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Islamic Jurisprudence and Constitutionalism in Pakistan: Harmony or Conflict

Rao Qasim Idrees
Associate Professor, School of Law, University of Gujrat Email: qasim.rao@uog.edu.pk

Naveed Hussain
Assistant Professor, School of Law, University of Gujrat
Email: naveed.hussain@uog.edu.pk

Yasir Arfat
Lecturer, School of Law, University of Gujrat Email: yasir.arfat@uog.edu.pk

ABSTRACT
This paper assesses the compatibility or inconsistency of Islamic jurisprudence and constitutionalism with Pakistan through evaluating the question not as an ideological battle, but as a constitutional design, institutional practice and interpretive authority question. The Constitution of Pakistan is both an Islamic identity and a constitutionalist system: it both envisions democratic government by elected officials, a basic set of rights, and an independent judiciary, and an obligation that current and future laws be in compliance with the Injunctions of Islam as enshrined in the Quran and the Sunnah. The institutional structure developed to deal with this two-commitment is unique. Conventionally, the Council of Islamic Ideology is constitutionally required to propose methods of allowing Muslims to organize their lives in accordance with Islamic doctrines, provide advice on whether the proposed legislations are abhorrent to Islam when presented to it, and propose measures to make the current legislations comply accordingly. On the adjudicatory side, the Injunctions of Islam may be repugnant, and the inquiry and decision regarding that issue may be made by the Federal Shariat Court (FSC); its rulings may have legal effect following appeal procedures; the Shariat Appellate Bench of the Supreme Court is the major appellate adjudicator of such questions. Simultaneously, there are textual limits to the FSC jurisdiction, which is defined by definitional and subject-matter exceptions, such as the exclusion of the Constitution itself and Muslim personal law of the definition of a law in this Chapter, which is an attempt to avoid unlimited theological scrutiny of the constitutional arrangement.
The essence of the discovery is that the constitutional system of Pakistan can be viewed as a hybrid model that is striving to achieve managed harmony between Islamic norms on the one hand and constitutional rule on the other; when legal principles such as the notion of repugnancy are viewed as being politically decisive words, rather than as highly reasoned cases of juristic judgment; when institutional incentives encourage symbolic Islamization at the expense of rights-compatible rule; and when interpretive pluralism in Islamic jurisprudence has been reduced to the status of a state-approved reading. The paper shows how the system can produce some form of coherence and contradiction by looking at the constitutional text, functions of the and FSC, and symbolic issues, including the jurisprudence of riba/interest in banking. It suggests that the best and practical way to achieve harmony is neither the denial of the constitutional presence of Islam nor the transformation of religious doctrine into an unqualified veto,

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but a principled interpretive approach balanced in constitutional supremacy, procedural fairness and juristic pluralism that can be used to put Islamic objectives (maqasid) into the law of the land without undermining the principle of equal citizenship or the rule of law.

Keywords: Islamic Jurisprudence (FIQH); Constitutionalism; Pakistan Constitution 1973; Objectives Resolution (Article 2a); Article 227; Council Of Islamic Ideology; Federal Shariat Court; Repugnancy Review; Shariat Appellate Bench; Maqasid Al-Sharia; Riba/Interest Jurisprudence; Legal Pluralism.

Introduction

The title of the question of the paper I am going to analyze is Islamic jurisprudence and constitutionalism in Pakistan: harmony or conflict? the question is usually posed in a way suggesting that two competing systems struggle to dominate the other one: the divine law or the man-made law, the religious identity or the liberal rights. That framing is seductive in Pakistan since the Constitution is callously referred to as the constitution of an Islamic Republic, uses Islamic language as the political language and designs procedures to make sure that the law is legally compliant with the Quran and Sunnah. And yet, the constitutional text of that nevertheless imagines a familiar constitutionalist state: the exercise of power in the form of elected representatives; the protection of fundamental rights; and the autonomy of the judiciary. What makes Pakistan analytically interesting is that neither Islam nor constitutionalism are delimited as mutually exclusive in the constitutional imagination; and the Constitution is seeking to establish an arrangement, under which democracy, equality, tolerance and social justice are unambiguously connected with Islam as the rights and institutions are being offered to all citizens as well as minorities. that is, the original aspiration is that of harmony: Islam is not tolerated under the constitutional order, it is invoked as one of the moral justifications of the order, whereas constitutionalism provides the legal form, institutions, procedures, and limits, according to which that moral commitment is to be exercised.[1]

