trafficking is punishable by death under the Penal Code, a clause that has received harsh international criticism. Because it is mandatory for these crimes and leaves little room for judicial discretion, the death penalty is one of the strictest legal systems. (Dhillon, 2012) This is an example of a norm-cascade test: ongoing external criticism combined with inside expert communities broadens the conversation around judicial discretion. Human rights organizations have been particularly critical of mandatory sentencing, arguing that it unfairly singles out marginalized communities and ignores the unique circumstances of each case.

Two primary points of view have defined Malaysia's opposition to the death penalty. According to the first perspective, the death penalty is appropriate because it deters serious crimes, especially those involving drugs, and it also helps to maintain public order. The Malaysian government has long supported this position, arguing that the death penalty serves as a powerful deterrent for a nation that faces significant drug trafficking cases. On the other hand, opponents of the death penalty contend that there is little



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empirical data to back up the claim that it deters crime more effectively than other forms of punishment. Additionally, Amnesty International and other human rights groups have also criticized Malaysia's mandatory death penalty for its shortcomings in the justice process, among which are the lack of fair trials of death row inmates and the possibilities of miscarriages of justice (Mahil, 2025).

The debate over the death penalty in Malaysia has also been significantly framed by international human rights standards. Although it has not yet ratified the Second Optional Protocol, which outlaws the death penalty, Malaysia is a party to both the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights. There has been much debate over this discrepancy between Malaysian law and international human rights norms. Human rights organizations have pushed the administration to modify death penalty legislation, calling upon the nation to adhere to universal norms that promote the elimination of the death penalty or at least put an end to executions on a moratorium basis. Malaysian government opposition to such foreign pressures has been traced to the overriding influence of Islamic law, which in the past has provided a basis for the imposition of capital punishment on certain offenses, as exemplified by the Malaysian legal system (Dhillon, 2012).

In spite of this, domestic support for reform has been increasing. Some policymakers and the Malaysian public have begun questioning the deterrent value of the death penalty, especially the mandatory imposition in drug trafficking cases. Guru Dhillon condemns the death penalty's deterrent value, whereby its deterrent value is proven to be inconclusive and, most often, from assumptions and not empirical evidence. In addition, some Islamic scholars have started questioning whether the imposition of mandatory death sentences is consonant with the fundamental pillars of Islamic teachings, which require justice, mercy, and reform ability. This new criticism among the Islamic community further fueled debate regarding the justification and equity of the death penalty in Malaysia.

In recent years, efforts towards reform have been made to some extent, especially following high-profile campaigns spearheaded by human rights bodies and public figures. The Malaysian Bar Council and other interest groups have pressed for the removal of the mandatory death penalty and the implementation of more flexible sentencing schemes. In addition, the government has granted some concessions, for example, by revising sentencing for some non-violent offenses, although the death penalty for drug trafficking remains securely embedded in law. The changing public debate about capital punishment in Malaysia mirrors more widespread changes both within Malaysian public attitudes and also in the international trend towards abolishing the death penalty. As more public awareness is created and global human rights pressure is brought to bear, Malaysia can be forced to revisit its position regarding capital punishment, particularly in the area of Islamic law, which permits mercy and forgiveness under conditions of retribution (Tariq, 2021).

Case Study of Morocco

Morocco represents a special case when looking at the historical development of capital punishment in Islamic law and legal system, especially because the nation has a de facto death penalty moratorium. Although Morocco has not put anyone to death since 1993, the death penalty is still legally rooted in its penal code. The Penal Code keeps the death penalty for grave offenses like murder, terrorism, and treason, but the nation has not



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executed anyone since almost three decades ago, mirroring the change in both legal and political positions. The moratorium, while de facto abolition, marks the unwillingness of Morocco to implement the death penalty based on internal political factors as well as external pressure on human rights (Mahil, 2025). This is consistent with internalization: formal code improvement comes after practice changes.

