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# The Role of Islamic Law in Contemporary Constitutional Systems: Comparative Perspectives on Governance in Indonesia, Malaysia, Pakistan, and Egypt

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**Abstract**

*This article explores the constitutional role of Islamic law (Sharia) within contemporary governance frameworks across four Muslim-majority states such as Indonesia, Malaysia, Pakistan, and Egypt. It argues that the interface between Sharia and constitutionalism represents an evolving negotiation of moral legitimacy, institutional design, and political power rather than a fixed dichotomy between secularism and theocracy. Using a comparative qualitative approach grounded in constitutional pluralism and governance legitimacy theory, the study analyzes constitutions, judicial decisions, and legislative instruments from 1945 to 2024. The findings identify three typological models of Islamic constitutional governance. The integrationist model, exemplified by Pakistan, embeds Sharia into the constitutional core through specialized courts and councils, reinforcing religious authority but limiting legislative autonomy. The dualist model, found in Malaysia, institutionalizes parallel jurisdictions between civil and Sharia courts, ensuring religious autonomy but perpetuating jurisdictional uncertainty. The contextual-adaptive model, as in Indonesia, integrates Sharia through decentralization and judicial review, balancing local autonomy and national oversight. Egypt, meanwhile, represents a hybrid statist model, where state institutions monopolize religious*

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*interpretation to maintain regime legitimacy. Comparative analysis reveals that constitutional trajectories depend less on religious doctrine than on the interplay of judicial independence, political coalitions, and decentralization. When Sharia interpretation aligns with maqāṣid al-sharī'ah and human rights principles, it strengthens democratic legitimacy and legal pluralism. The article concludes by proposing a contextual constitutionalism model, offering an institutional framework for reconciling divine authority with constitutional democracy in Muslim-majority societies.*

**Keywords:** *Islamic constitutionalism; Sharia and governance; Indonesia–Malaysia–Pakistan–Egypt.*

## Introduction

The intersection of Islamic law (*Sharia*) and constitutional governance has become one of the most complex and contested terrains in contemporary political studies. Over the last few decades, Muslim-majority states have undergone profound constitutional transformations, marked by the resurgence of religion as both a moral and legal reference for public authority. This transformation is not uniform; rather, it varies significantly across regions and historical contexts. While Indonesia, Pakistan and Malaysia represent constitutional democracies that integrate Islamic norms through pluralist frameworks, Egypt reveal more centralized and doctrinal approaches to embedding *Sharia* within state institutions. This comparative diversity underscores the necessity of a nuanced understanding of Islamic constitutionalism beyond the binary categories of secularism and theocracy (Erdayani et al., 2023; Feldman, 2008; Lombardi & Brown, 2012).

In the post–Cold War era, debates surrounding the compatibility of Islam and democracy have intensified as Muslim-majority societies seek legitimate models of governance that harmonize religious authenticity with constitutional modernity. The Arab Spring and democratization movements in Southeast Asia have reanimated old questions concerning the place of divine law in statecraft, citizenship, and rights (Afandi & Afandi, 2018; An-Na'im, 2008; Hirschl, 2010). The challenge lies in reconciling divine authority, which claims universality, with constitutionalism, which rests on human consent and legal pluralism. This tension is particularly salient in countries where Islamic law functions both as a source of legitimacy and a constraint on legislative autonomy (Afandi & Afandi, 2025; Bälz, 2010). Consequently, the role of

*Sharia* within constitutional systems cannot be treated merely as a doctrinal or theological issue; it represents a broader question of governance, institutional design, and political legitimacy (Abou El Fadl, 2014; Lombardi, 2013).

Existing scholarship on Islamic constitutionalism offers divergent interpretations of how Islam interacts with modern state structures. Early modernists such as Esposito (1984) and Lapidus (1996) emphasized the adaptive potential of Islamic law to modernity, whereas later critical theorists such as W. B. Hallaq (2013) argue that the very notion of an "Islamic state" is internally contradictory because it subordinates divine law to human institutions. Between these poles lies a pragmatic scholarship that views constitutional Islam as a dynamic process of institutional negotiation—what Lombardi (2013) calls "Islamic constitutionalism in practice." This approach recognizes that constitutional references to Islam are often open-textured, allowing state actors and courts to interpret them according to evolving political needs. Hirschl (2010) similarly contends that constitutional references to religion serve as instruments of "hegemonic preservation," enabling elites to co-opt religious legitimacy without relinquishing political control.

