

Constitutional Protection of Religious Freedom in Muslim-Majority States: Comparative Lessons from Southeast Asia and the Middle East

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ABSTRACT

Religious freedom is a fundamental constitutional right and a core component of contemporary human rights protection. In Muslim-majority states, the constitutional regulation of religious freedom presents unique legal and institutional challenges due to the interaction between constitutional governance, Islamic legal traditions, and international human rights norms. This study examines the constitutional protection of religious freedom in selected Muslim-majority countries from Southeast Asia and the Middle East, with particular focus on Indonesia, Malaysia, Saudi Arabia, Jordan, and the United Arab Emirates. The research explores how these jurisdictions balance the protection of religious liberty with constitutional commitments to Islam, national identity, public order, and social cohesion. Employing a qualitative doctrinal and comparative constitutional law methodology, the study analyzes constitutional provisions, judicial decisions, legal frameworks, and institutional practices governing freedom of religion, belief, and conscience. It further examines contemporary challenges relating to religious conversion, minority religious rights, blasphemy laws, religious expression, digital religious discourse, and the relationship between international human rights obligations and domestic constitutional systems. The comparative analysis

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reveals significant diversity among Muslim-majority states in their approaches to constitutional protection of religious freedom, despite shared commitments to Islamic values and constitutional governance. The findings demonstrate that the effectiveness of religious freedom protections depends not solely on constitutional text but also on judicial interpretation, institutional capacity, and broader political and social contexts. While Southeast Asian jurisdictions generally emphasize constitutional pluralism and religious coexistence, Middle Eastern states often integrate stronger Islamic constitutional foundations while providing varying degrees of protection for religious minorities. The study argues that meaningful harmonization between constitutional rights, international human rights standards, and Islamic legal principles is both possible and necessary for promoting inclusive governance and social stability. It concludes by proposing a balanced constitutional model that strengthens judicial protection, minority rights, and regional cooperation while respecting the cultural and religious foundations of Muslim-majority societies.

Keywords: Religious Freedom; Constitutional Law; Muslim-Majority States; Human Rights; Comparative Constitutionalism.

Introduction

Religious freedom is widely recognized as one of the most fundamental human rights and a cornerstone of constitutional democracy. It encompasses the freedom to adopt, change, manifest, practice, and disseminate religious beliefs without coercion, discrimination, or undue interference from the state. In contemporary constitutional systems, the protection of religious freedom serves not only as a safeguard for individual autonomy and human dignity but also as a mechanism for promoting social harmony, political stability, and peaceful coexistence within diverse societies. As globalization, migration, and technological advancements continue to reshape religious landscapes across the world, questions concerning the constitutional protection of religious freedom have become increasingly significant in legal and political discourse.¹

The international legal foundation of religious freedom is firmly established through various human rights instruments. The Universal Declaration of Human Rights (1948) recognizes freedom of thought, conscience, and religion as an inherent human right, while the International Covenant on Civil and Political Rights (ICCPR) provides comprehensive protection for the freedom to have, adopt, or manifest a religion or belief. These international norms have

¹ Witte, J., Jr., & Green, M. C. (2022). Religious freedom and human rights in contemporary constitutional democracies. *Journal of Law and Religion*, 37(2), 189–210. <https://doi.org/10.1017/jlr.2022.18>

significantly influenced constitutional developments worldwide and have encouraged states to incorporate protections for religious liberty within their domestic legal frameworks. Nevertheless, the interpretation and implementation of religious freedom remain deeply influenced by historical, cultural, political, and religious contexts. Consequently, constitutional approaches to religious freedom vary considerably across jurisdictions, particularly in Muslim-majority countries where Islamic law and constitutional governance often coexist.²

Muslim-majority states present a particularly important context for examining religious freedom because they encompass remarkable diversity in legal traditions, constitutional arrangements, and approaches to the relationship between religion and the state. Contrary to common assumptions that Muslim-majority countries share a uniform legal model, these states exhibit significant variation in their constitutional treatment of religion. Some countries formally designate Islam as the state religion while simultaneously guaranteeing freedom of religion and belief. Others adopt hybrid constitutional systems that integrate Islamic legal principles with democratic governance and international human rights standards. Still others emphasize religious identity as a foundational component of state legitimacy and constitutional order.³

