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**DISCUSS THE RELEVANCE OF ISLAMIC LAW IN MODERN AGE  
WITH REFERENCE TO ITS APPLICATION IN MUSLIM MAJORITY  
STATES AND NON-MUSLIM MAJORITY STATES.**

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**ABSTRACT**

I will be discussing the relevance of Islamic law in modern ages and its application in Muslim majority states and non-Muslim majority states. Beginning with the historical background of Islamic law and how it evolved with time.

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Before the advent of Islam, the society of Arabia was divided into tribes and they were following customary rules settled by them, must be followed by all tribal members. These tribes used follow polytheistic believes. After the advent of Islam, Islamic law took over these customary rules and modified them into a better form. Instead of replacing the customary rules with Islamic law those rules were modified. For example, before the advent of Islam there were unlimited polygamy marriages in Arabian tribes but after the advent of Islam, Islamic law modified the older law and restricted polygamy marriages to having 4 wives simultaneously.

In 622 CE final messenger of Allah Prophet Muhammad PBUH migrated to Medina from Mecca and established an official Islamic community in Medina. After the demise of Prophet Muhammad PBUH, Abu bakr became the first Caliph, took charge of Muslim Ummah and expanded Islamic kingdom till Egypt. After his demise, Umer took charge as next Caliph and expanded the Islamic kingdom beyond. After Umer's demise, Usman and then Ali took charge of Islamic community and worked for the expansion of this empire. The era of Khulfa-e-Rashidun (4 Caliphs of Islam) ended with the demise of Ali. This ending of Caliphate regime divided Muslim Ummah into two sects' i.e. Sunni school of thought and shia school of thought.

After that Islamic community was ruled by different dynasties such as Umayyads and Abbasids dynasties. During the 8<sup>th</sup> century some of the states become Independently Muslim states such as Persia, Egypt, Tunisia, Morocco, Spain and later on these states were also ruled by some independent Muslim leaders. During the time of 4 Caliphs, consensus on the material of Islamic law was easy to do but under ummayyads dynasty there was conflict on the material content of Islamic law and the code of conduct given by the messenger of Allah and the same conflict was arisen by difference in opinion of some jurists. Irrespective of the conflict some of the traditional school of thoughts in Islamic law started evolving under the Abbasids dynasty. These schools of thought held some divergent thoughts regarding legal reasoning. There were two divergent views first one were Rationalists (ahl-ar-

ray) and these believe that jurists should use reasoning to reach the legal decision, second were Traditionalist (ahl-al-hadith) and they argued that jurists shouldn't use their own reasoning but should be focusing on Islamic law i.e. Quran and Sunnah and should rely their reasoning upon these two.

Islamic law is still relevant in the present day as seen by its continuous influence on national and international law of non-Muslim countries as well as Muslim states. Islamic law continues to serve as the foundation for the legal systems of many Arab and non-Arab nations, although it has undergone many modifications through some cases. Countries like Pakistan, Afghanistan, Iran where Muslim community is in majority and are titled as Islamic Republic with supporting constitutions that clearly states Islam to be state religion and no law to be enacted that is repugnant to the Quran and Sunnah. There are some other states with constitution provision stating Islam to be state religion and no law to be enacted that is repugnant to the Quran and Sunnah but their name doesn't contains Islamic republic. Islamic law states that polygamous marriages are allowed for Muslim men and Pakistani law also permits the same but puts a condition of getting prior permission of first wife's and arbitration council than he is allowed to contract 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> marriage and the same is modified in Muslim Family law Ordinance 1961. Moreover in Pakistan Enforcement of Shariah act 1991 states that shariah law is the supreme law of the land and Section 4 of 1991 act that courts are obliged to develop a legal interpretation that is consistent with Islamic legal theory. In *Resham bibi v Muhammad shafi* case, court held that if a wife declines to live with her husband without good reason, the husband has no need to support her because there is no such obligation under Islamic law in such a case.

Many non-Muslim states has allowed Muslim Family law to be part of their legal system for the purpose of ensuring rights of Muslim minorities, hence Islamic law is also relevant in non-Muslim states such as India. India is a secular state but their legal system allows Muslims to have their family law to govern their issues according to Islamic law. In India polygamous marriages are banned for all of its citizens under Hindu marriage act 1956 but for Muslims polygamous marriages are permitted attached with certain limitations. For example if a marriage contract contains the clause where it is mentioned that he will not take 2<sup>nd</sup> wife in marriage but men violates it so the wife can ask for judicial dissolution of marriage of divorce under section 2 (viii-f) of DMMA 1939. Singapore and Philippines is another example of non-Muslim states with special Islamic personal laws for Muslim community.

There are some mixed legal systems that have Islamic legal system as well as English legal system such as Nigeria and Malaysia. These are Muslim majority countries but most of laws present in Malaysia and Nigeria are English rules enacted during the British colonial rule. In Malaysia, Islam is the state religion and Islam is the source of enactment of Family law whereas there are special Islamic courts that interpret the law accordingly and apply it to the situation. But their jurisdiction is limited when offences against Islamic rule arise. And only Muslim community is subjected to these Islamic courts. While in Nigeria, Islam is not recognized as a state religion, legal system of this state is made of some customary laws, Islamic personal law and English rules enacted during the British colonial time. Recently,

certain governments in northern Nigeria have expanded the application of Islamic law to include criminal matters as well as situations involving personal status, such as divorce, marriage, and child custody. In a Nigerian case *Alkamawa v Bello* 1998 explains the structure and enforcement of Islamic law in northern Nigeria and government of these states intends to apply shariah law as whole inside their jurisdiction.