Despite the moratorium, there has been ongoing legal and political debate over the death penalty's continued existence in Moroccan law. Although Moroccan law permits the death penalty for certain crimes, political sentiment has shifted in favor of reconsideration as a result of shifting social attitudes and pressure from international human rights organizations. In the country's changing legal system, the application of *ijtihad*, or autonomous legal reasoning, has gained prominence. In order to have the ability to apply the law while addressing novel human rights concerns, Morocco used *ijtihad* to reexamine the application of Islamic law (Rifai, 2021). This unique strategy, which reflects Morocco's willingness to embrace innovative reform, is significant in accounting for the country's stance on capital punishment, especially since it traverses on both legs between Islamicity and international human rights norms.

Human rights groups have also been instrumental in promoting the repeal of the death penalty in Morocco. Given Morocco's dedication to human rights, international organizations, such as Amnesty International, have persisted in calling for the country to move toward complete abolition. The National Human Rights Council (CNDH) has played a significant role in promoting a moratorium and eventual repeal of the death penalty on a national level. The dangers of executing people who may have been wrongfully convicted and the significance of upholding human dignity in accordance with international human rights standards have been emphasized by the National Human Rights Council CNDH. Morocco's political leadership has exercised caution in the face of these pressures, striking a balance between upholding international human rights demands and the desire to uphold Islamic law (Mahil, 2025). As a domestic Transnational Advocacy Network TAN hub, National Human Rights Council CNDH converts international standards into locally convincing Islamic-constitutional arguments. The country has been devoted to human rights and certain legal reforms have followed, but the death penalty remains technically legal, a cautious political calculation.

Social movement pressure by youth and artists has also been a key factor in Morocco's evolving stance on the death penalty. Campaigns like the "Draw Me the Abolition" campaign have employed Moroccan youth and artists to lobby for the end of capital punishment. This movement reflects broader cultural change within Moroccan society, as younger generations challenge established custom, including the use of the death penalty. The artists' work and activism have brought to the forefront the moral and ethical problems of executions and employed public campaigns and visual art to raise awareness and create pressure to reform (Karimullah, 2024). As Mahil explains, such social movements are an indicator of increased strength of Moroccan civil society in which young people are leading the call for legal reform based on contemporary human rights principle.

Comparative Analysis

The comparative analysis of Pakistan, Malaysian, and Moroccan capital punishment reforms reveals the salient role of Islamic law and universal human rights principles in shaping their respective legal systems. The three countries share a shared point of



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departure in Islamic law, which traditionally upholds the death penalty as a means of retribution. However, every state has responded to the convergence of religious law with international human rights obligations in a unique manner, based on variation in degree of reform, political will, and social forces.

One common similarity between the three nations is the on-going battle to reconcile Islamic law and international human rights standards. Islamic law, particularly through the Hudood and Qisas laws, retains the death penalty for a variety of crimes, such as murder, apostasy, and adultery. However, the influence of international human rights organizations, such as Amnesty International and the United Nations, has prompted these nations to reassess the application of capital punishment. In contrast, Morocco is in partial internalization, Malaysia is in cascade, and Pakistan is still in contestation a typology that constructivist norm dissemination predicted. In Pakistan, the capital punishment is deeply entrenched in the justice system, but Pakistan has experienced periods of moratoriums because of international human rights concerns. Similarly, Malaysia continues to exercise the death penalty on mandatory crimes such as drug trafficking, even though it has faced mounting pressure from human rights organizations to repeal it. Morocco, while retaining the death penalty on its statute books, has enjoyed a de facto moratorium on capital punishment since 1993, suggesting a change motivated by human rights consideration (Rifai, 2021).

The differences in the degree of reform and the use of the death penalty in legislation in the three countries are stark. Pakistan, though there have been some moments of moratorium, has at all times upheld the death penalty as an indispensable component of Islamic justice. The nation's justice system, which has its roots deeply embedded in Sharia law, still enforces capital punishment, with little legal reforms being instituted as a response to foreign pressure. Nonetheless, authors such as Kakar recommend that Pakistan can gain by instituting additional safeguards within the judicial process to uphold fairness and protect human rights. Malaysia has attempted some reform, with legal and public debates regarding the obligatory death penalty. The government has recently moved to reconsider its position, specifically with regard to compulsory sentences for drug offenses, consistent with a more liberal policy in comparison with Pakistan (Dhillon, 2012).