The theoretical challenge here is that Islam jurisprudence (fiqh) is not a code but a tradition of interpretation that exists in many schools, approaches, and controversies; constitutionalism, also, is not a code but a discipline of institutional restraint, legality and rights-oriented adjudication. A constitution which declares that no law shall be enacted which is repugnant to the Injunctions of Islam, does not put an end to debate--it transfers debate to the question as to who will say it is repugnant, how, by what evidence and by what interpretative art, and with what reference to other values of the constitution. Pakistan answers this question of who by a two track system of the constitution system. First it establishes an advisory institution, the , whose mandate is to propose Islamization directions and to guide on repugnancy when requested by political organs indicating that Islamic review is to be more of a deliberative and policy-oriented institution than a judicial one. Second, it makes available a judicial body, the FSC, which has the mandate to review and determine whether a law is repugnant to the Injunctions of Islam and which makes appeals to the Shariat Appellate Bench of the Supreme Court, which entrenches the Islamic review in a review hierarchy. At the same time, the constitutional design of Pakistan puts constraints on the extent to which this review of the Islamic law can be conducted: definitional provisions make the Constitution itself and the Muslim

[1] Mumtaz, A., Soomro, A. S., Laghari, N. A., & Laghari, A. R. (2024). Islamic Law and Constitutionalism in Pakistan: Exploring the Role of Sharia in Constitutional Development. *International Journal of Innovative in Social Science and Humanities*, *1*(1), 24-31.

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personal law to be outside the scope of law under review in this chapter, a sign of an effort to keep religious review a non-generalized constitutional override process.[2]

The latest constitutional trends also highlight the point that the issue of harmony/conflict cannot be resolved on only ideals level since alterations in judicial framework directly influence the manner in which Islamic provisions and rights are interpreted and applied. The Constitution (Twenty-sixth Amendment) Act, 2024 is a major judicial and constitutional reform, which seems to have, among other things, made procedural formalities in the Islamic review area and brought about a provision in the FSC appeal scheme referring to the 2024 amendment and a 12-month disposal expectation over some appeals.[3] In 2025, (Pakistani) After further reforms, often publicized, with corresponding legislative texts, the constitutional adjudication was further modified by establishing a Federal Constitutional Court, and casts wider questions on the distribution of constitutional interpretation authority and the equilibrium on the long term between courts and parliament, as well as between courts and specialized Islamic review bodies. (Senate of Pakistan) It is under this changing institutional situation that the article is based on a narrow research question: is Islamic jurisprudence, within the constitutional practice of Pakistan, a source of constitutional coherence, a source that supports and promotes the principles of justice, judicial legality and welfare, or is it a recurrent site of conflict that destabilizes rights, democratic authority and the legal certainty of Pakistan? The response developed is conditional. Peace is not merely possible but inherent in the constitutional construction, but a clash is constantly arising when interpretive pluralism is not practiced, when the institution becomes politicizing or when the review of Islam is being carried out through such imprecise standards that neither are limited by due process or constitutional rationale.

Literature review

The Islam and constitutionalism studies in Pakistan literature lie at the point of comparison of constitutional theory, Islamic law and the history of state development and the reform of the legal system peculiar to the country. The first line of scholarship considers Pakistan as an instance of Islamic constitutionalism and it does not think that constitutionalism demands secularism and that a constitutional order can include religious obligations but still have elections, institutional checks, and rights adjudication. In this strand the constitutional preamble of Pakistan and the inclusion of the Objectives Resolution in it are frequently interpreted as the efforts to resolve that tension between popular sovereignty and the theological sovereignty that the supreme sovereignty is the sovereignty of God, working it through the concept of delegated sovereignty by which the representatives of the people act under the constitutional limitations. The methodological problem being sought here is not just what Islam needs, but what a constitution does with Islam; whether it applies Islam as a moral horizon of law, a justifiable limit on legislative action, or a symbolic identity, which nonetheless exists in a very secular government. The text of Pakistan is often quoted as being peculiar in that it does not just proclaim Islam a state religion, but it also creates institutional structures the and FSC to put Quran and Sunnah into practice, thus giving Islam a regulative and not

[2] Abbasi, M. Z. (2022). Islamic Constitutionalism in Pakistan: Nature, Impact, and Compatibility with International Human Rights Law. *J. Int'l L. Islamic L.*, *18*, 3.
[3] Waseem, M. (2024). Islamic Constitutionalism in Pakistan. *Arab Law Quarterly*, *38*(4), 446-465.

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merely a declarative role.[4]

A second literature addresses the so-called repugnancy model and the institutional consequences of courts reviewing theology. The two characteristics that are simultaneously true in the case of the FSC are, according to scholars analyzing the jurisdiction of this institution, the power to declare laws repugnant, which anchors legal change in the niche domain, and the textual limits on that power, which is that the scope of the definition of the term law excludes the Constitution and the Muslim personal law as well as the presence of multiple high-level institutions making claims to authority that are partially overlapping, including ordinary constitutional courts, Islamic courts, advisory councils. (pakistanconstitutionlaw.wordpress.com) The clause in the FSC act which limits other courts and tribunals to matters within the sphere of the FSC (with the appeal avenue) is frequently seen as an attempt at constitutional fragmentation reduction; ironically, however, it can also result in a higher conflict confrontation by shifting delicate moral controversies into that context and therefore raising the stakes of its interpretive decisions. The hardest part of the literature comes on procedural and representational matters: such as the constitutional rule that parties in an FSC repugnancy proceeding may be represented by Muslim lawyers or by juris consults on an alim panel, still leaves open several serious questions on the accessibility of justice to the non-Muslim citizenry, or the access of Muslim citizens who do not wish their legal submissions to be couched in theological terms, to an adjudicatory process in the constitution that can redefine national law. Even when justified as required to interpret Islam, the design of procedures comes under the microscope of constitutionalism debate since constitutionalism is not just about what should be Islamic, but also who is involved, through what methods, and with what checks and balances to arbitrariness.[5]