The comparative study of Islamic constitutionalism, therefore, must move beyond textualism toward a governance-centered framework. In Indonesia, the 1945 Constitution's Preamble affirms belief in one God (*Ketuhanan Yang Maha Esa*), but the constitutional system refrains from declaring Islam as the official religion. Instead, Islamic principles are embedded through statutory law and regional regulations, most notably in Aceh's special autonomy arrangement (Crouch, 2014; Lindsey, 2012). Malaysia's Federal Constitution recognizes Islam as the religion of the Federation, yet maintains a secular judiciary alongside a parallel system of *Sharia* courts with limited jurisdiction (Harding, 2012). By contrast, Pakistan institutionally integrates Sharia into its constitutional framework through the Preamble, the Objectives Resolution via Article 2A, the Islamic provisions under Article 227, and the establishment of the Federal Shariat Court. This mechanism gives rise to a hybrid theocratic-democratic model that facilitates judicial Islamization (Lau, 2006). Egypt, following the constitutional revisions of 1980 and 2014, enshrines the "principles of Islamic law" as the primary source of legislation, yet the interpretive authority remains monopolized by state-controlled religious institutions such as Al-Azhar and the Supreme Constitutional Court (Brown, 2017; Lombardi & Brown, 2012). These four cases

illustrate how Islamic law functions as both a moral compass and an instrument of statecraft, producing what Arjomand (2007) terms "contextual constitutionalism."

Theoretically, this study is grounded in three interrelated frameworks: constitutional pluralism, institutional mediation, and contextual adaptation. The first, constitutional pluralism, recognizes that multiple normative orders—religious, customary, and state-based—can coexist within a single constitutional framework (Berman, 2009; Walker, 2002). This lens is particularly useful in explaining how Islamic law cohabits with secular legal traditions in Indonesia and Malaysia. The second framework, institutional mediation, draws from legal sociology and comparative constitutionalism to analyze how state institutions—courts, parliaments, and religious bodies—mediate the authority of *Sharia* within constitutional interpretation (Hirschl, 2010; Lombardi, 2013). Through institutional mediation, states maintain flexibility in defining the scope of Islamic law without overtly challenging its legitimacy. The third framework, contextual adaptation, highlights how socio-political environments shape the implementation of constitutional Islam. As Hefner (2011) and Esposito & Voll (1996) note, Islam's engagement with governance is deeply contextual, informed by colonial legacies, ethnic pluralism, and national ideologies.

In synthesizing these perspectives, this paper advances the argument that the role of Islamic law in constitutional governance is neither uniform nor linear but negotiated through multi-level interactions between state institutions, religious authorities, and civil society. Rather than conceptualizing Islamic constitutionalism as a monolithic model, this study conceptualizes it as a *process* of normative translation—where universal Islamic precepts are continuously interpreted and reconstituted through political contestation and institutional design (An-Na'im, 2008; Bowen, 2016). By comparing Indonesia, Malaysia, Pakistan, and Egypt, the analysis aims to uncover the patterns of accommodation, conflict, and hybridization that characterize the governance models of Muslim-majority societies. This comparative inquiry contributes to both constitutional theory and Islamic political thought by demonstrating that Islamic law, when situated within modern governance structures, operates as a flexible moral discourse rather than a rigid legal code.

Ultimately, the constitutional role of Islamic law must be understood as part of a broader search for legitimacy in postcolonial Muslim societies. As Abdullahi An-Na'im (2008) emphasizes, the viability of Islamic law within modern states depends on the

voluntary consent of citizens and the compatibility of *Sharia* norms with democratic principles and human rights. This synthesis does not imply secularization but rather a pluralist reconfiguration of the public role of religion. Thus, the constitutionalization of Islam represents not merely a legal phenomenon but a political negotiation over identity, authority, and moral order. The comparative analysis that follows seeks to illuminate how these negotiations manifest differently across the constitutional landscapes of Indonesia, Malaysia, Pakistan, and Egypt—each offering distinct pathways toward reconciling divine command with human governance.