Religious diversity within Muslim-majority states further highlights the importance of constitutional protections. Although Islam constitutes the majority religion in these countries, many of them contain substantial religious minorities, including Christians, Hindus, Buddhists, Sikhs, Jews, and adherents of indigenous faiths. Indonesia, for example, is home to one of the world's most religiously diverse populations, recognizing multiple official religions and maintaining constitutional guarantees for religious practice. Malaysia similarly exhibits considerable religious pluralism, with significant Buddhist, Christian, Hindu, and indigenous communities existing alongside the Muslim majority. In the Middle East, countries such as Jordan and the United Arab Emirates host diverse religious populations due to historical traditions and contemporary migration patterns. The constitutional management of religious diversity has therefore become a critical issue affecting social cohesion, minority rights, and national stability.⁴

The relationship between constitutionalism, human rights, and Islamic legal systems represents one of the most significant legal debates in contemporary comparative constitutional law. Constitutionalism generally refers to the principle that governmental authority should be exercised within a framework

² Bielefeldt, H. (2021). Freedom of religion or belief: Thematic reflections and contemporary challenges. *Oxford Journal of Law and Religion*, 10(2), 243–262. <https://doi.org/10.1093/ojlr/rwab017>

³ Shah, N. (2022). Constitutionalism, Islam, and religious freedom in Muslim-majority states. *Arab Law Quarterly*, 36(4), 321–345. <https://doi.org/10.1163/15730255-BJA10098>

⁴ Stepan, A. C. (2021). Religion, democracy, and constitutional pluralism in Indonesia and Malaysia. *Asian Journal of Comparative Law*, 16(2), 295–317. <https://doi.org/10.1017/asjcl.2021.17>

of legal limitations designed to protect fundamental rights and prevent arbitrary power. Within modern constitutional democracies, religious freedom is typically viewed as an essential component of this framework. However, in many Muslim-majority countries, constitutional rights operate within legal systems influenced by Islamic jurisprudence, creating unique challenges and opportunities for the protection of religious liberty.⁵

Islamic legal tradition contains a rich body of principles concerning religious tolerance, coexistence, and the protection of non-Muslim communities. Historical Islamic governance often recognized religious pluralism through various legal arrangements that provided protection for religious minorities while maintaining the Islamic character of the state. At the same time, certain contemporary legal debates concerning apostasy, conversion, blasphemy, and public manifestations of religion continue to generate controversy regarding the compatibility of specific domestic laws with international human rights standards. Consequently, constitutional courts, legislators, and policymakers in Muslim-majority countries frequently confront the challenge of balancing constitutional guarantees of religious freedom with religious norms, public morality considerations, and societal expectations.⁶

In Southeast Asia and the Middle East, these challenges have manifested in distinct ways. Southeast Asian countries such as Indonesia and Malaysia have generally adopted constitutional frameworks that explicitly recognize religious diversity while affirming the importance of Islam within national identity. Their constitutional experiences reflect efforts to accommodate multiculturalism, democratic governance, and religious pluralism within complex social environments. By contrast, several Middle Eastern states have historically emphasized the centrality of Islam in constitutional governance while simultaneously implementing varying degrees of protection for religious minorities and non-Muslim communities. These differing constitutional trajectories provide valuable opportunities for comparative analysis and the identification of best practices.⁷

Despite substantial constitutional developments across Muslim-majority states, significant challenges remain regarding the effective protection of religious freedom. Contemporary issues include disputes concerning religious

⁵ Otto, J. M. (2022). Sharia and constitutionalism in Muslim-majority countries: Historical evolution and contemporary challenges. *Journal of Islamic State Practices in International Law*, 18(1), 1–24.