The third group of scholarship focuses on Article 2A and the Objectives Resolution as a disputed source of interpretation that can integrate constitutional reasoning and subvert it. Its integration as a substantive element of the Constitution in Article 2A has been called by scholarly and legal commentators to be a change which cast uncertainty upon the question of justiciability and constitutional hierarchy, as a document which was originally preamble and aspirational started to gain doctrinal content in judicial advocacy and political discourse. This literature generally draws the line between the application of Article 2A as an interpretive aid, as a way of making courts interpret the ambiguous provision of the governing statute, read in the light of constitutional ideals, and its application as a trump, displacing a clear constitutional text or basic rights. The more theoretical issue the framing of the contested space implies is whether, assuming the Objectives Resolution is employed so as to overrule or limit rights claims that are not founded on clear textual bases, constitutionalism becomes unable foreseeable and the constitution is being turned into a stage of open-ended ideological debate.[6]

A fourth literature examines how Islamization politics and how security, legitimacy and governance crises can motivate symbolic religious reforms. Within this literature, the Islamic jurisprudence is no longer a neutral way of reasoning, but rather a political tool that various actors use to curb authenticity, to create constituents, and to delegitimize rival actors. The outcomes are mixed. Some areas are given Islamization as a restoration

[4] Gul, S., Ahmad, R., & Rahman, S. U. (2025). Constitutional Dualities: Reconciling Islamic Normativity with Common Law Principles in Hybrid Legal Systems. *Indus Journal of Social Sciences*, *3*(2), 674-693.

[5] Redding, J. A. (2003). Constitutionalizing Islam: Theory and Pakistan. *Va. J. Int'l L.*, *44*, 759.

[6] Ahmed, K. (2024). Shariah or Common Law: A Comparative analysis of Islamic law and Western law in Pakistan. *Pakistan JL Analysis & Wisdom*, *3*, 12.

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of justice and legal congruence with social value; other areas have been said by critics to create narrow civic space, heightened vulnerability of minorities and creating punitive legal fashions. Riba/interest jurisprudence of banking is a topic of discussion since it is often considered as a paradigmatic case due to its location at the intersection between theology, economics, state capacity, and global financial integration. Public statements and institutional reports indicate that the current interest-based banking system, as proclaimed by the FSC, as opposed to Sharia, and instructed to be abandoned by December 2027, although the Shariat Appellate Bench consulted on implementation and practicality, is how the Islamic law can directly urge the state to undertake structural economic change by putting practical and transitional justice challenges directly on the agenda.[7] The main argument in the literature would then not be the mere question whether Islamic finance is compatible with modern banking, but how the coordination of the juristic conclusion is achieved when the adjudication of a case has constitutional consequences of an economy-wide nature?

Lastly, an emerging literature correlates the larger Saudi constitutional reforms with the future of the Pakistani Islamic adjudication, and how the duty to interpret the constitution over constitutional spreads to each other constitutional area, including the Islam provisions and rights adjudication area. The official documents and authoritative reporting on the 2024 and 2025 amendment cycles show that the constitutional adjudication was significantly restructured by the establishment and empowerment of special constitutional forums, which was criticized by the international organizations of jurists and discussed the issue of judicial independence and the rule of law. In the question at hand, this is significant since whether harmony or conflict is an issue of doctrine is not only an issue of institutional consequence but also a matter of what sort of institution is created by which court holds the final power, by what standards does conducting a review, and by what sort of hidden institutional technology is their disagreement on an issue resolved. Throughout these strands, the literature agrees on one substantial conclusion: The constitutional effort to incorporate Islam into constitutionalism is not inherently unwieldy, but structurally exposed to conflict where interpretive pluralism is stifled, where there is no clear coordination of institutional roles, or where political interests promote religious symbolism rather than a law-abiding jurisprudence.

Methodology

This research takes a qualitative approach based on a doctrinal and socio-legal approach which attempts to shear everything about the legal form of the Islamic constitutional provisions in Pakistan as well as the practices of the institutions which create harmony or discordance between the provisions. Conceptually, the analysis commences with constitutional text: it examines the conformity command of Article 227, the institutional requirements of Articles 228-230 , and the jurisdictional aspects of the FSC and the Shariat Appellate Bench not as detached words and phrases but as parts of an entire structure of governance. The paper then looks at the structural limits embedded in the text, particularly the definitional limitations of the Article 203B on the scope of laws subject to review under the FSC repugnancy jurisdiction, as these limitations indicate a constitutional effort to ensure that Islamization does not to consume the entire constitutional order to the extent that only judicial invalidation can be effected.

