



"Reconciling Sharia And State Law: Different Scholarly Perspectives on Dr. Tanzil Ur Rehḡmān's Work of Legal Reforms for Modern Societal Challenges"

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Abstract:

Pakistan's legal framework, rooted in 'Islāmic principles, has evolved through various efforts to align national laws with the Qur' ān and Sunnah. Dr. Tanzil ur Rehḡmān's book "Collection of 'Islāmic Laws" is a significant contribution to the ongoing effort to align Pakistan's legal system with Sharia teachings. It provides an in-depth analysis of the historical and legal context that evaluates the ongoing challenges of integrating 'Islāmic jurisprudence with state law to address contemporary societal needs. The author meticulously explains his approach to codifying 'Islāmic law, focusing on key areas such as marriage, divorce, and inheritance. The core of the article offers a detailed analysis of the perspectives of five prominent scholars: Dr. Fazlur Rehḡmān Malik, Justice Wahiduddin Ahmed, Justice S. A. Rehḡmān, Maulana Muḡammad Yusuf Banuri, and Mufti Muḡammad Shafi 'Usmani. The scholars' perspectives reflect both support for new interpretations and caution against deviating from established jurisprudence. The book offers practical proposals for legal amendments to ensure that 'Islāmic law remains relevant and supportive of today's Muslim societies. This section reveals a spectrum of responses, ranging from support for innovative interpretations to illustrating the complex nature of 'Islāmic legal reform. The book provides a thoughtful approach to updating the legal system while preserving 'Islāmic values, ensuring that the laws meet the needs of contemporary society. The diverse viewpoints of the scholars emphasise the importance of ongoing discussion and careful consideration in shaping Pakistan's legal framework. This work serves as a valuable guide for scholars, jurists, and policymakers involved in the codification of 'Islāmic law.

Keywords: Legal framework, Sharia law, 'Islāmic jurisprudence, state law, legal reform and amendments, family law, codification of contemporary 'Islāmic laws, flexibility in legal interpretation, legal system adaptability.



Introduction

Pakistan was established as a nation for the Muslims of India, as a republic based on 'Islāmic principles. Following this vision, the government sought to incorporate 'Islāmic laws.¹ Into the country's legal framework, starting with the creation of the Family Law Commission in 1955. The commission's recommendations were reflected in the first constitution of Pakistan, which came into effect in 1956, ensuring that no law could contradict the teachings of the Holy Qur'ān and Sunnah. However, the progress was disrupted in 1958, leading to the 1961 Family Laws Ordinance, which introduced reforms, such as mandatory marriage registration² and inheritance rights for orphans.³ The second constitution of 1962 reinforced the commitment to 'Islāmic principles by establishing the 'Islāmic Research Institute and then the Council of 'Islāmic Ideology in 1973, which worked to align Pakistan's legal system with 'Islāmic teachings, resulting in a comprehensive codification of 'Islāmic laws in various aspects of life.

The book "Collection of 'Islāmic Laws."⁴ Provides an insightful review of the ongoing efforts to codify 'Islāmic law in Pakistan, tracing the historical development of 'Islāmic legal interpretation across various Muslim countries. This comprehensive six-volume work aims to align Pakistan's national legal framework with 'Islāmic law by systematically addressing key areas of personal and family law. The first volume covers marriage, including dowry and alimony; the second focuses on divorce; the third looks at descent, custody, and endowments; the fourth discusses wills; the fifth examines inheritance; and the sixth addresses Qanoon-e-Shufa (the right of pre-emption). Each chapter explains legal rules, their sources, purposes, and effects, providing a way to connect current laws with Islamic principles. The book highlights the importance of ijtihad (independent reasoning) in adapting traditional views to modern situations while keeping core Islamic teachings.

¹ 'Islāmic law integrates legal, moral, and religious principles, making it unique. Rooted in the teachings of the Qur'ān and the Sunnah. During Abbasid period, Ibn Al-Muqaffa suggested compiling a uniform set of laws, but this was never realised. Later, Imam Abu Hanifa and his followers made significant contributions to systematising 'Islāmic jurisprudence, leading to a vast body of legal literature. The challenge is to find the most authoritative ruling, highlighting the need for a more organised approach to 'Islāmic jurisprudence.

² PLD-2000 FSC, A.P., Page 50.

³ Muḥammad Mati ur Rehman, Federal Sharia Court and Ijtimai' Ijtihad, Combine by Muḥammad Tahir Mansuri, Idara Tahqiqat e Isami, 'Islāmabad, 2007, Page 442.

⁴ Tanzilur Raḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Volume 1-6, 1965-81.



The “Collection of ’Islāmic Laws” is an important resource for scholars, judges, and policymakers, offering practical ideas for legal reforms. It looks closely at legal rulings, identifies differences with current laws, and suggests changes. The book promotes a balanced approach, using Qur’ānic verses, Hadiths, consensus, and reason to guide the process⁵ ensuring that Islamic law meets modern social needs,⁶ It also explores the history of Islamic legal interpretation in various Muslim countries, stressing the need to address contemporary challenges while staying true to fundamental ’Islāmic teachings. Flexibility is key to handling social issues, making daily life easier for Muslims. There is a growing recognition of the need to adopt insights from various Islamic scholars to ensure laws meet social needs without contradicting Islamic teachings.⁷

The scholars offer different views on Dr. Tanzil ur Rehman’s legal reforms for today’s societal challenges. Dr. Fazlur Raḥmān Malik emphasizes blending modern thought with early Islamic traditions. Justice Wahiduddin Ahmed supports a balanced, non-sectarian legal framework in Pakistan. Justice S. A. Rehman calls for a legal system that follows Islamic teachings. Maulana Muḥammad Yusuf Banuri stresses the need to adapt Islamic law to modern challenges, while Mufti Muḥammad Shafi warns against straying from established Hanafi jurisprudence, saying changes should be made by qualified scholars. These five scholars share a common goal of exploring how Sharia law can align with state law in today’s world. Each offering unique insights. Dr. Tanzil ur Rehman includes their writings to enrich the discussion, showing his commitment to a broad dialogue on adapting Islamic law to modern times while keeping its core values, leading to meaningful legal reform.

Methodology and Overview of the Book

These sections clarify the nature and challenges about Sharia law and its application in the modern context.⁸ The balanced approach to tradition and contemporary needs, use of ijtiḥad

⁵ Wahbah al-Zahili. *Usul al-Fiqh al-’Islāmi*. Dar al-Fikr, Damascus: Page 200.

⁶ This includes compiling ’Islāmic laws from authentic sources and interpretations, creating a flexible legal framework that accommodates contemporary needs while staying faithful to tradition.

⁷ The principle of social needs or public expediency (Maslahah) is also emphasized, allowing for practices that benefit the greater good as long as they don’t go against the Qur’ān and Sunnah.

⁸ Western philosophers and legal scholars often believe that there are two distinct normative systems in human society: law and ethics. These two systems may overlap in some areas, but in others, they are not fully compatible. For instance, Immanuel Kant clarified the difference between law and morality by stating that the law governs external behaviour, while morality (ethics) influences our internal conduct. Some opposed the integration of moral concepts into the law. They viewed morality as a subjective matter and thus excluded it from the objective



and need for legal flexibility to address the evolving social needs of Muslim communities while remaining true to 'Islāmic teachings. Prophet Muḥammad ﷺ personally took on the responsibility of making judgments. Believers were instructed to accept the Prophet as their ruler and judge in all disputes, submitting to his decisions with full acceptance. Without this submission, true faith is incomplete. As the Qur'ān says:

فَلَا وَرَبِّكَ لَا يُؤْمِنُونَ حَتَّىٰ يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لَا يَجِدُوا فِي أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا.⁹

But no, by your Lord, they will not [truly] believe until they make you, [O Muḥammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission.