Morocco is distinct from Pakistan and Malaysia, since the state has not carried out executions in close to three decades, even though it still maintains the death penalty on the statute books. The moratorium in the country represents the increasing power of *ijtihad*, or autonomous legal interpretation, which provides room for maneuver in Islamic law interpretation. *Ijtihad* has played a key position in Morocco's changing legal position, which harmonizes Sharia law with modern human rights issues. Although Morocco has not officially eliminated the death penalty, the de facto moratorium, together with pressure from human rights groups and the National Human Rights Council (CNDH), heralds eventual abolition. Mahil.

The balance between Islamic law and human rights norms, particularly in terms of mercy, justice, and the right to life, continues to be a major issue in all three countries. Islamic law leaves room for mercy and forgiveness, especially under the Qisas principles, where the victim's family can forgive the perpetrator or call for revenge. This aspect of mercy is often overshadowed by the unforgiving practice of imposition of the death penalty, though. In Pakistan, the imposition of capital punishment has been faulted for its absence of procedural safeguards, leaving it open to miscarriages of justice



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(Reprieve, 2019). Malaysia's strict enforcement of the death penalty, especially in obligatory cases, is worrying regarding fairness, considering possibilities of racial and class bias while sentencing. Morocco, although legally maintaining the death penalty, is an example of a more humane policy in not carrying out executions and leaving open the door for potential reform, finding a compromise between Islamic teachings and international human rights consideration.

Finally, a comparison of Morocco, Malaysia, and Pakistan shows notable differences in how these nations deal with Islamic law in contrast to international human rights standards. While each of the three countries is tasked with balancing religious precept with international human rights obligations, the level of legal reform and influence of human rights considerations vary. Malaysia has demonstrated some reformist tendencies, but Pakistan is steadfast in its commitment to upholding the death penalty. Reform depth is jointly predicted by Transnational Advocacy Network TAN density and religious-legal framing latitude (ijtihad) across cases: Stronger execution restraint results from more TAN channels and a larger interpretive space. The de facto moratorium in Morocco is a witness to the potential of progressive change whereby political will, civil society, and ijtihad can drive legal reforms balancing religious law with contemporary human rights norms.

Ethical Consideration and Reforms

This ethical dilemma of justice vs. mercy is most specifically seen in the application of capital punishment. I operationalize this as a frame conflict between "dignity/mercy" and "retribution/deterrence." The abolitionist narrative spreads more quickly where reformers are effective in portraying protections as truly Islamic. Capital punishment serves on the one hand as a deterrent, appeasing the Islamic call for justice and retribution for heinous crimes such as murder. On the other hand, Islam places great emphasis on forgiveness, and this creates an ethical dilemma when measured against the finality of capital punishment. Critics of capital punishment in Muslim communities typically argue that the rigid application of death sentences, devoid of complete exploration of opportunities for forgiveness or restorative justice, might be against the spirit of mercy embedded in Islam (Olusegun, 2025). This conflict between retribution and mercy has led to calls for reform across the majority of Muslim countries, including Pakistan, Malaysia, and Morocco, where moral dimensions of capital punishment are openly debated.

Reform proposals also specify how recent legal reforms can be incorporated in line with Islamic customs. In Pakistan, for example, (Tariq, 2021) suggests repealing the death penalty for crimes that are non-religiously inspired, namely murder and blasphemy. These crimes are typically prosecuted based on vague interpretations of Islamic law, which may lead to abuses of justice and miscarriages of justice. Tariq's research is in favor of giving preference to restorative justice, in which the offenders receive an opportunity to apologize and reform, following the Islamic principle of clemency. These reforms would allow Pakistan to uphold its Islamic legal principles while balancing with international human rights standards, which are inclined towards recommending the abolition or moratorium of the application of capital punishment (Rifai, 2021). According to constructivism, these protections are micro-internalizations, or procedural standards that are implemented even in the absence of the punishment.