**Methods**

This study employs a comparative qualitative research design grounded in the tradition of constitutional and interpretive political inquiry (Collier, 1993; Hirschl, 2014; Lijphart, 1971). The methodological aim is to explore how Islamic law, or *Sharia*, is embedded within constitutional structures and governance systems across four Muslim-majority countries—Indonesia, Malaysia, Pakistan, and Egypt. The selection of these cases is based on purposive sampling that reflects significant variation in colonial legacies, state–religion relations, and institutional arrangements, yet a shared constitutional aspiration to align Islam with the state's normative framework. Each case offers a distinctive model: Indonesia's pluralist secular democracy with localized *Sharia* regulation, Malaysia's structured dual legalism, Pakistan's constitutional Islamization, and Egypt's hybrid theocratic system. Such diversity allows the research to generate theoretical generalizations about the interaction between Islamic principles and constitutional governance rather than merely descriptive comparisons.

The comparative logic follows a *most-different systems design* (Przeworski & Teune, 1970), emphasizing contrast among dissimilar contexts that share an overarching phenomenon—constitutional references to Islam. This design enables the identification of structural and contextual factors that mediate the accommodation of religious norms within modern state institutions (An-Na'im, 2008; Mahmood, 2016). The comparative constitutional approach adopted here combines textual and contextual analyses: the first involves close reading of constitutional preambles, clauses, and amendments related to religion, while the latter examines judicial decisions, legislative debates, and policy frameworks that operationalize Islamic references in practice (Hirschl, 2010; Lombardi & Brown, 2012). Rather than seeking causal universality, the analysis aims

for conceptual generalization—to explain how Islamic constitutionalism evolves through negotiation between legal formality and political contingency.

Data were collected from multiple sources to ensure reliability and triangulation (Denzin, 1978). Primary data consist of constitutional texts, court decisions, and official documents such as parliamentary transcripts, government reports, and fatwas issued by state-sanctioned religious authorities. Secondary data include peer-reviewed journal articles, scholarly monographs, and analytical reports from global institutions such as the International IDEA, Brookings Institution, and Pew Research Center. The study covers the period from 1945 to 2024, allowing longitudinal observation of constitutional amendments, judicial reinterpretations, and policy reforms. Data organization and coding were managed through NVivo qualitative analysis software, enabling thematic categorization across four key domains: constitutional language on Islam, institutional mediation, judicial interpretation, and governance outcomes. Thematic analysis was guided by the approach of Braun & Clarke (2006), which facilitates systematic identification of patterns within qualitative data while allowing contextual sensitivity.

Analytically, the study integrates two main theoretical perspectives: constitutional pluralism and governance legitimacy. Constitutional pluralism, as developed by Walker (2002) and Amhlaigh (2020), provides a lens for understanding how multiple normative orders—religious and secular—coexist within a single constitutional framework. Governance legitimacy theory (Beetham, 1991; Gilley, 2009) offers a framework for analyzing how political systems justify authority in the eyes of citizens, especially when legitimacy derives simultaneously from divine and democratic sources. The interaction between these frameworks allows for a more nuanced interpretation of Islamic constitutionalism as a dynamic process of institutional negotiation rather than a dichotomy between secularism and theocracy. This aligns with Hirschl's (2010) notion of *constitutional theocracy*, where religion is institutionalized through constitutional mechanisms yet remains subject to judicial and bureaucratic regulation.

Methodological validity was strengthened through source triangulation and cross-case synthesis. By integrating both synchronic (cross-national) and diachronic (historical) comparisons, the study ensures that conclusions are sensitive to temporal shifts in legal and political contexts. In line with Ragin's (1987) logic of Qualitative Comparative Analysis (QCA), causality is not treated as linear but as configurational—

emerging from specific combinations of institutional design, ideological interpretation, and political context. Reflexivity is maintained throughout the research process to mitigate epistemic bias, particularly the risk of imposing Western constitutional categories on Islamic political realities (Abou El Fadl, 2014; Lombardi & Brown, 2012). Instead, Islamic constitutionalism is approached as an evolving field of hybrid norms and institutions shaped by both internal theological debates and global governance discourses. This interpretive sensitivity enhances not only the analytical robustness of the study but also its cross-cultural validity within the discipline of comparative constitutional law and political governance.