The judicial system during the time of Prophet Muḥammad ﷺ and the first four Rightly Guided Caliphs (Khulafa) operated in accordance with Sharia protocols. Dr. Ahmad Nadim,¹⁰ compiled a detailed analysis of the court decisions made by the Prophet Muḥammad ﷺ and the four Caliphs. He documented the number of decisions as follows: Prophet Muḥammad ﷺ: 113 decisions, Caliph Abu Bakr Siddique (RA): 39 decisions, Caliph Umar Farooq (RA): 91 decisions, Caliph Uthman Ghani (RA): 39 decisions, Caliph Ali (RA): 65 decisions.¹¹ He also gathered 99 decisions made by the four Caliphs that were focused specifically on the will and facilitation of the people, showing their commitment to justice and the welfare of the community.¹²

During his life, the Prophet Muḥammad ﷺ prepared individuals who were capable of carrying out this duty of judgment, even though many of the Companions themselves held such positions during his time. For instance, He appointed Hadrat Ali Ibn Talib as the judge of Yemen. When Ali expressed concern about his young age, the Prophet Muḥammad ﷺ reassured him:

study of law, leading to the development of his theory known as "Pure Law." The concept of 'Islāmic law, however, differs significantly from this perspective. 'Islāmic law is not just a legal system; it also encompasses a religious and ethical framework. Since 'Islām as a religion governs both legal and moral aspects of life, 'Islāmic law includes a guiding principle that distinguishes it from other legal systems.

⁹ An-Nisa, 4:65.

¹⁰ Lecturer at Bahauddin Zakaria University in Multan,

¹¹ Dr Ahmad Nadim. 'Adālati Faisaly, Idara Talifat e Ashrafia, Multan, 2023, Volume 1, Page 35, 192, 235, 319, 370.

¹² Ibid, Vol 2, Page 23.



Almighty 'Allāh will guide your heart and make your tongue firm. So when two parties come before you, do not pass judgment until you have heard both sides, just as you listened to the first. This is the way to clear and just judgment.¹³

Challenges in Codifying Sharia Law

The Qur'ān is the primary source of 'Islāmic law and the foundation of its commandments. The Sunnah, which consists of the teachings and practices of the Prophet Muḥammad ﷺ, is also a fundamental aspect of the religion, as every word and action of the Prophet Muḥammad ﷺ is rooted in divine revelation. The third principle is Ijma, or consensus, which holds significant authority in 'Islāmic law. The fourth source is Qiyas, which involves analogical reasoning. Besides the Qur'ān, Sunnah, Ijma, and Qiyas,¹⁴ scholars (Mujtahidin) have used other methods to derive rulings in Sharia. For instance, Istihsan (juridical preference), Maslaha (public interest),¹⁵ Istishab (presumption of continuity), the practices of the people of Madinah, the sayings of the Companions (Sahaba),¹⁶ and Bara'a Asliyyah (presumption of innocence) are some examples. These methods of reasoning, though not universally accepted, play a crucial role in interpreting and applying 'Islāmic law across different times and contexts. For example, Imam Abu Hanifa's use of Istihsan is respected by Imams Malik and Ahmad ibn Hanbal, while Imam Shafi'i does not accept it.

Imam Malik gives weight to the practices of the people of Madinah,¹⁷ a view not shared by all scholars. The foundation of 'Islāmic law was further solidified during the blessed life of Prophet Muḥammad ﷺ and the era of the Rightly Guided Caliphs (11-30 Hijri).¹⁸ After the migration of Prophet Muḥammad ﷺ, legal decisions were made directly in the light of the Holy Qur'ān and the Sunnah for approximately one and a half centuries. In cases where the Qur'ān or Sunnah did not provide a direct ruling, guidance was sought from the decisions of the Rightly

¹³ Al-Imam Waki'. Akhbar al-Qudat. Alam al-Kutub, Mujahid 'Islām Qasmi. 'Islāmi Dalaat. Karachi: Idaratul Qur'ān wal Uloom al-'Islāmiyya, 1993.

¹⁴ Muḥammad Taqi Amini, Ijtihad, Qadimi kutub Khan Karachi., Page 360.

¹⁵ Syed Azkiya Hasmi, Ijma' Ijtihad: Manahij, Combine by Muḥammad Tahir Mansuri, Idara Tahqiqat e Isami, 'Islāmabad, 2007, Page 83-90.

¹⁶ Amadi, al Ahkam, Dar Al-Kitab Al-'Arabi, 2012, Vol 1, Page 310.

¹⁷ Razi, al Mahsul, Vol 3, Dar al-Kutub al-'Ilmiyya, 1988, Page 860.

¹⁸ This foundation continued to grow stronger during the reign of the Umayyad dynasty (31-132 AH). During the Abbasid era (132-656 AH), jurists' individuality flourished, leading to the evolution of 'Islāmic jurisprudence that reflected the broader trends of the time.



Guided Caliphs¹⁹ and the teachings of the Companions. If these sources did not offer a solution, *ijtihad* (independent reasoning) was employed. However, the absence of a standardised set of rules led to individual interpretations and fatwas, sometimes resulting in disagreements and inconsistencies in legal rulings.

Ibn Al-Muqaffa, a renowned scholar of the Abbasid period who died in 133 AH, recognised this issue and advised Caliph Abu Jafar Mansur (d. 158 AH) to compile a uniform set of laws that could be applied throughout the empire. Unfortunately, Ibn Al-Muqaffa's proposal was never implemented due to various interests. In the second quarter of the second century A.H., Imam Abu Hanifa and his followers undertook the significant task of systematising 'Islāmic jurisprudence. This effort led to remarkable advancements in *fiqh* ('Islāmic jurisprudence), and extensive works on the subject began to be written.²⁰ However, an unintended consequence of this development was that judges started relying more on these *fiqh* texts than directly deriving rulings from the Qur'ān and Sunnah. As a result, jurisprudential rulings became scattered across numerous texts, leading to a proliferation of short treatises, commentaries, and critical essays.

This made it increasingly difficult for judges to sift through the vast amount of legal literature to find the correct ruling, especially when faced with multiple opinions from various imams and jurists on a single issue. The challenge was to identify the most authoritative opinion among these diverse viewpoints. It was becoming increasingly difficult for individual judges to determine which opinion was authoritative (*Mufta bihi*) and which was the consensus (*Ijma*) on a particular issue.²¹ In the time of classic jurist, prominent scholar called *ara'iyin*.²² Leave the people to act according to their own opinions, as my rulings might be difficult for them to all agree upon. ²³ This challenge highlighted the need for a more organised and accessible compilation of 'Islāmic jurisprudence.²⁴

¹⁹ Amadi, al Ahkam, Dar Al-Kitab Al-'Arabi, 2012, Vol 1, Page 309.

²⁰ Tanzilur Raḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Volume 1-6, 1965. Page 7.

²¹ Muafiq, Manaqib al Imam al Azam, Ihya al Marif al Numaniyyah, Haiderabad, Page 21.

²² Behqi, al-Sunan al-Kubra, Vol 8, Dar al-Kutub al Ilmiyah, Bayrut, 1994, Page 96.

²³ Ibn Abdul Bar, al Intiqah, Darul Kutub al ilmya, Beirut, 1985, Page 362-64.

²⁴ Shaikat Ali. 'Islām and the Challenges of Modernity: National Institute of Historical and Cultural Research at Quaid-i-Azam University, 'Islāmabad, 2004. Page 174.



Sharia Law in the Modern Context

In August 1947, Pakistan was established as a result of the efforts and demands of the Muslims in India, becoming the largest Muslim-majority nation. The founder of Pakistan, Quaid-e-Azam Muḥammad Ali Jinnah, declared that Pakistan would be a republic founded on the principles of 'Islāmic civil justice.²⁵ Following this vision, the government of Pakistan, at its earliest opportunity, began incorporating 'Islāmic ideas into the drafting of the country's constitution. In August 1955, the Government of Pakistan appointed a "Family Law Commission," composed of seven members, initially presided over by Dr Khalifa Shujaiddin and then Mr Justice Abdul Rashid. The commission submitted its report to the government in June 1956, which was published in the official gazette on June 30, 1956.²⁶ However, despite these efforts, the commission's recommendations were not immediately enacted. The first constitution of the 'Islāmic Republic of Pakistan came into effect on March 23, 1956. This constitution provided a framework for Muslims. Article 198 of the Constitution explicitly states that any law which does not follow the protocols approved by Holy Qur'ān and Sunnah cannot be sustain as a law. It also mandates that existing laws must be revised to align with 'Islāmic teachings.

In line with this objective, on March 22, 1957, the establishment of an 'Islāmic Law Commission was announced. Mr. Justice Muḥammad Sharif, a former judge of the Supreme Court, was appointed its president. The commission ensured that Pakistan's legal system was consistent with 'Islāmic principles. Under Article 197 of the 1956 Constitution, the President was also empowered to establish a Research Institute to help build a Muslim society on sound 'Islāmic foundations. However, this progress was interrupted in October 1958 when President Iskandar Mirza, through a presidential proclamation, abolished the 1956 Constitution and imposed martial law across the country. On July 15, 1961, President Ayub Khan enacted the Family Laws Ordinance in Pakistan, guided by the recommendations of the Family Law Commission. It made the registration of marriages mandatory and required government approval for a second marriage.²⁷

²⁵ Shadi Hamid. 'Islāmic Exceptionalism: St. Martin's Griffin, 2017. Page 86.