Likewise, in Malaysia and Morocco, reform proposals have centered around curbing the imposition of capital punishment on some crimes, especially those that are not directly



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associated with religious offenses. The focus in such reforms is to stop the execution of people for crimes that could be caused by social, political, or economic elements rather than religious principles. In Morocco, the de facto moratorium on the death penalty has been viewed as reconciling Islamic justice with the principles of modern human rights. Although the death penalty is legally permitted in the nation, political will driven by both local and foreign pressures has avoided its application. The larger appeals for legal change in Morocco propose that *ijtihad*, or autonomous legal thinking, may be employed to reinterpret the use of capital punishment so that it is more aligned with contemporary human rights norms while being compatible with Islamic principles on justice.

Promoting the repeal or suspension of the death penalty in Muslim nations is a critical task for international human rights organizations, particularly the United Nations and Amnesty International. These organizations contend that the death penalty violates the Universal Declaration of Human Rights' guarantee of the right to life. They draw attention to the death penalty's irreversible nature and its discriminatory impact on underprivileged groups, including minorities, the impoverished, and people with mental illnesses. These human rights organizations consistently urge nations with a majority of Muslims, such as Pakistan, Malaysia, and Morocco, to reevaluate their application of the death penalty and work toward its moratorium or abolition. But the challenge is balancing international human rights norms with deeply rooted religious and cultural traditions, particularly in countries like Pakistan where Islamic law is part of the legal system (Olusegun, 2025).

The question of the death penalty in Islamic states has been framed primarily by international human rights regimes. The United Nations continues to advocate for the abolition of the death penalty worldwide in all of its human rights domains. A global moratorium on the death penalty is enshrined in the International Covenant on Civil and Political Rights (ICCPR), and numerous states have been urged to follow suit. The death penalty is permitted under Islamic law, but there are also provisions for mercy and pardon that can be used in reform initiatives to restrict its use in a way that is consistent with both religious doctrine and international human rights standards (Karimullah, 2024).

Conclusion:

This study has examined the convergence of Islamic jurisprudence and universal human rights norms as it pertains to capital punishment in the case of Pakistan, Malaysia, and Morocco. Although founded on Islamic legal traditions, these countries reveal divergent paths towards reforming capital punishment driven by distinct social, political, and international configurations.

Pakistan's judicial system still maintains capital punishment as one of the most important elements of its justice system, steeped deep in Sharia philosophy. Yet the nation struggles with ensuring the balance between religious requisites and international human rights requirements, resulting in periodic moratoriums rather than abolition. Malaysia, even as it imposes obligatory death sentences for offenses, has also witnessed increased demands for reform, notably regarding its obligatory death penalty for drug trafficking, and is subject to increasing international pressure to bring its practices into line with human rights standards. Morocco is a special case, in that a de facto moratorium on the death penalty has existed for many decades, although the death penalty remains legally in place. This represents a combination of political willingness, changing popular sentiment, and a progressive reinterpretation of Islamic law through *ijtihad*, enabling



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Morocco to find its way between its Islamic heritage and international human rights standards.

The contrast between the two nations emphasizes the tension between the retributive justice that is a part of Islamic law and the international trend away from capital punishment. In addition to TAN mediation and *ijtihad*, the three-stage diffusion process explains why Malaysia reconsiders required regulations, Pakistan vacillates, and Morocco enters a moratorium. Though varied in the extent of reform, all countries must address the underlying problem of balancing religious conviction with the changing global standards of human dignity and the right to life. The application of Islamic clemency, particularly under the *Qisas* laws, requires more sophisticated legal interpretations that can, at best, reconcile Sharia law and contemporary human rights.

As global human rights activism increasingly shapes the legal environments of Muslim countries, the transformation of capital punishment in these nations might become a template for other governments struggling with the same challenges. The research indicates that Islamic jurisprudence can have space to reform and include current human rights standards without infringing on essential religious principles. Therefore, the theory explains not just whether reforms occur but also how religiously motivated frames facilitate or hinder the adoption of norms in Islamic jurisdictions.

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