**Results and Discussion**

Indonesia displays a contextual-adaptive model of the relationship between Sharia and the constitution, a model that relies on decentralization and political negotiation as primary mechanisms for adapting Islamic norms into modern governance practices. The 1945 Constitution does not declare Islam as the state religion, but rather articulates 'Belief in One Supreme God' (*Ketuhanan Yang Maha Esa*) as one of the state's foundations. Consequently, the national constitutional framework permits broad plurality in law and religious practice, including the granting of significant special autonomy to the province of Aceh following the Helsinki Agreement. Within this autonomous framework, Aceh adopted a series of *qanun* (local bylaws) that institutionalize Sharia norms in the local sphere, including the establishment of regional Sharia courts (*mahkamah syariah*), a Sharia enforcement apparatus, and Sharia penal provisions (*jinayat*) that permit corporal sanctions such as public flogging for moral violations (e.g., *khalwat* [close proximity], gambling, alcohol consumption, and same-sex relations).

These practices have been consistently documented by international media and human rights organizations, indicating that the implementation of Aceh's *qanun* often clashes with international human rights standards and principles of national citizenship. Meanwhile, the Constitutional Court and national courts occasionally function as arenas for testing the constitutionality of provincial *qanun* when legal conflicts arise (e.g., regarding application to non-Muslims or violations of fundamental rights). Empirical studies and local legal analyses underscore that the decentralization path has created a legal "experimental space" that allows for normative adaptation based on local politics and elite interests, but also poses challenges to human rights and

access to justice for minorities—a dynamic that affirms the thesis of contextual constitutionalism, wherein Sharia's legitimacy is localized and negotiated through complex institutional mechanisms (see news documentation regarding the continued practice of flogging in Aceh).

Malaysia exhibits a structured dualist model where the civil and Sharia judicial systems run in parallel, with the federal constitution declaring Islam as the "religion of the Federation" while simultaneously guaranteeing constitutional supremacy and several civil rights. In practice, Sharia courts have limited jurisdiction—primarily over matters of personal status and Muslim family law—while civil courts hold broader authority, including judicial review over federal laws. Tensions arise when jurisdictional claims overlap, such as in cases of unilateral conversion of children (which reached peak public attention in landmark cases like Indira Gandhi), custody disputes, and conflicting decisions between Sharia and civil courts. Although the Federal Court (Mahkamah Persekutuan) delivered a crucial ruling in the 2018 Indira Gandhi case, marking certain limitations on the unilateral power of religious authorities in religious administration, jurisdictional issues continue to trigger litigation and normative uncertainty.

Furthermore, contemporary debates on judicial independence and political pressure on judicial institutions complicate the judiciary's ability to act as a neutral mediator between religion-based moral demands and constitutionally protected human rights obligations. Recent policy reports and constitutional analyses indicate challenges to judicial independence which, if unaddressed, could diminish the courts' capacity to consistently manage conflicts between Sharia regulations and constitutional principles. Therefore, the Malaysian model—while formally pluralistic—faces practical pressures demanding institutional engineering to clarify jurisdictional boundaries and protect the rights of minorities and women in the context of religious legislation.

Pakistan represents an integrationist variant of constitutional Islam, characterized by a deep and institutionalized normalization of Sharia within its positive legal framework. This trajectory traces back from the 1949 Objectives Resolution to the early Islamization eras, which progressively expanded the scope of Islamic law. Central to this model are key constitutional bodies: the Federal Shariat Court (FSC), established under Articles 203A–203J, and the Council of Islamic Ideology (CII), under Articles 228–230. These institutions serve as formal mechanisms to review

statutory compliance with Islamic injunctions and drive legal harmonization. A notable milestone occurred in April 2022 when the FSC mandated the eradication of all forms of interest (*riba*) by 2027. Consequently, the Pakistani parliament passed a landmark constitutional amendment requiring the elimination of *riba* before January 1, 2028, a move anticipated to accelerate the growth of domestic Islamic banking.