²⁶ Tayyaba Batool Tahir, Ali Ammar, Fatima Bajwa. 'Islām and Modernity: A Case Study of Pakistan's Political History: Journal of Historical Studies, Vol. 6, No. 2, 2020. Page 242.

²⁷ Amina Abdullah Abu Shehab. Women, 'Islām, and Modernity: University of London, 1992. Page 76.



Furthermore, divorce was classified as a revocable divorce, and three months was established from the date the divorce was reported to the Chairman of the Union Council for its finalisation. It introduced a significant change in inheritance: orphans, previously considered deprived heirs, were granted the right to inherit an equal share of their father's estate from their grandfather.²⁸ The ordinance clarified that dowries not specified in the marriage contract are considered total and deferred if the payment method is not specified. The second constitution of Pakistan, which came into effect in 1962, reinforced the principle that no law in Pakistan could contradict 'Islām. It ensured that Muslims could live individually and collectively according to 'Islāmic principles. Under Article 199 of this constitution, the President was authorised to establish a Council of 'Islāmic Ideology. This council was tasked to adhere to 'Islāmic principles in all aspects of life and to propose laws to ensure they did not conflict with 'Islāmic teachings. Under Article 207 of the 1962 Constitution, the President was given the authority to establish the 'Islāmic Research Institute. The institute aimed to research 'Islām and its teachings and help create a modern Muslim society rooted in authentic 'Islāmic principles. As part of a comprehensive plan, the 'Islāmic Research Institute completed and codified all the scattered 'Islāmic laws in a modern and organised manner. This effort includes family laws, civil laws, and criminal laws. The complete collection of these laws will be published in ten volumes.

Balancing Tradition and Modernity

This book reviews the ongoing efforts to codify 'Islāmic law, particularly in Pakistan. It traces the historical development of 'Islāmic legal interpretation and its application in various Muslim countries, culminating in the current attempts in Pakistan to create a coherent legal framework that aligns with both 'Islāmic principles and contemporary social needs. The book seems to recognise the need for ijtihad (independent reasoning) in areas where traditional interpretations may no longer suffice, highlighting the importance of adapting legal rulings to modern contexts while staying true to 'Islāmic teachings. When the Prophet Muḥammad ﷺ decided to send Hazrat Mu'adh bin Jabal to Yemen, he asked him, "When a case is brought before you, how will you judge?" Hazrat Mu'adh replied, "I will judge according to the Book of Almighty 'Allāh." The

²⁸ Sohrab Behdad. *Property rights in contemporary 'Islāmic economic thought: A critical perspective*: Review of Social Economy, Vol. 47, No. 2 1989, Page 160.



Prophet Muḥammad ﷺ then asked, “If you do not find the ruling in the Book of Almighty ’Allāh, what will you do?” Hazrat Mu’adh responded, “Then I will judge according to the Sunnah of the Prophet Muḥammad ﷺ.” The Prophet Muḥammad ﷺ further inquired, “And if you do not find it in the Sunnah of the Messenger nor in the Book of Almighty ’Allāh, what will you do?” Hazrat Mu’adh answered,

قال: اجتهد برای ولا آلو

“I will exert my own reasoning (ijtihad) and strive to reach a just decision, without hesitation.”²⁹

This work not only reflects the historical and legal evolution but also provides practical suggestions for legal reforms, making it a valuable resource for scholars, jurists, and policymakers involved in ’Islāmic law. Each chapter divides the legal rulings into provisions, explaining their sources, causes, purposes, legal effects, and consequences. The current legal literature on Muslim family law in the country is limited to a few outdated jurisprudential texts in Urdu,³⁰ apart from Justice Syed Ameer Ali’s Muḥammadan Law, under the umbrella of Central Muḥammadan Association³¹ that offers a detailed and critical review of jurisprudential issues, their causes, and the reasons for differences among jurists.³²

The primary aim of this compilation is to initiate the codification of ’Islāmic law in the country and to offer the government a comprehensive outline of essential laws that would assist in ’Islāmic legislation. Where there are conflicts with existing laws, the suggestions presented in this collection serve as proposals.³³ Suppose no law has been officially approved for a specific issue, and courts are required to consult various jurisprudential texts to issue rulings. In that case, the combined discussions in this work can be considered as a guide. The Federal Sharia Court Decision must be intact in conflict opinion by different courts.³⁴ The book also identifies discrepancies between current laws and these rulings, offering suggestions for amendments along with the reasons behind them.

²⁹ Imam Abi Dawud Al-Sajistani. Sunan Abi Dawud. Ijtihad Al-Rai Fi Al-Qadaa, Factory Trade Books, Karachi. Kitab Al-Qadaa. Page. 505.

³⁰ See further, Muḥammad Khalid Masud, Armando Salvatore, Martin van Bruinessen (eds.). ’Islām and Modernity: Key Issues and Debates: Edinburgh University Press, 2009. Page 210.

³¹ Syed Amir Ali. Chapter, Sureme Council and Bench, Maktaba Usloob, Karachi, 1984, Page 80.

³² Shatibi, Almuwafaqat, Vol 4, Resalah Publishing, Damascus, Beirut, 2018, Page 86.

³³ Julia Rohnifard, Orhan Gafarli, Leslie Terebessy. ’Islām and Progress: Between Tradition and Modernity: Journal of International Analytics Vol. II, No. 4, 2020. 76.

³⁴ Supreme Court Monthly Review (SCMR), 1993, Page. 1756.



Guiding Principles

The principles which guide its application: If a conflict arises between this law and the existing one, the current law will prevail unless it is repealed or amended to align with it. If no existing law or precedent exists for a particular issue, 'Islāmic Shariah principles will be the guiding authority. In cases with no clear Shariah ruling or applicable law, the courts will issue rulings based on sound reasoning and in accordance with similar cases.³⁵ When none of the above guidelines apply, the courts will resort to Ijtihad (independent reasoning) if it remains within the framework of the Qur'ān, Sunnah, and Shariah evidence. To effectively edit and codify 'Islāmic laws, the following guiding principles were established:

1. For each issue, the first step is to search for relevant verses from the Holy Qur'ān and provide appropriate references. If the Qur'ān contains a clear and unambiguous ruling on a particular issue, that ruling should be accepted without question.
2. If the Qur'ānic ruling is not explicit or if scholars, whether commentators, hadith experts, jurists, or mujtahids, differ in their interpretation, it is essential to seek out authentic and reliable hadiths to clarify the matter and derive conclusions.
3. If there are conflicting Hadiths on an issue, they should be examined historically. The principle of rationality should be applied to assess which Hadith is more reliable, and the correct Hadith should form the basis of the ruling.
4. If neither the Qur'ān nor Hadith provides a clear solution, the consensus (Ijma) of the Prophet's companions, especially the Rashidun Caliphs (the first four Caliphs) or the established practices of the Imams, should be considered and adopted.
5. When reviewing past rulings, it's essential to consider who was given priority in creative legal reasoning and which approach was followed. If a past method aligns with contemporary needs, it can be adopted.
6. If a practice from a previous era does not suit the present-day context, a principle of public expediency can be followed, provided it does not conflict with the Qur'ān and Sunnah. Among the different schools of thought, the opinion that best serves the public interest while adhering to the principles of 'Islāmic jurisprudence should be adopted.

³⁵ See further, Mufti Muḥammad Taqī Usmani. 'Islām and Modernism: Darul Ishaat, Karachi, 1996. Page 51.



7. If no textual evidence or established consensus is found, and the opinion of any school of thought is reasonable. If it serves the public interest (without contradicting the Qur'ān and Sunnah), then ijtiḥād (independent reasoning) should be employed to derive a ruling.

Responding to Contemporary Challenges

This approach emphasises the importance of staying true to 'Islāmīc teachings while recognising the necessity of adapting to changing circumstances. It highlights the need for 'Islāmīc legal orders to evolve to address contemporary social issues effectively. By doing so, the legal framework remains relevant and supportive of the needs of Muslim societies today. The key points of this approach include:

1. 'Islāmīc law must be interpreted in a way that responds to contemporary challenges while staying rooted in 'Islām's core principles. This ensures that the law continues to meet the needs of Muslim communities in a rapidly changing world.
2. Compiling 'Islāmīc laws should be grounded in authentic sources and interpretations. The goal is to create a modern codification that remains faithful to 'Islāmīc teachings while being flexible enough to adapt to contemporary needs.