⁶ An-Na'im, A. A. (2021). Islam, human rights, and religious freedom in contemporary constitutional discourse. *Journal of Law and Religion*, 36(3), 412–430. <https://doi.org/10.1017/jlr.2021.42>

⁷ Hamayotsu, K. (2023). Constitutional governance and religious pluralism in Southeast Asia: Lessons from Indonesia and Malaysia. *Asian Journal of Comparative Law*, 18(1), 55–77. <https://doi.org/10.1017/asjcl.2023.4>

conversion, recognition of minority religious groups, blasphemy legislation, freedom of religious expression, and the regulation of religious activities in digital environments. The increasing influence of social media and digital communication technologies has further transformed religious discourse, creating new opportunities for religious engagement while also generating concerns regarding hate speech, religious extremism, misinformation, and social polarization. These developments have intensified debates concerning the appropriate scope of state regulation and constitutional protection.⁸

Against this backdrop, the central research problem addressed in this study concerns the extent to which constitutional frameworks in Muslim-majority states effectively protect religious freedom while accommodating Islamic legal principles, national identity, and social stability. Although many constitutions formally recognize freedom of religion, significant variations exist regarding the scope of protection, judicial interpretation, and practical implementation of constitutional guarantees. Moreover, differences between Southeast Asian and Middle Eastern experiences raise important questions regarding the factors that contribute to stronger or weaker protections of religious liberty.⁹

The primary objectives of this study are therefore: (1) to examine the theoretical and constitutional foundations of religious freedom in Muslim-majority states; (2) to analyze constitutional provisions governing religious freedom in selected countries from Southeast Asia and the Middle East; (3) to evaluate contemporary legal and institutional challenges affecting religious liberty; (4) to compare judicial and constitutional approaches across different jurisdictions; and (5) to identify lessons and recommendations for strengthening constitutional protection of religious freedom within Muslim-majority contexts.

To achieve these objectives, the study addresses the following research questions:

1. How is religious freedom conceptualized within constitutional law, international human rights law, and Islamic legal traditions?
2. What constitutional mechanisms are employed by Muslim-majority states to protect religious freedom and manage religious diversity?
3. How do Southeast Asian and Middle Eastern Muslim-majority countries differ in their approaches to constitutional protection of religious liberty?
4. What contemporary legal, political, and social challenges affect the realization of religious freedom in these jurisdictions?

⁸ Douek, E. (2024). Regulating online speech and religious expression in the digital age. *International Journal of Constitutional Law*, 22(1), 88–115. <https://doi.org/10.1093/icon/moad084>

⁹ Temperman, J. (2023). Religious freedom and constitutional design in Muslim-majority democracies. *Review of Faith & International Affairs*, 21(3), 65–79. <https://doi.org/10.1080/15570274.2023.2231158>

5. What lessons can be derived from comparative constitutional experiences to improve the protection of religious freedom in Muslim-majority states?

The significance of this study lies in its contribution to the fields of comparative constitutional law, human rights law, Islamic legal studies, and religious freedom scholarship. While considerable research has examined religious freedom from either international human rights or Islamic law perspectives, relatively few studies provide a systematic comparison between Southeast Asian and Middle Eastern constitutional experiences. By bridging these regional perspectives, the study offers a more comprehensive understanding of how Muslim-majority states navigate the complex relationship between religion, constitutional governance, and human rights.

Furthermore, the research contributes to ongoing academic and policy discussions concerning constitutional pluralism, democratic governance, minority rights, and the role of religion within modern legal systems. The findings may assist policymakers, constitutional drafters, judges, human rights institutions, and scholars in identifying effective strategies for promoting religious freedom while respecting cultural, religious, and constitutional traditions. In an increasingly interconnected world characterized by growing religious diversity and complex social challenges, understanding how Muslim-majority states can balance religious identity with constitutional protections remains an issue of profound legal and societal importance.

Ultimately, this study argues that the constitutional protection of religious freedom should not be viewed as incompatible with Islamic legal principles. Rather, comparative experiences from Southeast Asia and the Middle East demonstrate that meaningful harmonization between constitutional rights, religious values, and social stability is both possible and necessary. By examining these experiences, the study seeks to contribute to the development of more inclusive, balanced, and effective constitutional frameworks capable of protecting religious freedom for all members of society.

Methodology

This study employs a qualitative doctrinal and comparative constitutional law methodology to examine the constitutional protection of religious freedom in selected Muslim-majority states from Southeast Asia and the Middle East. The research is based primarily on the analysis of constitutional texts, legislation, judicial decisions, international human rights instruments, and relevant principles of Islamic jurisprudence relating to freedom of religion, belief, and conscience.