Current empirical scholarship emphasizes that while empowering these bodies institutionalizes Islamist demands, it simultaneously introduces a constitutional friction between parliamentary sovereignty and Sharia-centric judicial oversight. Thus, Pakistan demonstrates how a robust constitutional commitment to Sharia can elevate the judiciary—specifically the FSC—into a primary agent of legal evolution while concurrently constraining legislative autonomy. Ultimately, the interplay between judicial authority and shifting political coalitions (across the right and left wings) dictates whether this integration fosters legal inclusion or yields restrictive, fragmented norms during execution.

Although Egypt constitutionally declares that Islam is the state religion and the principles of Sharia are the primary source of legislation (Article 2), Egyptian constitutional practice is often shaped by a state-bureaucratic configuration that monopolizes interpretive religious authority through state institutions like Al-Azhar (as well as through administrative control over religious institutions and mechanisms for nominating officials). Meanwhile, the Supreme Constitutional Court (SCC) has played a central role in interpreting the scope of Article 2 and asserting the limits of legislative Islamization. Constitutional literature and contemporary political analysis suggest that Egypt operates as a hybrid wherein religious legitimacy is used by the regime to strengthen state authority while simultaneously limiting pluralistic space for independent religious interpretation.

Reforms to personal status law and women's rights issues are often confronted by regime calculations aimed at maintaining control over religious discourse, as such reforms could weaken the pillars of regime legitimacy. Empirical studies discussing the role of Al-Azhar and SCC rulings indicate that Egyptian courts tend to adopt selective interpretations of Sharia principles, distinguishing between "absolute" principles that must be upheld and "relative" rules that can be adapted. Thus, the state positions itself as the final arbiter of normative boundaries between religion and public law—a pattern that produces a controlled pluralism under state control and poses challenges for reformist initiatives reliant on religious or civil society autonomy.

The comparative analysis of these four jurisdictions highlights distinct operational modalities of Sharia within their respective constitutional frameworks. Indonesia exemplifies a contextual-adaptive framework driven by political negotiation and decentralization , whereas Malaysia represents a formal dualist paradigm that requires more precise jurisdictional delineations to safeguard constitutional liberties. Concurrently, Pakistan demonstrates an integrationist model that amplifies the judiciary's oversight of state legislation , contrasting with Egypt's configuration, where the state leverages constitutional Islamic principles while consolidating an interpretive monopoly over political and legal spheres. This assessment highlights that the socio-political outcomes of the state-religion paradigm are heavily contingent upon institutional frameworks, judicial capacity for mediation, shifting political coalitions, and historical post-colonial trajectories. Ultimately, these structural variables dictate whether Sharia evolves into an inclusive vehicle for human rights and political accountability, or transitions into an institutional tool for consolidating power and restricting fundamental freedoms

The empirical comparison between Indonesia, Malaysia, Pakistan, and Egypt reveals consequent patterns that permit the formulation of a typology useful for conceptual and policy analysis. The proposed typology distinguishes three main governance models: (1) the integrationist model, wherein Sharia is embedded at the center of the constitutional architecture, such that state rules are explicitly programmed to meet Sharia standards through courts, statutory bodies, and legislative amendments; (2) the dualist model, characterized by a structured plurality between civil and religious jurisdictions running in parallel with a relatively organized division of functions, but vulnerable to jurisdictional overlap; and (3) the contextual-adaptive model, where Sharia is present as a source of norms interpreted locally and politically through processes of decentralization, political party negotiation, and judicial adaptation, making the role of Sharia highly dependent on local institutional capacity and social cohesion.

The placement of dedicated judicial institutions like the Federal Shariat Court firmly positions Pakistan within the integrationist model. This structural configuration serves as a primary indicator of a deliberate constitutional allegiance to Islamic jurisprudence, anchoring state authority directly within religious norms (Hussain, 2014; Lau, 2006), Malaysia illustrates a clear dualist model: constitutional recognition of

Islam is combined with a parallel court system (Sharia vs. civil) that demands clear jurisdictional allocation mechanisms to avoid constitutional conflicts; all four cases confirm that formal dualism still requires strong institutional arrangements to prevent forum-shopping and inconsistent rulings (Harding, 2012; Shadid & van Koningsveld, 2015).