To address the evolving social needs of Muslim communities while upholding 'Islāmīc principles, there is a growing emphasis on the flexibility and adaptability of legal orders, ensuring that contemporary jurisprudence remains both relevant and faithful to traditional teachings.

1. There is a significant need to create flexibility within legal orders, especially concerning social issues. This flexibility makes family life and social interactions more manageable for Muslims today.
2. Muslim countries increasingly recognise the importance of adopting jurisprudence from various Imams or mujtahids that provide convenience and ease for the general public. The goal is to implement laws that fulfil social needs while remaining faithful to 'Islāmīc principles.
3. A fundamental principle is considering public expediency (Maslahah) in legal decisions. If a practice is not contrary to the Qur'ān and Sunnah, it can be adopted, and even a permissible act can be made obligatory if deemed necessary for the greater good.



4. The legislative body in a Muslim country has the authority to declare certain practices obligatory (Path to easy justice)³⁶ if they align with public practicality and do not contradict 'Islāmic teachings. This power is essential for adapting 'Islāmic law to meet modern social needs.

Key Considerations for Codification

Ijtihad (independent legal reasoning) allows for developing rulings that address contemporary issues while staying within the boundaries of 'Islāmic teachings. The process of codifying and revising 'Islāmic law, as outlined, emphasises the importance of grounding all legal decisions in the Qur'ān and Sunnah. This approach ensures that Ijtihad (independent legal reasoning) remains within the boundaries of 'Islāmic principles. Pakistan's critical question is how to balance cherished values with those that have evolved. It is essential to discern which values should be upheld and which should be revised or rejected in light of contemporary needs, as this is more easy due to modern connectivity facilities.³⁷ Here are the key points summarised:

1. Ijtihad must be firmly based on the teachings of the Qur'ān and the Sunnah. Adherence to these principles is crucial for maintaining the integrity of 'Islāmic law while allowing necessary adaptations to contemporary challenges.
2. The fragmentation of 'Islāmic jurisprudence into different sects has historically hindered unity and the ability to attract and motivate followers. To overcome this, the codification of laws should follow Hanafi jurisprudence and incorporate rulings from other schools of thought where necessary.
3. The codification process should adapt 'Islāmic legal rulings into a modern format, reflecting the needs of the current era. In circumstances that demand it, rulings from other Imams or mujtahids should be considered, allowing for flexibility within the 'Islāmic framework.
4. The most significant challenges to revising 'Islāmic law are the entrenched reactionism and negative historical motivations that have developed over the centuries. These obstacles must be recognised and carefully navigated to find a new path.

³⁶ Samir Abd al-Sayed Tanaghu. Al-Nazaria Al-Ama lal-Qanun. Nashah Al-Maarif, Egypt, Page. 484.

³⁷ Mufti Muḥammad Zahid, Ijtimai' Ijtihad k Khadukhal, Combine by Muḥammad Tahir Mansuri, Idara Tahqiqat e Isami, 'Islāmabad, 2007, Page 15.



5. Fighting unnecessary conservatism and traditionalism in legal and jurisprudential matters has been challenging. However, by approaching these issues with prudence and honesty, progress has been made towards aligning 'Islāmic law with the realities of the modern world.

The Five Opinions

Dr. Fazlur Reḥmān Malik,³⁸ Justice Wahiduddin Ahmed,³⁹ Justice S. A. Reḥmān,⁴⁰ Maulana Muḥammad Yusuf Banuri,⁴¹ and Mufti Muḥammad Shafi,⁴² Each offers unique perspectives on the integration of modern thought with traditional 'Islāmic teachings.

Dr. Fazlur Reḥmān Malik

It is becoming evident that this important work, initially expected to be carried out by scholars, is indeed very challenging. Applying 'Islāmic teachings to a rapidly changing society cannot be accomplished solely based on traditional knowledge.⁴³ A deep understanding of science and awareness of societal changes are also necessary. In many instances, the author has drawn upon the insights of jurists to enhance the discussion, disagrees with the current laws and attempts to revise 'Islāmic law accordingly. While I disagree with the esteemed author's jurisprudential arguments on several issues, particularly triple talaq (*Talaq e Mughallaza*), I fully support his proposed solution. Some may agree or disagree with the author's jurisprudential reasoning or proposed solutions. Still, as one thinker noted, the outcome of ijtihad (independent reasoning) is the honest opinion formed after thorough research and reflection. Differences of opinion among scholars are natural and should not be subject to harsh criticism. Ultimately, the collective 'Islāmic conscience (Ijmaa) of the nation decides. I hope this book will be useful for legislators, members of the judiciary, and lawyers, who will find it especially useful.

This research work is divided into two key areas, which are fundamentally important. The first area is 'Islāmic thought and sciences, encompassing history and philosophy. The second area is jurisprudence or 'Islāmic law. Although jurisprudence is part of 'Islāmic thought and science, it requires a particular specialisation and skill set. This involves deriving 'Islāmic

³⁸ Director, 'Islāmic Research Institute, Pakistan

³⁹ Chief Justice, High Court of West Pakistan.

⁴⁰ Chief Justice, Supreme Court of Pakistan.

⁴¹ Founder of Jamia Uloom ul 'Islāmia, Allama Binnuri Town Karachi.

⁴² Mufti Azam Pakistan and founder of Jamia Darul Uloom Karachi.

⁴³ See Further, Dr. Fazlur Raḥmān. 'Islāmic Methodology in History: 'Islāmic Research Institute, 'Islāmabad, 1995. 49.



rulings from the Qur'ān and Sunnah, which is increasingly needed. As new forces continue to shape our society, such as the spread of education, advances in industrialisation, and changes in agricultural production, their social impacts are profound and far-reaching. These forces are primarily geared toward the betterment and well-being of the nation, and they are developing rapidly. Looking ahead, we can see that these changes will continue to unfold in the coming decades. Even reflecting on the past 25 years through the lens of five-year plans gives us a glimpse of the vast and significant transformations that lie ahead.

We must assess these changes and prepare for them today. Some of us doubt whether 'Islām can effectively address these new situations. Another group, although not entirely lacking in the ability to deal with these challenges, seems to be losing its willpower to a dangerous degree. This is particularly disheartening because these individuals consider themselves the rightful heirs of the scholars of the past.⁴⁴ The truth is that while the changes happening in our society may be new, it is entirely incorrect to believe that 'Islām is facing such extensive changes for the first time in its history. When Muslims, soon after the Prophet Muḥammad ﷺ, left the Arabian Peninsula and rapidly expanded as conquerors into the neighbouring world, they encountered new situations that required swift adaptation. Emerging from the relatively simple life of the Arabian Peninsula, they met and integrated with new peoples, established a grand and complex state system, and, in a remarkably short period, developed a sophisticated system of jurisprudence, all based on the Qur'ān and Sunnah. This historical precedent serves as a guiding light for us today. From this, two important conclusions can be drawn:

- (a) After the Qur'ān and Sunnah, the earliest period of 'Islāmic history holds unique significance. While the work of jurists and scholars from all eras is valuable, this early period is distinct.
- (b) The lesson we should take from this early period is that just as the Salaf (the early generations) solved their challenges in the light of the Qur'ān and Sunnah, we too should approach our new challenges in the same manner, as it has been advised to follow their example.

⁴⁴ See further, Dr. Fazlur Raḥmān. 'Islām and Modernity: The University of Chicago Press, Chicago, London, 1984. 113-44.