[7] Bashir, M. H., Abdullah, M., Abbas, N., & Billah, M. (2025). The Role of the Judiciary in the Interpretation of the Constitution of Pakistan. *Dialogue Social Science Review (DSSR)*, *3*(5), 601-609.

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(pakistanconstitutionlaw.wordpress.com) The paper then looks at the advisory adjudicatory relationship; the advisory aspect of the , such as the existence of the possibility of law being legislated prior.

To relate theory to practice, the paper relies on examples of controversies that reveal the strong and weak moments of the system. The riba/interest jurisprudence is discussed as a case study as it demonstrates how the Islamic adjudication can yield the prescripts having an economic impact on the whole country and it resulted in the recorded chain of administrative reactions: the FSC decision, the transition schedule, the action of the regulator to obtain the appellate advice. (Dawn) The analysis also contextualizes the domain of Islamic adjudication in relation to the changing constitutional institutions by referring to the constitutional amendment cycle of 2024 and 2025, contextualized through official amendment texts and established institutional commentary of how conjunctions of constitutional interpretation structure may change overtime. Methodologically, it does not attempt to create an exhaustive list of cases or social events, but to trace recurrent processes: how the norms of Islam are converted into law, how controversies are channeled by institutions, and how conflicts are solved (or not), and how these patterns are impacting on constitutionalist values of legality, predictability, equality, and democratic accountability. Limitations of the study The limitations of the study are common with desk-based legal research: it will not involve any ethnographic fieldwork, but will use publicly available texts and reports to determine generalizable results why harmony can be achieved and conflict can exist in other areas.

Research findings

The initial observation is that the constitution of Pakistan is such synthesis rather than accidental contradiction of the Islamic jurisprudence with constitutionalism. The order in article 227 creating that existing laws must be brought into conformity with the Injunctions of Islam and that no law be made repugnant to those Injunctions entrenches Islam as a substantive source of constraint of legislation, but the Constitution at the same time entrenches democracy, rights and judicial independence within its narrative and institutional framework. This synthesis is institutionally defined by an institutional division of labor. The is constructed in such a way that it becomes a bridge between juristic and democratic lawmaking: it proposes Islamization steps, lists legislative-appropriate injunctions, and consults political organs whenever questions of repugnancy are sent to it, thus making Islamization appear as a gradual process, a staged reform, and policy sensitivity instead of a sudden displacement of the judiciary. The FSC, in its turn, would provide an enforcement mechanism: a judicial one: it would be able to review the law and determine whether it is repugnant to the Injunctions of Islam and issue decisions that would invalidate or crip-cripple laws to the extent of repugnancy following appellate procedures, and the Shariat Appellate Bench in the Supreme Court would offer an appellate avenue and would thus tie Islamic review to the larger pinnacle judiciary. Combined with these provisions, they demonstrate that the constitution-makers did not simply announce an Islamic identity; they established institutions to deal with possible conflicts between juristic norms and legislative practice in a combination of advice, review, appeal and staged implementation. The desire to have harmony can therefore be seen in the very constitutional engineering.[8]

The second observation is that harmony is structurally constrained by design with jurisdictional exclusions and procedural constraints to ensure it is not procedurally open-

[8] Ahmed, I., & Brasted, H. (2021). Recognition and dissent: Constitutional design and religious conflict in Pakistan. *Journal of Contemporary Asia*, *51*(2), 351-367.

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ended and makes Islamic review a limitless usurpation of constitutionalism. A defining scope of the law in FSC purposes contained in Article 203B is especially telling: the definition of law includes customs or usage with the force of law but does not include the Constitution, Muslim personal law, and some procedural laws among other things, indicating that the repugnancy jurisdiction of the FSC is powerful, but not constitution-wide. However, in the same constitutional article, Article 203G is a powerful jurisdiction-channeling provision (barring other courts to address issues within the jurisdiction of FSC) which suggests an effort to maintain consistency by eliminating the possibility of parallel litigation on the same questions of repugnance. FSC process procedural characteristics, such as ability to utilize the services of Islamic legal scholars, or well-organized time, when decisions become effective following periods of appeal, are indicators of a constitutional sense that Islamic review ought to be constrained by procedure and not necessarily motivated by moral conviction. And (Pakistani) the latest changes have also noted to this procedural setting: the text of the constitution as is reproduced in the current constitutional compilations has an insertion citing the Constitution (Twenty-sixth Amendment) Act, 2024, a twelve-month tendency of disposal of appeals in the channel in question, demonstrating that the state is still polishing the interface between the procedures of Islamic adjudication and the opportunity to overrule. All these design decisions taken together are an indication that the constitutionalism in Pakistan is not a vacuum in the Islamic provisions, but is within them as a series of checks and balances that are meant to ensure that Islamic jurisprudence is in a form that can be easily handled by the law.[9]