Indonesia is a classic example of the contextual-adaptive model, where a secular yet plural national constitutional framework opens space for local Sharia-based regulations—a dynamic made more apparent after decentralization and special autonomy—making Sharia a source of local political legitimacy negotiated through regional legislative processes and national judicial control (Crouch, 2014; Lindsey, 2012). Egypt shows a hybrid dimension: textually, the constitution places Sharia principles as a source of legislation, but state-bureaucratic practices and state-controlled religious apparatuses (e.g., traditional authorities integrated into the state) reduce theological pluralism and centralize interpretation within the state's ambit, producing what can be characterized as a state interpretive monopoly (Brown, 2017; Lombardi, 2013).

Understanding why a state tends to adopt one of these models requires an analysis of causal mechanisms more nuanced than mere constitutional labels. Four key mechanisms are identified as recurring mediating factors across cases: formal constitutional design (text, amendments, and jurisdictional rules), judicial capacity (the ability of courts to interpret, enforce, and withstand political pressure), party structure and political coalitions (the existence of institutionalized Islamist actors versus their marginalization), and the degree of administrative decentralization (the space for local governments to experiment with religious regulations).

Formal constitutional design provides the initial normative framework that constrains or provides space for Sharia-based legislation; states that write Islam into the core of the constitutional text send a strong signal for actors to demand the harmonization of law with Sharia principles. Conversely, constitutions that remain neutral tend to force religious claims to seek legitimacy through other channels, such as parliament or local government (An-Na'im, 2008; Hirschl, 2010). Judicial capacity then determines whether these claims will be mediated legally or will accumulate political pressure; independent and interpretive courts tend to restrain policies that threaten fundamental rights and craft judicial compromises based on *maqasid* principles,

whereas politically pressured courts can become agents of legitimization for uncontrolled Islamization policies (Ginsburg, 2003; Hirschl, 2010).

Party structure and political coalitions influence the legislative agenda and how religious claims are articulated—Islamist parties that win seats through democratic mechanisms tend to demand formal legal changes via legislative procedures, while movements perceived as threatened or delegitimized may turn to non-institutional strategies. Decentralization adds a layer of complexity: it opens arenas for local legal plurality and experimentation, but also increases the likelihood of local minority rights violations if national control is weak; the combination of decentralization without effective judicial oversight potentially results in the fragmentation of human rights standards within the same state (Crouch, 2014; Eaton, 2013).

This analysis of mechanisms yields several configurative hypotheses useful for further research and for policymakers. First, when a state intertwines foundational constitutional provisions that bind Islam to its legal core with a compromised or dependent judiciary, the resulting Sharia-based policies are frequently enacted rapidly but remain highly susceptible to legal inconsistencies and human rights infractions. This operational dynamic has historically manifested during distinct constitutional phases in Pakistan as well as within specific legal facets in Egypt (Brown, 2017; Lau, 2006). Second, when institutional dualism (parallel civil and Sharia courts) is not accompanied by clear jurisdictional mechanisms and strong judicial independence, jurisdictional conflicts will increase, and individual rights—particularly those of women and religious minorities—are often negatively impacted through conflicting rulings or forum-shopping (Bowen, 2016; Harding, 2012). Third, in a context of decentralization accompanied by effective judicial oversight and a tradition of political pluralism, contextual adaptation allows Sharia to function as a source of political legitimacy without automatically overriding human rights principles; post-1998 Indonesia demonstrates how this combination permits normative diversity but requires active monitoring by national institutions and civil society to uphold universal rights standards (Crouch, 2014; Lindsey, 2012).