The nature of the new problems we face today differs, so their solutions will also differ. However, solving them should remain consistent with the approach of the early generations of Muslims, the Salaf. This makes it clear that the task of revising 'Islāmic jurisprudence must be rooted in a deep and thoughtful process, requiring comprehensive historical and interpretative research rather than being based on superficial analysis. For such an important task, it is evident that in addition to technical expertise, one needs intellectual depth, historical knowledge, and proficiency in Arabic. Suppose God forbid we fail to approach this task seriously and instead focus on superficiality or mere propaganda. In that case, I am certain that we will not be able to preserve the true 'Islāmic spirit or maintain correct 'Islāmic institutions. As an 'Islāmic society, our future stability is closely tied to the survival of the true 'Islāmic spirit and the preservation of sound 'Islāmic institutions. Among these, the institution of family life is fundamental. Without it, no righteous society can survive, and civilisation can easily descend into barbarism, whether the primitive barbarism of ancient times or the materialistic barbarism of advanced nations. I strongly believe this book will greatly benefit our legislators, jurists, and the educated public.⁴⁵

Justice Wahiduddin Ahmed

Since Pakistan's establishment, there has been a growing interest in understanding and implementing 'Islāmic laws in the country. Aligning these laws with the Sunnah has been recognised as essential. The Collection of 'Islāmic Laws, published by the 'Islāmic Research Institute, has significantly addressed this important task. The author of this collection, Mr. Tanzilur Reḥmān, draws it from authentic 'Islāmic sources and the decisions of the high courts of India and Pakistan. The issues discussed in this volume are of great importance, as they frequently arise in society, and the author has addressed them with clarity and depth. One of the most commendable aspects of this book is that the author has not only discussed these issues in light of the Qur'ān and Hadīth but has also thoroughly examined the differing views of jurists as presented in authoritative books of 'Islāmic jurisprudence. Additionally, he has considered the current laws in other 'Islāmic countries, making this book an invaluable resource that has long been needed in our country. The author has provided significant help in fulfilling this crucial

⁴⁵ Tanzilur Reḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Vol 2, Ed 7, 2010, Page 239.



need through his writing. Another notable feature of this book is that the author has not promoted the viewpoint of any particular 'Islāmic sect. Instead, he has considered each issue from multiple perspectives, presenting them in a balanced and thoughtful manner. Article 199 of the Constitution has established an 'Islāmic Advisory Council tasked with ensuring that the laws in Pakistan conform to the Qur'ān and Sunnah and that the government and legislators implement Sharia laws. Establishing the 'Islāmic Research Institute is another important step in this direction, demonstrating the government's commitment to serving the country and the nation. I am confident that it will provide valuable assistance to the community of 'Islāmic jurists and make it easier to resolve issues where differences of opinion exist.⁴⁶

Justice S. A. Reḥmān

Pakistan was founded on 'Islām's principles; the core principle outlined in the constitution is that no national law should contradict 'Islāmic teachings. Therefore, scholars must review our existing laws to ensure they align with 'Islāmic values. This task of reviewing and reforming the laws is both important and sensitive. On one side, a group of traditional scholars resist any change, firmly adhering to the teachings of their religious leaders. They view these teachings as unchangeable and do not see room for further thought or interpretation. Often, this group is not familiar with modern sciences and is unaware of the needs of the current age.⁴⁷ To them, questioning the established beliefs is akin to disbelief. On the other hand, a more innovative group admires the West's material progress and has become disillusioned with the status quo in religion. Some in this group view religion as an obstacle to progress and believe that a secular state is the solution to all our problems. However, a moderate group remains largely silent between these two extremes but is eager for balanced reform.

We must support sincere research and investigation in religious studies. By fully appreciating the valuable work of our predecessors, we aim to revise 'Islāmic jurisprudence in the light of the Holy Qur'ān and authentic Sunnah. The eternal principles provided by Almighty 'Allāh serve as a guide for the ever-changing journey of life, ensuring that we do not lose our way. However, as new challenges arise with time, the community must come together and adapt

⁴⁶ Tanzilur Raḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Volume 3, Ed 7, 2010, Page 829.

⁴⁷ See further, Willem van der Sluis. 'Islām and Modernity: Perspectives of Jamal ad-Din 'al-Afghani: Historical Journal, Groningen University, Netherland, 2015. Page 364-89.



the details of the law to meet these evolving needs. The book under review is a part of this ongoing research effort. Its author, Mr. Tanzeelur Reḥmān, is proficient in Arabic, and as a lawyer, he is also well-versed in modern legal issues. Although he does not claim that his writings are the final word, He has diligently examined old material. Where he disagrees with traditional or modern ideas, he has expressed his views honestly. His book is a significant step towards the codification of 'Islāmic law.⁴⁸

Maulana Muḥammad Yusuf Banuri

Undoubtedly, the greatest feature of 'Islām's religion is its mercy for the entire universe. Its law is a system of wisdom and fairness that stands out in human history. It is incomparable to the laws of Rome and the philosophy of Greece. The achievements of human intellect cannot match the divine wisdom of Almighty 'Allāh Almighty, which encompasses everything perfectly. All jurists agree that the presence of 'Islāmic law defines a Dar al-'Islām ('Islāmic State), a system of Shariah courts, and the resolution of disputes based on 'Islāmic principles. Simply having a government that carries the name " 'Islāmic" while its laws are non-'Islāmic is meaningless. The essence of an 'Islāmic government can only be reflected in implementing 'Islāmic law.

It is unfortunate that the modern educated class within the 'Islāmic world, as well as those in positions of power, have become somewhat disillusioned with 'Islāmic law and the religion of 'Islām. This disillusionment is due to the stagnation that has long prevailed in 'Islāmic centres, leading them to believe that 'Islāmic law cannot keep pace with the modern era and its advancements. The prevalence of interest-based financial systems and insurance schemes in the modern commercial world has further contributed to this misunderstanding. They cannot conceive of a system that would abandon these practices, thinking it absurd in this age of development and civilisation to reintroduce 'Islāmic law, which prohibits usury (riba) and declares war against those who engage in it, as is stated by Almighty 'Allāh and His Messenger.

Indeed, the notion that 'Islāmic sciences, Qur'ānic rules, and the laws of the Sunnah, as interpreted by the ancient jurists of 'Islām, are static and irrelevant to modern times is a result

⁴⁸ Tanzilur Raḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Ed 7, 2010, Vol 1, Page 1, Vol 2, Page 235, Vol 3, Page 827, Vol 4, Page 1177.



of limited understanding. These sources are rich with profound interpretations and timeless guidance, but they have long needed to be adapted and refined to address contemporary challenges more effectively. 'Islām's eternal truths and laws are enduring and certain in their place. However, in recent centuries, scholars have failed to realise that, to maintain the supremacy of 'Islām, it was necessary to reshape ancient jurisprudence into a form that resonates with the modern world. This requires sincere effort and a thoughtful approach to jurisprudence that speaks to the hearts and minds of the new generation. Undoubtedly, this shortcoming existed, but the blame does not solely rest on the scholars and jurists of the Ummah. It also lies with Muslim rulers who, despite their claims to uphold 'Islām and establish 'Islāmic governance, did not focus their thoughts and vision on this crucial task.

Nevertheless, there has been some continuity in efforts to adapt 'Islāmic law over different periods in the 'Islāmic world. For instance, during the late Ottoman Caliphate, Sultan Abdul Hamid II commissioned scholars to compile 'Islāmic law in the form of the Majalla al-Ahkam al-Adliyya. Amir Amanullah Khan prepared Tamasak Al-Qadaa Al-Maniya in Afghanistan, laying a foundation that later rulers should have further developed. Unfortunately, this did not happen. Recently, some individuals in Arab countries have significantly contributed to various aspects of 'Islāmic law. Dr Mustafa Zarqa's books, such as Al-Madkhal al-Fiqhi al-Aam and Kitab al-Waqf, Dr Abdul Qadir Auda's works on criminal law, and Sheikh Abu Zahra's writings on insurance and the sanctity of interest, have provided valuable services to modern 'Islāmic jurisprudence.

These efforts demonstrate that with dedication and vision, it is possible to adapt 'Islāmic law to meet the needs of the present while remaining true to its eternal principles. In our country, my esteemed brother, Dr. Nasir Tanzil Reḥmān, M.A., LL.B., Ph.D., has been blessed with remarkable abilities. The sequencing of content, the detailed analysis, and the clear and effective explanations are all commendable. I am grateful that my friend, the distinguished jurist of our time, Mufti Wali Hasan Sahib, has thoroughly reviewed this book. He has assured



me that nothing in the book warrants criticism or refutation and that all the issues concerning Hanafi jurisprudence have been addressed correctly.⁴⁹

Mufti Muḥammad Shafi Usmani

In this context, the 'Islāmic constitution, 'Islāmic law, and the 'Islāmic system within Pakistan have become a source of deep pain.⁵⁰ The nation must swiftly commit to becoming a truly 'Islāmic country in every aspect, constitutionally, legally, and in practice, by freeing itself from foreign influences. The debate around Pakistan's constitution remains unresolved. The aim is to draft detailed laws according to 'Islāmic Shariah for a country that couldn't finalise a constitution in twenty-seven years. Amidst these challenges, there are still people in the country who are unafraid of storms and refuse to be disheartened. These individuals are committed to amending 'Islāmic laws so that when the time comes, implementing them across the country won't take long.