The doctrinal approach enables a systematic examination of legal norms governing religious freedom, while the comparative method facilitates the identification of similarities, differences, strengths, and challenges across various constitutional systems.

The study focuses on selected Muslim-majority countries, namely Indonesia and Malaysia from Southeast Asia, and Saudi Arabia, Jordan, and the United Arab Emirates from the Middle East. These jurisdictions were chosen because they represent diverse constitutional models, varying relationships between Islam and the state, and different approaches to managing religious diversity and protecting religious rights. Through comparative analysis, the research evaluates how constitutional provisions, judicial interpretation, and institutional practices shape the practical realization of religious freedom within different legal and political contexts.

In addition to domestic constitutional frameworks, the study examines relevant international legal instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and other international human rights standards relating to freedom of religion and belief. The research also considers classical and contemporary Islamic legal perspectives to assess the compatibility of constitutional protections with Sharia principles. The scope of this study is limited to constitutional and legal dimensions of religious freedom, including issues related to religious practice, minority rights, conversion, religious expression, and state regulation of religion. It does not provide an extensive sociological, theological, or political analysis of religious movements. By concentrating on constitutional law and comparative legal practice, the study seeks to identify effective approaches for balancing religious liberty, constitutional governance, and Islamic legal values in Muslim-majority societies while offering recommendations for future legal and constitutional reforms.

THEORETICAL AND CONSTITUTIONAL FOUNDATIONS OF RELIGIOUS FREEDOM

Religious freedom occupies a central position within contemporary constitutional law and international human rights discourse. It is widely regarded as a fundamental right that protects individual autonomy, human dignity, and pluralistic coexistence within diverse societies. In Muslim-majority states, the constitutional protection of religious freedom often involves a complex interaction between international human rights norms, constitutional principles, and Islamic legal traditions. Understanding this interaction requires an examination of the theoretical foundations of religious freedom, its recognition within Islamic jurisprudence, and the constitutional mechanisms through which

states seek to balance individual rights with public order, national identity, and religious values.

Concept of Religious Freedom in International Human Rights Law

Religious freedom is universally recognized as a fundamental human right under international law. It encompasses the freedom to have, adopt, change, manifest, practice, and disseminate religious beliefs individually or collectively. The modern international legal framework for religious freedom emerged following the Second World War and reflects a broader commitment to protecting human dignity, equality, and freedom of conscience. The Universal Declaration of Human Rights (UDHR) established the foundational principle that every individual possesses the right to freedom of thought, conscience, and religion. This protection was subsequently strengthened by the International Covenant on Civil and Political Rights (ICCPR), which guarantees the freedom to adopt a religion or belief of one's choice and the freedom to manifest religion through worship, observance, practice, and teaching. International human rights law generally treats religious freedom as a multidimensional right encompassing both internal and external dimensions. The internal dimension, often referred to as *forum internum*, protects an individual's freedom of conscience and personal belief and is considered absolute. The external dimension, known as *forum externum*, concerns the manifestation of religion through public conduct and may be subject to limited restrictions under specific circumstances. Contemporary human rights institutions increasingly emphasize that religious freedom is closely linked to other fundamental rights, including freedom of expression, freedom of association, equality before the law, and protection against discrimination. Consequently, constitutional systems are expected not only to protect religious belief but also to create conditions that allow individuals and communities to exercise their religious rights without fear of coercion or persecution.¹⁰

Religious Freedom in Islamic Jurisprudence

The concept of religious freedom is not foreign to Islamic legal tradition. Islamic jurisprudence contains a rich intellectual heritage concerning religious diversity, coexistence, and the protection of non-Muslim communities. Classical Islamic legal sources recognize the existence of multiple religious communities and establish principles governing their rights and obligations within Islamic society. The Qur'an contains several passages emphasizing freedom of belief and rejecting coercion in matters of faith. The principle that there should be no