Implications for human rights and the position of minorities must be a central focus of this analysis of governance models. On one hand, integrating Islamic principles into the state architecture can strengthen the moral legitimacy of governance and increase social compliance with public rules when Sharia interpretation is directed

toward *maqasid*—the objectives of Islamic law emphasizing justice, welfare, and the protection of human dignity—thus enabling harmonization with international human rights standards (Abou El Fadl, 2014; An-Na'im, 2008). However, institutional practices that grant interpretive power without checks and balances or deliberative inclusivity often produce the opposite result: restrictions on religious freedom, gender discrimination in family law, and the sidelining of the civil rights of minority groups.

Empirical examples that have emerged in the literature show that women are often the most vulnerable parties in jurisdictional conflicts between Sharia and civil law systems—in terms of custody, divorce, and inheritance rights—especially when Sharia rulings are interpreted literally without balancing constitutional rights (Lombardi & Brown, 2012; Shahar, 2015). Furthermore, religious minorities face the risk of marginalization in scenarios where the religious norms of the majority are institutionalized without effective protection mechanisms; the example of Aceh shows how local autonomy implementing Sharia *qanun* can create a climate that hinders religious freedom for non-Muslims if national control is weak and complaint procedures are not easily accessible (Crouch, 2014).

To answer these challenges, the final conceptual model proposed in this research asserts that contextual constitutionalism functions as the most adaptive and pluralistic framework: it emphasizes a combination of three institutional pillars—(a) constitutional texts that provide interpretive space but also ratify human rights principles; (b) independent courts and review mechanisms capable of mediating jurisdictional conflicts and interpreting religious norms through the lens of *maqasid* and human rights; and (c) inclusive political channels (parties, civil society, state-religion dialogue forums) that allow a plurality of voices to contribute to norm formation.

his model is not a singular recipe, but an institutional configuration: states that approach this configuration tend to be able to balance religious legitimacy and adherence to universal rights standards, whereas deviation in one of the pillars (e.g., a weak judiciary, or an absolutist constitutional text without protection mechanisms) predicts the risk of exclusionary normative domination. Practical policies flowing from this model include strengthening judicial capacity for rights-based interpretation, legislative clarification of jurisdictional divisions, strengthening mechanisms for minority rights protection at the decentralized level, and promoting theological discourse that is open to human rights principles within religious legal education.

The empirical comparison and mechanistic analysis show that the variation in governance arising from the relationship between Sharia and the constitution depends not merely on the existence of religious clauses in the foundational text, but on the dynamic configuration of institutional design, judicial capacity, political structures, and decentralization mechanisms. Through the resulting typology—integrationist, dualist, and contextual-adaptive—this research provides theoretical and policy tools for understanding how Islamic law can function within a constitutional state framework that respects plurality and human rights, and when it risks becoming a tool of exclusion. The proposed framework of contextual constitutionalism places institutional interpretation, not mere text, at the center of the analysis, offering an empirical and normative map for policymakers and researchers interested in the reconciliation between religious authority and democratic governance.

**Table 1.** Comparative Typology of Islamic Law in Constitutional Governance (Indonesia, Malaysia, Pakistan, Egypt)

| **Country** | **Constitutional Design** | **Mechanism of Sharia Integration** | **Governance Typology** | **Implications for Rights & Minorities** |
|---|---|---|---|---|
| Indonesia | Non-theocratic; *Pancasila*-based constitutionalism emphasizing belief in one God without specifying religion. | Decentralized incorporation of Sharia via *qanun* in Aceh under Law No. 11/2006 on Special Autonomy. | Contextual-Adaptive Model – pluralist governance allowing local experimentation within national constitutional bounds. | Selective application of *Syariah* challenges equality principles; tensions arise with CEDAW and ICCPR standards. |
| Malaysia | Federal constitutional monarchy recognizing Islam as "religion of the Federation" (Article 3), but guarantees religious freedom. | Parallel *Sharia–Civil* judicial structure; *Syariah Courts (Criminal Jurisdiction) Act 1965* limits *hudud* implementation to states. | Structured Dualism – coexistence of civil and Islamic systems with formal jurisdictional demarcation. | Jurisdictional overlaps create contestations in custody, conversion, and apostasy cases; minority protection depends on federal judiciary's intervention. |
| Pakistan | Established as an | Driven by the | Categorized as | Structured as a |