In 1964, he first approached me with the draft of the initial volume, seeking my review and approval. At that time, Dr. Tanzilur Reḥmān was influenced by Dr. Fazlur Reḥmān's ideas,⁵¹ Which I felt were tinged with Orientalism, a perspective that, in my view, diluted the essence of 'Islāmic teachings. When Dr. Tanzilur Reḥmān first brought me his work, my strong impression of his association with Dr. Fazlur Reḥmān led me to decline the opportunity to review it. However, by the grace of Almighty 'Allāh, Dr. Tanzilur Reḥmān eventually broke free from this influence. He took significant steps to deepen his understanding of 'Islāmic jurisprudence, not only by studying books on the subject but also by regularly learning the principles of jurisprudence from a scholar. Dr Tanzilur Reḥmān, an intelligent and hardworking individual, combined his academic education with rigorous study to fill gaps in his knowledge.

⁴⁹ Tanzilur Raḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmad, Volume 4, Ed 7, 2010, Page 1174.

⁵⁰ Pakistan, the world's largest 'Islāmic state, was established in the name of 'Islām. It was founded to implement an 'Islāmic constitution, laws, and practices in every aspect of life, ensuring justice, fairness, trust, honesty, peace, and contentment values essential to a true 'Islāmic system. This vision was a cherished dream long before Pakistan came into being. At that time, it seemed impossible. The British, Hindus, and Sikhs were all opposed to it, dismissing the idea of Pakistan as a far-fetched and unrealistic desire. However, by the will of Almighty 'Allāh, Pakistan emerged as the largest 'Islāmic empire despite the opposition from its enemies. Yet, even after its creation, another miracle took place: 'Islām's continued presence and strength. But unfortunately, those who came to power in this great 'Islāmic nation failed to fulfil the promises made to Almighty 'Allāh and the people. Instead of introducing the 'Islāmic system in all areas of life and expressing gratitude, they became distracted by other pursuits. Over time, the original vision was abandoned, and leadership fell into the hands of those who were not truly committed to 'Islām. However, they continued to use the name of 'Islām and claimed to uphold the integrity of Pakistan.

⁵¹ Dr. Fazlur Raḥmān had begun to reinterpret common 'Islāmic issues in a way that seemed to diverge from traditional understandings, raising questions and doubts about matters that the Qur'ān explicitly prohibited. This approach seemed to appeal more to Jews and Christians, creating ambiguity in the minds of the common people. During his tenure, Dr Fazlur Raḥmān spent a considerable amount of the Pakistani government's funds on these endeavours, but I did not see any substantial positive outcomes.



As a result, by the time he completed the second volume in 1968, he approached me again. This time, I reviewed the second volume thoroughly, recognising the substantial improvement in his work. From then on, Almighty 'Allāh blessed him with such growth in knowledge and practice that I now prefer to address him as Maulana Tanzilur Reḥmān rather than simply “doctor.”

When he completed the fifth volume of his work on the issues of wills and inheritance, he strongly desired that I write the preface. I carefully read a significant portion of the book, word by word, and briefly discussed the remaining sections. Every issue was thoroughly addressed with clear explanations and analysis, supported by references to the books of Fiqh and Hadith. He also incorporated relevant laws from seven 'Islāmic countries, presenting them in a way that made them almost seamless with the subject. Some decisions of the high courts of the Indo-Pak subcontinent were critiqued as well, but all the work was done with great effort, diligence, and extensive research. He strongly criticised the inheritance of orphaned granddaughters and grandsons, pointing out that it was derived from Hindu Dharma Shastra. He argued that it is disgraceful for an 'Islāmic country to enforce laws rooted in Christian and temple traditions, violating the established rules of the Qur'ān, Sunnah, and the consensus of the Ummah.

One aspect of this book has reduced its overall usefulness. Respected Tanzilur Reḥmān might consider this feature the hallmark of his work, but I see it differently. The modern style of research, influenced by the legacy of modernity, seems to have subtly shaped his approach. This is evident in how, on several occasions, Dr Tanzilur Reḥmān presents different arguments and prioritises one. In some cases, he even departs from the rulings of Hanafi jurisprudence in favour of the views of another imam. To me, this approach is problematic for several reasons. First, if one is to judge between the opinions of great Imams like Abu Hanifah and Shafi'i, the person making the judgment should be equal to or greater than them in knowledge, practice, and the honour of ijtihad. At the very least, they should meet the strict criteria of ijtihad themselves.⁵²

The fact that Hanafi scholars prioritise the issues of Hanafi jurisprudence over those of other schools of thought is not because they believe their rulings can override the Qur'ān and Sunnah. Rather, a non-Mujtahid (someone not qualified to independently interpret 'Islāmic law)

⁵² Mufti Muḥammad Shafi. The Land System of 'Islām. Karachi: Dar al-Sha'at, Page 24.



has no right to depart from the established school of thought.⁵³ It is important to note that the vast majority of Muslims in this country follow the Hanafi school. Enforcing Hanafi law on them simply ensures they adhere to their religious practices. No one, except in very specific cases, can impose a different interpretation or ruling on them, as the jurists have clearly stated. Suppose a Mujtahid finds it difficult to apply Hanafi rulings due to a public emergency or personal hardship. In that case, Hanafi jurisprudence allows them to issue a fatwa based on the rulings of another Mujtahid Imam.⁵⁴ In such cases, the people who follow the Hanafi school must adhere to this ruling as a matter of Hanafi jurisprudence. However, the key point is that this allowance is made only in the case of a genuine public emergency. The scholars may follow the opinion of another Mujtahid Imam, but they cannot adopt or enforce another school's rulings simply based on the strength of an argument, nor can they issue a fatwa for others to follow that contradicts Hanafi jurisprudence. If such a fatwa were issued, it would be considered invalid according to Hanafi jurisprudence and broader 'Islāmic legal principles.

While every Muslim has the right to follow the school of thought of any of the Mujtahid Imams based on their discretion or personal convenience, this right does not extend to adopting rulings from different schools selectively or inconsistently. Doing so is not considered true adherence to religious principles but rather following personal desires, which Ibn Taymiyyah has condemned as a deviation from the correct path. In a country where the overwhelming majority are Hanafi, all rulings should be aligned with the Hanafi school. It is not permissible to impose non-Hanafi laws on them. However, those who do not follow the Hanafi school should be exempted from any rulings that conflict with their beliefs. This principle has been overlooked in several places throughout this book. As a result, the proposed rulings are impractical and

⁵³ See further, Muḥammad 'Islām. The Tradition in the Age of Modernity: A Critical Study of Maulana Ashraf Ali Thanavi's Approach to Religion and Modernism: University of the Punjab Lahore, 2020. 184-99.

⁵⁴ Maulana Ashraf Ali Thanvi, a prominent religious scholar from the subcontinent, addressed critical issues affecting Muslim women in the 1930s through his works like *Al-Haila* and *Al-Najza li'l-Hall il-Ajza*. He explored the challenges that forced Muslim women to renounce their faith in order to seek annulment of their marriages. To protect their rights, particularly in cases involving absent husbands, financial difficulties, or domestic abuse, Maulana Thanvi drew upon Maliki jurisprudence. He advocated for women's right to take their cases to court in situations involving mistreatment or cruelty by their husbands. Additionally, he suggested that a husband could grant his wife the right to divorce, to be used only in extreme circumstances. Recognizing that the existing jurisprudence was not adequately safeguarding women's rights, Maulana Thanvi consulted with scholars from Deoband, corresponded with scholars in the Haramain, and reviewed other schools of 'Islāmic law. Based on this collective consultation, he authored these works and played a key role in presenting a Sharia Bill in the Indian Legislative Assembly. This bill eventually led to the passage of the Dissolution of Muslim Marriages Act in 1939. Continuing Maulana Thanvi's legacy, his well-known disciple, Mufti Muḥammad Shafi, along with another respected scholar, Maulana Muḥammad Yusuf Banuri, established the "Majlis for Research on Contemporary Issues" in Karachi. This council was dedicated to researching and addressing significant contemporary challenges faced by the Muslim community.



cannot be enforced upon the Muslims of Pakistan through legislation. If this slight influence of modernism were removed from the book, it would undoubtedly be an exceptional and comprehensive work on inheritance laws, wills, and related matters. Tanzil Reḥmān deserves our gratitude for this. I pray Almighty 'Allāh removes this modernist influence from his thinking so he can become a great writer and the foremost jurist of our time, someone who can be fully trusted in religious matters.⁵⁵

Comparative Analysis

Dr. Fazlur Reḥmān Malik emphasises integrating modern issues with traditional 'Islāmic jurisprudence while preserving its core principles. Justice Wahiduddin Ahmed advocates a balanced approach incorporating diverse jurisprudential sources that are aligned with the Qur'ān and Sunnah. Justice S. A. Reḥmān supports blending traditional and modern perspectives for legal reform. Maulana Muḥammad Yusuf Banuri calls for addressing stagnation in 'Islāmic jurisprudence while preserve Hanfi jurisprudence. Mufti Muḥammad Shafi, while acknowledging the work's depth, remains cautious about deviations from Hanafi jurisprudence.