The third conclusion is that the conflict becomes the most intense not because of the existence of Islam in the Constitution itself, but because of the interpretive pluralism and institutional incentives which can make repugnancy a matter of high stakes politics. Islamic jurisprudence has numerous mechanisms of deriving rules based on Quran and Sunnah and applying them to more contemporary situations; such that what might appear simple in moral rhetoric may be a complicated legal issue in juristic context and demands consideration of ends, circumstances, and contradicting evidences. Whenever constitutional institutions are not open about the method, i.e. when they fail to differentiate between the writings that are definitive, the writings that are probabilistic, and the writings that are informed by the consideration of the public interest (maslahah) and the writings that are informed by the higher goals of Sharia (maqasid), one may find themselves having their findings be construed as a declaration of religious authority as opposed to an appeal to reasoned legal decisions, which in turn politically mobilizes and provokes other mobilizations.[10] The system in place in Pakistan tries to cushion this by expertise and procedure, but it also forms the points of pressure: e.g. the requirement that those in FSC proceedings have Muslim practitioners or alims on their panel, or that experts be called by the court, may enhance juristic competence, but also creates constitutionalist pressures of openness, equality of participation, and the risk that religious review will take a socially exclusionary form even in matters that concern all citizens. (Pakistani) This may also be approached by treating the advice of such bodies as less a consensus-swearing instrument when perceived to be politically partisan or viewed

[9] Nelson, M. J. (2018). Indian basic structure jurisprudence in the Islamic Republic of Pakistan: Reconfiguring the constitutional politics of religion. *Asian Journal of Comparative Law*, *13*(2), 333-357.

[10] Ishfaq, M., Yasin, S., Riaz, M., & Riaz, K. (2024). Navigating legal pluralism: A comparative analysis of Islamic law and secular legal systems in Pakistan. *International Journal of Social Welfare and Family Law*, *1*(2), 01-17.

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to lack plurality in scholarly representation, which undermines their role as the deliberative tool which they are intended to be. The warring relation is therefore frequently institutional: the constitution provides means of synthesis, but the validity of those means is subject to interpretive frankness, academic plurality and non-dependence on short-term political motives.[11]

The fourth observation is that the Islamic adjudication of Pakistan is capable of producing both harmonizing and destabilizing effects based on interaction with state capacity and socio-economic complexity and the riba/interest jurisprudence provides a demonstration of this duality. The 2022 decision of the FSC to declare the current interest-based banking system illegal based on Sharia and putting the shift towards an interest-free banking system in place by December 2027 is evidence of the Islamic jurisprudence as a constitutional driver of moral-economic reform, not inconsistent with the ambitions of an Islamic republic to reconcile economic life with religious injunction. At the same time, the attempt by the State Bank of Pakistan to consult the Shariat Appellate Bench regarding implementation and practicalities underscores a significant constitutionalist factum: the normative transformation on a large scale can only be implemented with administrative viability, transitional planning, and regulatory accuracy to prevent legal uncertainty and economic destabilization.[12] The fact that there is scholarly appraisal work on the FSC judgment is another further indication that the riba problem is not a black-and-white theological issue but a juristic-political debate as to how to implement injunctions via legislation and regulation in a modern financial system. Compatibility in these regimes is brought about by using the Islamic jurisprudence as an authoritative guide and constitutionalism as a delivery mechanism in terms of phases and accountability, and rights-sensitive protections; incompatibility involves courts making sweeping rulings without regard to any coordination mechanisms and lawmakers as the ones who view juristic decisions as identity triumphs that must be implemented immediately.

The fifth observation is that the harmony/conflict balance is more and more predetermined by even bigger constitutional redistribution of judicial authority which indirectly touches upon the mediation of Islamic jurisprudence and constitutional rights. According to official texts and authoritative institutional commentaries, the amendment cycle of 2024 introduced serious changes to judicial governance and constitutional adjudication, and the later 2025 reforms created a Federal Constitutional Court and changed the constitutional case allocation architecture. (Election Commission of Pakistan) Why one should (or should not) deem such reforms successful notwithstanding its characteristics, it highlights one of the most important constitutionalist lessons which is that the issue of how Islamic provisions and rights interact is determined not simply by doctrine but also by which institutions hold definitive interpretive authority, how autonomous they are deemed to be, and how any conflict between constitutional values may be resolved in a procedural manner. Any redistribution of judicial power in the context of the interaction of Islamic review, fundamental rights adjudication and constitutional interpretation concerns the downstream effects on the integration (or not) of Islamic jurisprudence into the stable and predictable adjudication or the locus of

[11] Waseem, M. (2015). Constitutionalism and extra-constitutionalism in Pakistan. *Unstable constitutionalism: Law and politics in South Asia, ed. M. Tushnet and M. Khosla*, 124-158.
[12] Imran, M. M. (2024). *CONSTITUTIONALISM AND LIMITS OF INTERPRETATION: AN ANALYTICAL STUDY OF CASE LAW AND JUDICIAL POLICY IN PAKISTAN* (Doctoral dissertation, Department of Law, Faculty of Shari ‘ah & Law, International Islamic University, Islamabad, Pakistan).