| Country | Constitutional Design | Mechanism of Sharia Integration | Governance Typology | Implications for Rights & Minorities |
|---|---|---|---|---|
| | Islamic Republic under the 1973 Constitution, which formally integrates the Council of Islamic Ideology into the state apparatus. | statutory review powers of the Federal Shariat Court and constitutional mandates (Articles 227 and 230) that require all legislation to align with Islamic tenets. | an integrationist model due to the thorough, structural embedding of Islamic principles throughout the legal hierarchy. | democratic framework designed to safeguard the civil rights of the Muslim population while explicitly guaranteeing protections for non-Muslim minority groups. |
| Egypt | Semi-presidential republic declaring Islam as state religion and *Sharia* as "principal source of legislation" (Art. 2). | *Supreme Constitutional Court (SCC)* interprets *Sharia* principles within a modernist legal framework. | Integrationist with Judicial Moderation – hybrid between textual Islamization and judicial control. | SCC rulings mitigate extremes, but executive instrumentalization of religion persists, affecting political freedoms. |

Sources: data processed by the author.

Based on the comparative typology presented in Table 1, Islamic law is integrated into constitutional governance through diverse institutional arrangements that reflect each country's historical, political, and constitutional context. Indonesia adopts a contextual-adaptive model that accommodates limited regional implementation of Sharia within a pluralistic constitutional framework, while Malaysia institutionalizes a structured dualist system that separates civil and Islamic jurisdictions. In contrast, Pakistan represents a more comprehensive integrationist model, embedding Islamic principles throughout the legal hierarchy and legislative process, whereas Egypt combines constitutional Islamization with strong judicial mediation through the Supreme Constitutional Court. Despite these differences, all four countries demonstrate ongoing efforts to reconcile Islamic legal principles with modern constitutional governance, democratic institutions, and human rights commitments. The comparison further reveals that the primary challenge is not the

presence of Islamic law itself, but rather the design of constitutional mechanisms that balance religious legitimacy, legal certainty, minority protections, and fundamental rights. Consequently, the relationship between Islam and constitutionalism should be understood as a spectrum of governance models rather than a binary opposition between secular and religious states, with each model reflecting distinct approaches to managing legal pluralism and constitutional order.

**Conclusion**

This study demonstrates that the constitutionalization of Islamic law is neither a uniform nor a deterministic process, but rather a context-dependent phenomenon shaped by constitutional architecture, judicial institutions, political dynamics, and governance traditions. The comparative analysis of Indonesia, Malaysia, Pakistan, and Egypt reveals four distinct configurations of Sharia-state relations: Indonesia's contextual-adaptive model, Malaysia's structured dualism, Pakistan's integrationist framework, and Egypt's hybrid model of integrationist constitutionalism with judicial moderation. These typologies illustrate that Islamic law functions less as a fixed legal code than as an evolving normative resource whose constitutional significance is mediated through institutional arrangements and interpretive practices. The findings challenge essentialist assumptions that equate constitutional Islamization with either democratic incompatibility or automatic religious legitimacy. Instead, the evidence suggests that governance outcomes are primarily determined by the institutional ecology within which Sharia operates, particularly the strength of judicial review, the distribution of political authority, and the degree of interpretive pluralism embedded within constitutional systems.

The study further advances the concept of contextual constitutionalism, emphasizing that the coexistence of Islamic law and democratic governance depends on institutional dialogue, procedural legitimacy, and rights-oriented interpretation rather than on the mere inclusion or exclusion of religious provisions in constitutional texts. Across the cases examined, constitutional systems that facilitate pluralized religious interpretation, independent judicial oversight, and inclusive civic participation are better positioned to reconcile Islamic normative commitments with constitutional democracy, human rights, and minority protection. Conversely, where religious authority is monopolized or instrumentalized by political elites, constitutional Islamization risks reinforcing exclusionary governance and weakening the rule of law.

These findings carry broader implications beyond Muslim-majority states by demonstrating how constitutional orders can accommodate multiple normative traditions while preserving democratic accountability and legal coherence. Future research should therefore move beyond binary secular–religious frameworks and examine how institutional mechanisms of constitutional pluralism can foster adaptive, inclusive, and legitimate governance in increasingly diverse societies..

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