Now it is essential to go into greater detail regarding how Islamic law is applied in the present era. Let's consider Islamic contract law, *riba* (interest) and *gharar* (speculation) are prohibited by Islamic law. For the purpose of avoiding the same there are three types of contract that exists in Islamic law and are acceptable i.e. *Murabaha*, *Mudaraba* and *Musharakah* contracts. These contracts, which are recognised and acknowledged by Islamic law, are used to carry out economic commitments, demonstrating the applicability of Islamic law in the modern period. In *M. Aslam khaki v Muhammad Hashim* 2000 Supreme Court of Pakistan held that interest based banking system is unjust and contradictory to the Islamic order. Court also stated that valid *murabaha* contracts are good for a healthy economy. *Dawood Islamic bank ltd v Aftab Technologies ltd* 2010 and *Dana Gas PJSC v Dana Gas Sukuk* 2017 is another instance involving duties stemming from *musharakah* and *mudaraba* contracts. These two cases indicate that attempts are still being made in muslim majority countries like Pakistan to conduct commercial dealings using contracts that are accepted under Islamic law in order to avoid something that is forbidden in Islam (interest/speculation). Thus, this shows how Islamic contract law is still relevant today in Muslim-majority countries like Pakistan.

Islamic law continues to serve as the foundation for the legal systems of numerous countries, both Arab and Non-Arab. For example, Article 3 of Law No. 25 of 1929 in Egypt nullifies the Hanafi theory and makes it explicit that divorces announced while intoxicated or under duress are unlawful. Additionally, law No. 25 of 1929 nullifies the immediate effects of *talaq al-bida*. Yemen's 1978 Family Law of North Yemen changed triple divorce into a single decree. The Jordanian Code of Personal Status of 1977 de-recognized the immediate effects of *talaq al-bida* and unexpected divorce and ordered a termination decree in the event of allegations of ill-treatment, even if the wife was at blame for the breakup. Furthermore, extrajudicial divorces were prohibited by Tunisia's 1956 Tunisian Code of Personal Status. Thus, the continued use of reformed and modified Islamic personal rules as the cornerstone of the legal systems of diverse Muslim nations demonstrates the applicability of Islamic law in the contemporary era. According to Syrian Code of Personal Status 1953, which decriminalised triple divorce, a judge may order a husband to pay his wife damages equal to one year's worth of maintenance and support if she suffers marital harm as a result of his repudiation without justifiable cause.

In *Quazi v. Quazi*, an English court determined that *talaq* obtained legally in Pakistan under the MFLO 1961 fell within the purview of the 1971 Act. As a result, the Quazi case English court recognised the divorce obtained in Pakistan according to Muslim law. The non-Muslim majority country of England serves as an important case study in this regard because, in response to the Qureshi ruling, England recognised Islamic or Muslim divorces by

implementing the Recognition of Divorces and Legal Separations Act in 1971. This proves that Islamic law have an impact on evolution of Islamic law in a non-Muslim state.

Islamic criminal law also appears to be relevant, particularly in modern-day Muslim majority countries like Pakistan. It is widely known that various hudud offences, such as theft and zina, carry harsh punishments under traditional Islamic law, including amputation of limbs, flogging, and stoning. As a consequence, Pakistan issued the Hudood Ordinance in 1979, which made adultery and infidelity illegal. This Hudood Ordinance 1979 also maintained the amputation of limbs, stoning to death, and flogging as penalties for hudood offences. According to Section 9 of the 1979 Ordinance, whosoever commits theft subject to hadd would be punished by having their right hand amputated, and whoever commits theft twice will have their left foot amputated. This Ordinance 1979 does demonstrate the applicability of Islamic criminal law in a Muslim majority country like Pakistan.

It is crucial to state that Shariah is so essential that it even influences international law. Islamic law of nations has traditionally governed relations between Islamic states and other states (Siyar). Islamic law is based on the Quran and the Sunnah, but it also includes many practises that are the direct result of Islam's interactions with neighbouring governments and historical circumstances. The "territory of Islam" and the Muslim Ummah are divided into a number of Islamic states in the twenty-first century. On the basis of equality and reciprocity, these Islamic states are united to form a larger community of countries. It is crucial to remember that Shariah is so essential that it even influences international law. Islamic law of nations has traditionally governed relations between Islamic states and other states (Siyar). Islamic law is based on the Quran and the Sunnah, but it also includes many practises that are the direct result of Islam's interactions with neighbouring governments and historical circumstances. On the basis of equality, these Islamic states are united to form a larger community of countries. Thus, the aforementioned illustrates the 21st-century relevance of Islamic law in international law.

To conclude that above mentioned is the detailed discussion upon how Islamic law is relevant to modern age either in Muslim-majority states or in non-Muslim majority states. I have explained with certain examples of Muslim majority as well as minority states.

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