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escalatory institutional rivalry in the case of Pakistan. In this way, the problem of harmony or conflict is not a predefined diagnosis; it is a dynamic balance that is a by-product of institutional design decisions, political interests and interpretive discipline.[13]

Discussions

The constitutional effort of reconciling constitutionalism and Islamic jurisprudence in Pakistan needs to be considered as a model of bound integration: Islam is constitutionally normative, but is incorporated through institutions and processes that implicitly acknowledge the constitutionalism requirement of legality, predictability, and rights-sensitive governance. Article 227 states a definite normative course, compliance with Quran and Sunnah, but the constitution-makers did not intend to establish a model of the pure theocracy by keeping the lawmaking to the parliament but introducing in the constitutional account rights commitments and establish advisory and judicial structures instead of unilateral control by clerical institutions. All this, explains why the most satisfactory answer to the question of harmony or conflict is not to have one or the other, but to have a methodology: harmony is the likeliest where Islamic jurisprudence is conceived of as a technique of communal reasoning, geared towards justice and the common good, and where constitutionalism is conceived of as the art which transforms the moral commitments of men into a legal form of government, a non-arbitrary rule. On the contrary, a clash is most probable when Islamic review is a dodge of democratic deliberation, when the term repugnancy is an identity slogan instead of a juristic determination or when constitutional institutions adopt disloyalty, instead of legitimate jurisprudential diversity, to describe interpretive differences.[14]

An effective way of explaining the relationship is to separate Sharia as divine normativity and fiqh as human interpretation. The constitutional text of Pakistan addresses itself in the form of Quran and Sunnah, but this suggests that it claims normative definiteness, the legal process of translating it into enforceable rules necessarily goes through fiqh methodologies, interpretive decisions and judgments concerning context. This fact is implicitly recognized in the design of in placing itself as a recommending and advising organization rather than a direct lawmaking one: it is only supposed to steer elected institutions in how to empower and encourage the ordering of life according to Islam and to advise on the question of repugnancy when requested, which can coexist with a constitutionalist conception of deliberation and policy choice. The design (as well as the use of interpretive mediation) of FSC also admits interpretive mediation by admitting the usage of juris consults (alims) by parties and by giving the authority to the court to invite the experts in the field of Islamic law in order to enhance the quality of interpretations and to minimize the aspect of arbitrary theological statement. But it is these same characteristics which bring about constitutionalist conflicts: when only Muslim deputies are able to plead or expound Islamic injunctions in the processes which may otherwise redesign general law, then the question of equality of participation will be confused; when expert appointment is not transparent, interpretative legitimacy will be lost; and when the reasoning of the judges is not explained openly, how to interpret methodologically, then decisions will be perceived as power, not law. Concisely, the harmony that the system promises is not just conditional upon institutional

[13] Lubis, A. F. (2025). LEGAL PLURALISM AND SOCIAL IDENTITY: AN ANALYSIS OF STATE AND RELIGIOUS LAW INTERACTION IN LOCAL DISPUTE RESOLUTION IN INDONESIA AND PAKISTAN. *Lex Localis: Journal of Local Self-Government*, *23*(11).

[14] Grote, R., & Röder, T. J. (Eds.). (2012). *Constitutionalism in Islamic countries: Between upheaval and continuity*. Oxford University Press.

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existence, but upon the epistemic humility and openness with which institutions offer fiqh as interpretation, but not as something unquestionable.[15]

Conflicts that are the hardest are those one mobilizes Islamic morality in such a manner that the equal citizenship is reduced to a mere bargaining or where the protection of constitutional rights is reduced to a bargaining tool. In this case, the constitutional discourse of Pakistan itself provides a balancing resource the Objectives Resolution and the constitutional preamble bridges Islam and democracy, equality, tolerance, and social justice and expressly guarantees minorities the right to profess and practice religion and to cultivate culture as well as to secure the essential rights and judicial independence. This may be interpreted by some as an internal harmonization rule, namely, the Islamic ends of justice, social protection of life and dignity and social welfare are to be achieved by means of institutions that are constitutional expressions of the Islamic-democratic project rather than alien limitations. The manner does not deny that there are hard disagreements, on gender roles, limits of speech, morality of crime or financial ethics but maintains that disagreements should be resolved in constitutional ways: through reason-giving, procedural fairness, deliberation in legislative bodies, and proportionality that is sensitive to rights but not through coercive branding.[16]