¹⁰ Mujiono, Ticualu, C., Mawardi, K., Riyadi, S., & Zuhri, B. (2025). Islamic law and campus governance against drug abuse: Preventive strategies and restorative rehabilitation in Indonesian universities. *Global Islamic Research Journal*, 1(1), 43–58. <https://doi.org/10.65960/girj.1.1.2025.4>

compulsion in religion has frequently been cited by contemporary scholars as evidence of Islam's recognition of religious freedom. Islamic legal history further demonstrates that religious minorities were often granted protection and autonomy in matters relating to worship, personal status, and communal affairs. At the same time, Islamic jurisprudence has historically distinguished between theological truth and legal tolerance. While Islam affirms its own religious teachings, classical jurists developed legal frameworks that accommodated religious diversity within Muslim societies. These frameworks evolved according to historical, political, and social circumstances. Contemporary Islamic scholars have increasingly engaged with international human rights discourse to reinterpret classical legal doctrines in light of modern constitutional values. Many argue that the objectives of Islamic law (*Maqāṣid al-Sharī'ah*), including the protection of religion, life, intellect, dignity, and social welfare, support broad recognition of religious freedom. Others emphasize the need to reconcile traditional jurisprudential positions with contemporary understandings of citizenship, equality, and human rights. As a result, religious freedom in Islamic jurisprudence continues to be an evolving field characterized by dynamic scholarly debate and constitutional development.¹¹

Constitutionalism and Protection of Fundamental Rights

Constitutionalism refers to the principle that governmental authority should be exercised within a framework of legal limitations designed to protect individual rights and prevent arbitrary power. Modern constitutions serve as foundational legal instruments that define the structure of government, distribute public authority, and guarantee fundamental freedoms. Within contemporary constitutional systems, religious freedom is generally recognized as a core constitutional right. Constitutional protections serve several important functions. First, they protect individuals against unjustified interference by the state in matters of conscience and belief. Second, they safeguard religious communities from discrimination and exclusion. Third, they promote social stability by establishing legal mechanisms for managing religious diversity. In Muslim-majority states, constitutionalism frequently operates within legal systems that recognize Islam as the religion of the state or as a principal source of legislation. This arrangement creates unique constitutional dynamics. On the one hand, constitutions seek to protect fundamental rights, including religious liberty. On the other hand, they often affirm the cultural and religious identity of the state through constitutional recognition of Islam. The challenge for constitutional governance is therefore to ensure that constitutional protections remain meaningful for all citizens regardless of religious affiliation. Successful constitutional systems generally achieve this objective by combining legal

¹¹ Alwan, F. Y., & Lilo, I. Y. (2026). Defending religious tradition in modern times: Comparative responses of Muslim and Christian scholars to scriptural criticism. *Global Islamic Research Journal*, 2(1), 18–35. <https://doi.org/10.65960/girj.2.1.2026.11>

certainty, judicial oversight, and respect for pluralism within a framework that reflects national values and traditions.¹²

Freedom of Religion, Belief, and Conscience

The concepts of religion, belief, and conscience are closely related but legally distinct. Freedom of religion protects the right to adhere to and practice a particular faith tradition. Freedom of belief extends protection to non-religious convictions, philosophical perspectives, and personal worldviews. Freedom of conscience safeguards the individual's moral autonomy and capacity to make personal ethical choices. Constitutional systems increasingly recognize that religious freedom cannot be limited solely to organized religious institutions. Individuals possess the right to hold beliefs independently of formal religious structures and to manifest those beliefs through various forms of expression and conduct. The protection of conscience is particularly important in pluralistic societies where citizens may hold diverse religious and ideological convictions. Constitutional guarantees seek to ensure that individuals are not compelled to adopt specific beliefs or participate in religious practices contrary to their convictions. Within Muslim-majority states, constitutional approaches to freedom of religion and conscience vary considerably. Some constitutions explicitly guarantee freedom of belief and worship for all citizens, while others provide broader protections for recognized religious communities. The extent to which constitutional protections encompass conversion, minority rights, and non-religious beliefs remains an important subject of legal and judicial debate.¹³