	Dr. Fazlur Reḥmān Malik	Chief Justice Wahiduddin Ahmed	Chief Justice S. A. Reḥmān	Maulana Muḥammad Yusuf Banuri	Mufti Muḥammad Shafi Usmani
A P P R O A C H	Dr. Fazlur Reḥmān emphasises the need to derive 'Islāmic rulings from the Qur'ān and Sunnah, particularly in	Justice Wahiduddin Ahmed thinks that the author addresses issues by consulting the Qur'ān, Hadith, and various 'Islāmic	Justice S. A. Reḥmān stresses the significance of aligning national laws with 'Islāmic principles, advocating for a balanced	Maulana Muḥammad Yusuf Banuri strongly emphasises that 'Islāmic law stands above any other legal	Mufti Muḥammad Shafi appreciates Dr. Tanzil ur Reḥmān's dedication to deepening his understanding

⁵⁵ Tanzilur Raḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Ed 7, 2010, Vol 5, Page 1535.



T O I S L A M I C L A W	response to new societal forces. He argues that 'Islām has historically adapted to new challenges and must continue to do so today. Revising 'Islāmic jurisprudence should be a thoughtful process rooted in deep historical and interpretative research rather than superficial analysis.	jurisprudence sources. The work does not favour any particular 'Islāmic sect, thereby presenting a balanced and comprehensive view of 'Islāmic laws. The emphasis on consulting the laws of other 'Islāmic countries further showcases the author's commitment to creating a holistic legal framework that is both relevant and adaptable.	approach to reform. He emphasises the importance of modern scholars understanding both traditional and contemporary viewpoints. Justice Reḥmān highlights the efforts of a moderate group that aims to reform 'Islāmic jurisprudence while preserving respect for established traditions, recognising that this balance is essential for meaningful and sustainable progress.	system with its foundation of wisdom and fairness. He criticizes the modern educated class and those in power for losing faith in the value of 'Islāmic law and calls for sincere efforts to adapt 'Islāmic jurisprudence to the challenges of the modern world while remaining faithful to its timeless principles.	of 'Islāmic jurisprudence after initially being influenced by modernist perspectives. He critiques the occasional departure from Hanafi jurisprudence in favour of other schools, arguing that such decisions require the authority of a Mujtahid and are not appropriate for non-Mujtahids.
M O	Dr. Fazlur Reḥmān	Justice Wahiduddin	Justice S. A. Reḥmān	Maulana Muḥammad	Mufti Shafi is cautious about



D	acknowledges	Ahmed supports	advocates for	Yusuf Banuri	modernisation,
E	the need for	modernising	revising 'Islāmic	emphasises	particularly
R	reform within	'Islāmic laws as	jurisprudence to	that the	when it leads
N	'Islāmic	long as they align	align with the	seeming lack of	to
I	jurisprudence	with the Qur'ān	Qur'ān and	progress in	reinterpretatio
Z	to address the	and Sunnah. He	Sunnah,	'Islāmic	n of
A	rapidly	acknowledges	ensuring it	jurisprudence	established
T	changing	the necessity of	addresses	is largely due	'Islāmic
I	societal	reforming laws	contemporary	to a failure to	principles. He
O	landscape.	to fit	issues effectively.	adapt to	criticises the
N	'Islāmic	contemporary	He appreciates	modern times.	modernist
A	teachings	societal needs	Dr Tanzil ur	He believes	influence,
A	should be	while	Reḥmān's work	that 'Islāmic	which he
N	applied to	maintaining a	in bridging	law has not	believes
D	contemporary	strong	traditional and	been	compromises
R	issues, drawing	foundation in	modern legal	sufficiently	the integrity of
E	lessons from	traditional	thought,	updated to	'Islāmic
F	the	'Islāmic	recognising his	meet today's	jurisprudence.
O	adaptability	jurisprudence.	balanced	challenges and	Mufti Shafi
R	shown by early	His approval of	approach to	criticises	argues that
M	Muslims.	Dr Tanzil ur	integrating	scholars for	without strict
	While he	Reḥmān's	'Islāmic	not making	adherence to
	supports the	consideration of	principles with	enough effort	traditional
	modernisation	laws from other	the demands of	to address this	interpretations
	of 'Islāmic law,	'Islāmic	modern society.	issue. This	, particularly
	he insists that	countries reflects	Justice Reḥmān	stagnation	within the
	it must	an openness to	acknowledges	hinders	Hanafi school,
	preserve the	adaptation and	the importance	'Islāmic law's	modernisation
	true 'Islāmic	reform within an	of this effort in	ability to	can lead to



	spirit and institutions.	'Islāmic framework.	making 'Islāmic law relevant and applicable in today's world.	provide relevant and effective guidance in the contemporary world.	deviations from true 'Islāmic teachings.
V I V E W O N D r T A N Z I L U R	Dr. Fazlur Reḥmān views Dr. Tanzil ur Reḥmān's work as an important contribution to the application of 'Islāmic teachings in a rapidly changing society. He acknowledges that while he may disagree with some of the author's jurisprudential arguments, he supports the overall approach and	Justice Wahiduddin Ahmed holds Dr Tanzil ur Reḥmān's work in high regard, considering it a significant contribution to the understanding and implementation of 'Islāmic laws in Pakistan. Wahiduddin sees the "Collection of 'Islāmic Laws" as an invaluable resource that has filled a long-standing gap in the country's	Justice S. A. Reḥmān commends Dr Tanzil ur Reḥmān's work as an important effort in organising and clarifying 'Islāmic law. He appreciates how the book carefully considers different viewpoints and aligns with the teachings of the Qur'ān and Sunnah. Justice Reḥmān sees this work as a	Maulana Muḥammad Yusuf Banuri recognises Dr Tanzil ur Reḥmān's skills and commends Mufti Wali Hasan's careful review. He is confident that the book accurately aligns with Hanafi jurisprudence, meeting the required standards without the need for any criticism.	Initially sceptical of Dr Tanzil ur Reḥmān due to his association with modernist thinkers, his view evolves as he observes the author's growing adherence to traditional 'Islāmic jurisprudence. By this time, Mufti Shafi recognises the depth and scholarly rigour of his



R E H M A N ' S W O R K	the proposed solutions. Dr. Fazlur Reḥmān stresses that differences of opinion among scholars are natural and should be respected, as they contribute to the collective 'Islāmic conscience.	legal literature. He particularly appreciates the balanced presentation of various jurisprudential views, which he believes will assist in resolving legal issues in a way that is fair and aligned with 'Islāmic principles.	crucial contribution to ensuring that Pakistan's laws are consistent with 'Islāmic principles. It is a valuable resource for those seeking to understand and implement 'Islāmic law in the country's legal system.		work. Despite this, he remains critical of the modernist elements that persist, particularly the departure from Hanafi jurisprudence, which he views as a significant flaw that limits the work's overall usefulness.
T R A D I T I O N A	Dr. Fazlur Reḥmān advocates for an approach that incorporates modern thought while remaining rooted in the	Justice Wahiduddin Ahmed favours a balanced approach that incorporates both traditional and modern thought as long as it aligns with	Justice S. A. Reḥmān highlights the ongoing tension between traditional scholars who resist any change and modern scholars who are	Maulana Muḥammad Yusuf Banuri stresses the importance of updating ancient 'Islāmic jurisprudence to align with	Mufti Shafi advocates for a strict adherence to traditional 'Islāmic jurisprudence, particularly within the Hanafi school.