The riba/interest jurisprudence explains the importance of the disciplined approach. The juristic conclusion that the interest is outlawed and the move towards economic interest-free forms should be taken can be eloquently expressed by a court, and such a statement can strike with the chord of a society where Islamic ideals seem the legal and political heart of the community. (Dawn) but constitutionalism has other questions that are not anti-Islamic: they are questions of governance: what is the legal way forward, what is the transition, how are the contracts shifted, how is the financial stability preserved, what are the protections of the vulnerable during transition, and what is the control which prevents the cover of scoundrels by the label Islamic? When the State Bank decided to consult the Shariat Appellate Bench on the application and practice matters it demonstrates the institutional fact that juristic direction should be combined with administrative practicability and regulatory specifics, or it will bring chaos instead of justice. constitutionalism then may be interpreted as being a service to the Islamic purpose: according to it, the moral commitments are worked out in the stable law, so as to safeguard the society against the evils that will come with the move towards transformation in the forms of abruptness or symbolic politics.[17]

In the last instance, the recent redesign of constitutional adjudication portends a new aspect of possible struggle institutional competition of ultimate interpretive authority. A change in the constitutional amendments to include a significant reassessment of the courts to which constitutional issues are subjected will destabilize the same relation between Islamic review, rights adjudication, and constitutional interpretation in cases where the reforms are seen to undermine judicial independence or change checks and balances. (Election Commission of Pakistan) In terms of harmony, institutional change is not necessarily bad; coherence can be enhanced theoretically by specialized constitutional benches. In terms of conflict, though, regular or partisan restructuring may render jurisprudence as contingent, and thus as dependent on power, as opposed to principle, and this will tain both Islamic adjudication and the protection of constitutional rights. To have the constitutional order of Pakistan maintain harmony between Islam and

[15] Shah, N. A. (2011). *Islamic law and the law of armed conflict: the conflict in Pakistan*. Routledge.
[16] Khan, L. A. (2010). The Qur'an and the Constitution. *Tul. L. Rev.*, *85*, 161.
[17] Aziz, S. (2018). The Constitution of Pakistan.

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constitutionalism, it has to consider institutional design as constituent of that harmony: independence, transparency, and fixed jurisdictional allocations are not technicalities, but to have a legitimate interpretation--religious or constitutional.

Recommendations

An effective way forward to increased compatibility of Islamic jurisprudence and constitutionalism in Pakistan must focus on interpretive transparency, juristic pluralism, procedural fairness, and better coordination among institutions instead of trying to effect broad symbolic changes that further polarize. First, a more explicit process of the constitutional interpretation of Islam in both advisory and judicial bodies should be institutionalized in Pakistan to promote rational opinions revealing whether the conclusions are based on the unambiguous texts, the use of probabilistic reasoning, analogy, consensus, a rationalization of the public interest, or the use of maqasid objectives. It does not involve the introduction of alien doctrines, but it involves the need to state using intelligible legal reasoning what Islamic jurisprudence already possesses as guided techniques. Transparency would decrease the disposition of repugnancy to be a political slogan and would on the contrary transform it into a legally reviewable conclusion, which is consistent with the requirement of constitutionalism to provide reasons. The constitutional empowerment of the FSC is great and since its decisions may nullify or nullify laws once appeals have been made, the validity of its methodology is critical to the religious credibility as well as the rule-of-law stability. (Pakistani)

Second, the role of as an advisor needs to be reinforced in such a manner that enhances its relevance as an interface between juristic reasoning and democratic governance as opposed to being a venue of ideological struggle. The has already been envisioned in the Constitution as a recommending and advising body to parliament, provincial assemblies and executive heads, in the event of questions being referred. Publication and inclusiveness: Reforms must aim at transparency and inclusivity: publication of reasoned reports involving competing juristic opinions; establishment of systematic consultations with different Islamic scholars (both inter-school and inter-region); and making the recommendations reflect on their implementation viability and social welfare effects and not merely on declaration conformity. Where the Constitution leaves legislation to go ahead in the absence, so far as is concerned, of advice in the best interest of the State, but necessitates reconsideration in the event of repugnancy in advice, a regular and proper advisory process will serve nobly as a means of averting last-minute emergent Islamization, as well as of procuring gradual reform much likely to produce actual compliance.

Third, the procedural framework of the FSC must be considered in the perspective of equal-citizenship without jeopardizing the juristic competence. The clause in the constitution that parties can have Muslim legal practitioners or alim juris consults is meant to provide the capability of Islam interpretation, but its practical implications in inclusion and equality must be evaluated particularly in cases of laws of general application. (Pakistani) Pakistan needs to contemplate procedural innovations that maintain Islamic competence whilst extending participatory legitimacy, including permitting amici curiae submissions by competent scholars and rights professionals, irrespective of conviction (where suitable), enhancing public access to decisions and justification and making expert appointment processes transparent and not seen as an ideologically controlled monopoly. This is not meant to secularize Islamic adjudication or to come up with a more thorough constitutionalization of it, but rather to ensure that correct procedure conforms to the constitutionalist ideal of adjudication as being open,

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fair, and accountable.

Fourth, Pakistan needs to enhance the ownership of the legislative process of Islamization by enhancing the civil processes of parliamentary committees and evidence-based legislating through which Islamic logic is incorporated in the legislative drafting, but not post hoc judicial nullification. The command of conformity presented in article 227 is not applied to the courts in particular, but to the entire legal system, and thus a legislature able to justify Islamic rationales as well as constitutional rights reasoning has greater chances of coming up with stable and generally agreeable laws. The method is especially significant in such complicated areas as money. The riba jurisprudence, however, reveals that the provision of normative guidance by the courts is possible, but permanent change necessitates coordinated regulatory architecture, transitional planning, and technical skill. The experience of Pakistan is that FSC instructions in combination with the request of the central bank to the appellate guidance could be of advantages, as judicial pronouncements are not regarded as overarching endpoints but as the starting point of well-organized legislative-regulatory programs.

Fifth, reforms of the constitution reorganizing judicial authority must be sought, at the very least, with optimum transparency, popular consultation, and the protection of judicial independence, since uncertainty in constitutional adjudication organizations increases the conflict in all areas of the constitution, including Islamic clauses. The official writings and high-profile institutional criticism of the 2024 and 2025 amendments cycles demonstrate that the reorganization of judicial processes can give rise to the significant anxieties about the effects of the rule of law. It does not matter what the motives are political in nature, long term prospects of coexisting harmoniously between Islam and constitutionalism depends on a stable adjudicatory atmosphere where judgements are believed to be principled and not politically engineered in Pakistan. This is not an anti-reform suggestion but is a pro-constitutionalism suggestion: in the event new constitutional courts or benches are established, they should have their jurisdiction clearly defined, the independence in terms of appointments and tenure should be enhanced, and their interrelationship with specialized Islamic adjudication (FSC and Shariat Appellate Bench) should be clearly charted to avoid fragmentation and forum shopping.

Last, but not the least, Pakistan must explicitly embrace a rights-affirmative maqasid to provide an internal harmonizing mechanism and that constitutional text as such, most notably the constitutional narrative regarding Islam and democracy, equality, and tolerance, must be used to interpret Islamic provisions in a manner that reinforces and not undermines an equal citizenship. This would assist to subtract the discussions of the debate as Islam vs. rights to the exchanges of how Islamic goals can be achieved by rights minding governance and curb the circumstances of conflict that are presented when Islam is used as a veto on constitutional safeguards. Practically, such a structure would promote the courts and advisory institutions reviewing the proposed or reviewed laws on whether they promote justice, avoid harm, defend dignity, and ensure welfare which are fundamental Islamic goals in addition to meeting constitutional legality and procedural fairness.

Conclusion

The Islamic jurisprudence and constitutionalism in Pakistan are not necessarily compatible or incompatible, they are bound together by the constitutional structure and made to be consistent or incompatible by institutional practice. The Constitution of Pakistan literally orders legal compliance with Quran and Sunnah, and establishes

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institutions, as advisory council and FSC as judicial reviewer with an appeal provision, to convert Islamic normativity into state law. Meanwhile, there are clear constitutionalist promises within the constitutional order: democratic government by representatives, a pledge of fundamental rights, minority protection, and judicial independence, written as they are within the story of its constitution, showing that Islam is a constitutional order, but one of moral principle. The procedural constraints built into the system, particularly, the constraints contained in its definitions which limit the applicability of FSC review to the Constitution itself, demonstrate that the constitution-makers aimed at a form of bounded integration whereby Islamic jurisprudence exists in a regulated legal system and not in an unregulated veto.

There is, nonetheless, conflict due to the fact that juristic pluralism and political incentives can squander the promise of managed harmony. In some cases, where the institutions do not reveal method, whereby the participation seems to be disenfranchising, and where Islamization is being sought as symbolic politics and not as a rights-sensitive governance, then Islamic review may turn out to be a location of constitutional vagaries instead of a provider of justice-oriented integrity. The riba/ interest jurisprudence gives an example of both directions of the matter: Islamic adjudication is propelling the moral-economic reform, yet there is also the need to coordinate implementation and to have regulation viability as the only way by which the moral-economic reform can bring about welfare and not disruption. This increases the stakes of institutional credibility and independence in an era of broader judicial restructuring by constitutional amendments since the constitutional interpretation architecture has an impact on how all the constitutional values, such as Islamic stipulations and fundamental rights, are brought into a reconciliation in practice. (Election Commission of Pakistan) In conclusion, the most sustainable path that Pakistan can take towards harmony is to consider Islamic jurisprudence as a disciplined civic legal approach geared towards justice and welfare and to consider constitutionalism as the procedural and institutional discipline that will ensure that those aims are met through lawful, accountable, and equal-citizenship-based government.

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