L V S M O D E R N T H O U G H T	early 'Islāmic tradition. He believes that just as the early generations of Muslims adapted to new challenges using the Qur'ān and Sunnah, contemporary Muslims must do the same. For him, modernisation and reform are necessary but must be carefully aligned with 'Islāmic principles to ensure the preservation of the true 'Islāmic spirit.	'Islāmic teachings. Wahiduddin's approval of Dr Tanzil ur Rehḡmān's method of consulting contemporary laws from other 'Islāmic countries indicates a belief in the necessity of modernising 'Islāmic law while maintaining its foundational principles.	frustrated with the current state of religion. He suggests that a balanced approach is needed, one that honours and respects the rich traditions of the past while also being open to necessary reforms. This moderate path, according to Justice Rehḡmān, can help bridge the gap between the old and the new, ensuring that religious teachings remain relevant and meaningful in today's world.	the realities of modern life. He critiques both scholars and leaders for their lack of effort in adapting 'Islāmic law to meet the needs of today's society. By pointing to historical examples where 'Islāmic law was successfully modified to fit the context of the time, he argues that this tradition of adaptation should continue to ensure that 'Islāmic teachings	He views any deviation from established interpretations as problematic unless carried out by a qualified Mujtahid. Mufti Shafi is wary of modern thought that might dilute or misinterpret 'Islāmic teachings, and he critiques Dr Tanzil ur Rehḡmān's occasional departures from traditional Hanafi rulings as a result of modernist influence.
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				remain relevant and practical in the contemporary world.	
B R O A D E R I M P A C T O N S O C I E T Y	Dr. Fazlur Reḥmān believes that the proper application of 'Islāmic teachings in response to societal changes can have a profound and positive impact on society. He emphasises the importance of preserving key 'Islāmic institutions, particularly the family, as a means of maintaining social stability	Justice Wahiduddin Ahmed believes that Dr Tanzil ur Reḥmān's work has the potential to significantly impact Pakistani society by providing a comprehensive and balanced legal framework that aligns with 'Islāmic principles. Wahiduddin sees this work as a vital tool for 'Islāmic jurists and legislators in Pakistan, aiding in the resolution of legal disputes	Justice S. A. Reḥmān believes that this book will be a helpful resource for 'Islāmic jurists, especially when they face cases where different scholars have varying opinions. He views the book as an important contribution to the ongoing effort to bring Pakistani laws in line with 'Islāmic values, ensuring that the country's legal practices are consistent with	Maulana Muḥammad Yusuf Banuri views the book as a significant step forward in modern 'Islāmic jurisprudence, highlighting its role in fostering genuine and thoughtful reform. He believes that the book's clear and practical explanations, grounded in Hanafi principles, are essential for	Mufti Shafi views Dr Tanzil ur Reḥmān's work as a significant contribution to 'Islāmic jurisprudence, particularly after the author's shift towards traditional 'Islāmic thought. However, he cautions that the modernist influences in the work could potentially undermine its impact on



Y	and preventing the descent into materialistic barbarism. He sees Dr. Tanzil ur Reḥmān's work as a valuable resource for legislators, jurists, and the educated public, contributing to the ongoing development of 'Islāmic law in Pakistan.	and the implementation of Sharia laws in a way that is just and fair.	the teachings of 'Islām.	overcoming the stagnation that has affected 'Islāmic legal thought, thus providing valuable insights and solutions for contemporary issues.	society, warning that any deviation from traditional interpretations could lead to confusion and instability in the legal system. He ultimately hopes that the work will contribute to a more authentic implementation of 'Islāmic law in Pakistan.
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Conclusion

Dr. Tanzil ur Reḥmān's "Collection of 'Islāmic Laws" is a significant contribution to the effort to align Pakistan's legal system with 'Islāmic teachings. The book carefully balances the need to respect traditional 'Islāmic laws with the realities of modern life. The scholars discussed in this work provide various perspectives, showing both the challenges and the opportunities in this process. Each scholar (whether advocating for new interpretations or defending established views) agrees on the importance of making sure 'Islāmic law remains relevant today. This book suggests practical ways to update the legal system while staying true to 'Islāmic values,



ensuring that the laws meet the needs of the people. In conclusion, the “Collection of ’Islāmīc Laws” serves as a useful guide for those involved in shaping Pakistan’s legal framework. It offers a thoughtful approach to making sure that ’Islāmīc law can address modern challenges while preserving its core principles. The different viewpoints of the scholars highlight the importance of ongoing discussion and careful consideration in this important task.

Bibliography

- Amina Abdullah Abu Shehab. *Women, ’Islām, and Modernity*. University of London, 1992.
- Amadi. *al Ahkam: Dar Al-Kitab Al-’Arabi*, 2012.
- Al-Imam Waki’. *Akhbar al-Qudat: Alam al-Kutub*, 2009.
- Behqi. *al-Sunan al-Kubra: Dar al-Kutub al Ilmiyah, Bayrut*, 1994.
- Dr. Fazlur Reḥmān. *’Islām and Modernity: The University of Chicago Press, Chicago, London*, 1984.
- Dr. Fazlur Reḥmān. *’Islāmīc Methodology in History: ’Islāmīc Research Institute, ’Islāmabad*, 1995.
- Ibn Abdul Bar. *al Intiqah: Darul Kutub al Ilmyya, Beirut*, 1985.
- Imam Abi Dawud Al-Sajistani. *Sunan Abi Dawud: Trade Books, Karachi. Kitab Al-Qadaa*. 2001.
- Julia Rognifard, Orhan Gafarli, Leslie Terebessy. *’Islām and Progress: Between Tradition and Modernity: Journal of International Analytics, Vol. II, No. 4, 2020*.
- Muafiq. *Manaqib al Imam al Azam: Ihya al Marif al Numaniyyah, Haiderabad*, 2012.
- Muḥammad ’Islām. *The Tradition in the Age of Modernity: A Critical Study of Maulana Ashraf Ali Thanavi’s Approach to Religion and Modernism: University of the Punjab Lahore*, 2020.
- Muḥammad Khalid Masud, Armando Salvatore, Martin van Bruinessen (eds). *’Islām and Modernity: Key Issues and Debates: Edinburgh University Press*, 2009.
- Muḥammad Mati ur Reḥmān. *Federal Sharia Court and Ijtima’ Ijtihad: Compiled by Muḥammad Tahir Mansuri, Idara Tahqiqat e ’Islāmi, ’Islāmabad*, 2007.
- Muḥammad Taqi Amini. *Ijtihad: Qadimi Kutub Khan, Karachi*, 2005.
- Mufti Muḥammad Shafi. *The Land System of ’Islām: Dar al-Sha’at, Karachi*.
- Mufti Muḥammad Zahid. *Ijtima’ Ijtihad k Khadukhal: Compiled by Muḥammad Tahir Mansuri, Idara Tahqiqat e ’Islāmi, ’Islāmabad*, 2007.



- Razi. al Mahsul: Dar al-Kutub al-`Ilmiyya, 1988.
- Shadi Hamid. 'Islāmic Exceptionalism: St. Martin's Griffin, 2017.
- Shatibi. Almuwafaqat: Resalah Publishing, Damascus, Beirut, 2018.
- Shaukat Ali. 'Islām and the Challenges of Modernity: National Institute of Historical and Cultural Research at Quaid-i-Azam University, 'Islāmabad, 2004.
- Sohrab Behdad. Property Rights in Contemporary 'Islāmic Economic Thought: A Critical Perspective: Review of Social Economy, Vol. 47, No. 2, 1989.
- Supreme Court Monthly Review (SCMR), 1993.
- Syed Amir Ali. Chapter in Supreme Council and Bench: Maktaba Usloob, Karachi, 1984.
- Syed Azkiya Hasmi. Ijmai' Ijtihad: Manahij: Compiled by Muḥammad Tahir Mansuri, Idara Tahqiqat e 'Islāmi, 'Islāmabad, 2007.
- Tanzilur Reḥmān. Collection of 'Islāmic Laws: 'Islāmic Research Institute, 'Islāmabad, Volume 1-6, 2010.
- Tayyaba Batool Tahir, Ali Ammar, Fatima Bajwa. 'Islām and Modernity: A Case Study of Pakistan's Political History: Journal of Historical Studies, Vol. 6, No. 2, 2020.
- Wahbah al-Zahili. Usul al-Fiqh al-'Islāmi: Dar al-Fikr, Damascus, 2004.
- Willem van der Sluis. 'Islām and Modernity: Perspectives of Jamal ad-Din 'al-Afghani: Historical Journal, Groningen University, Netherlands, 2015.