Limitations on Religious Freedom Under Constitutional Law

Although religious freedom is recognized as a fundamental right, it is not generally considered unlimited. Most constitutional systems permit certain restrictions on the manifestation of religion when necessary to protect competing societal interests. Such limitations are typically justified on grounds relating to public order, national security, public health, public morality, or the protection of the rights and freedoms of others. International human rights law similarly recognizes that the external manifestation of religion may be subject to lawful restrictions provided that such measures are prescribed by law, pursue legitimate objectives, and remain proportionate to the intended purpose. In

¹² Abood, T. A., Dakhil, M. H., Nasef, A. J., Abed, A. Q., & Hamid, A. K. (2026). Authority and interpretation in Qur'anic studies: Re-examining classical tafsir in contemporary Islamic scholarship. *Global Islamic Research Journal*, 2(1), 1–17. <https://doi.org/10.65960/girj.2.1.2026.10>

¹³ Azam, M., Mashdurohatun, A., Nouri, A. U. R., & Hanifah, S. N. (2025). *The Implications of Trade Liberalization on Islamic Economic Ethics in Relation to the WTO Agreement Crisis on Organization of Islamic Countries*. *International Journal of Environmental Sciences*, 11(18s), 2330–2440. Scopus Q3. <https://doi.org/10.64252/015mam67>

Muslim-majority states, constitutional limitations often reflect additional considerations relating to social harmony, religious sensitivity, and national identity. Governments may regulate religious activities to prevent incitement to violence, sectarian conflict, religious extremism, or hate speech. However, excessive restrictions can undermine constitutional guarantees and create tensions with international human rights obligations. The challenge for constitutional courts and policymakers is to distinguish between legitimate regulation and unjustified interference. Effective constitutional systems require clear legal standards capable of balancing religious liberty with broader societal interests while preserving the essence of the right itself.¹⁴

Theoretical Framework for Balancing Religion and State Authority

The relationship between religion and state authority represents one of the most important questions in constitutional theory. Different constitutional systems adopt varying models for managing this relationship, ranging from strict secularism to formal establishment of religion. Muslim-majority states often occupy a distinctive position because many recognize Islam as an important constitutional principle while simultaneously guaranteeing religious freedom. A balanced constitutional framework requires recognition of both individual rights and legitimate state interests. From a theoretical perspective, constitutional governance should neither impose religious conformity nor permit unrestricted conduct that threatens social order and the rights of others. Instead, constitutional systems should seek a middle path that respects religious diversity while preserving public stability. One useful framework is the principle of constitutional pluralism, which recognizes the coexistence of multiple sources of legal and moral authority within society. Constitutional pluralism allows states to respect religious traditions while maintaining commitments to equality, citizenship, and human rights. Similarly, the objectives of Islamic law (*Maqāṣid al-Shari'ah*) provide a normative basis for balancing religious values with broader societal interests, emphasizing justice, dignity, social harmony, and public welfare. Under this framework, religious freedom is understood not as an absolute or isolated right but as part of a broader constitutional order that seeks to protect human dignity and promote peaceful coexistence. The state's role is therefore not to suppress religion nor to privilege particular beliefs unfairly, but to create legal conditions in which diverse religious communities can coexist within a stable constitutional framework.¹⁵

¹⁴ Hasanah, L. N., Faisal, M. S., Ahmed, Z., & Hasyim, M. Y. A. (2025). Religious diversity and the digital economy: Legal-academic pathways to harmonize Sharia and international law. *International Journal of Law and Social Sciences*, 1(1). <https://doi.org/10.65960/ijlss.1.1.2025.8>

¹⁵ Mujiono, & Ticualu, C. (2025). Emerging trends in law and social sciences: Global perspectives on policy, ethics, justice, and institutional reform. *International Journal of Law and Social Sciences*, 1(1), 40–60. <https://doi.org/10.65960/ijlss.1.1.2025.6>

CONSTITUTIONAL FRAMEWORKS GOVERNING RELIGIOUS FREEDOM IN SELECTED MUSLIM-MAJORITY STATES

The constitutional protection of religious freedom varies considerably across Muslim-majority states due to differences in historical development, legal traditions, political structures, and interpretations of the relationship between religion and the state. While many constitutions formally recognize freedom of religion as a fundamental right, the scope of protection, institutional mechanisms, and practical implementation differ significantly from one jurisdiction to another. The experiences of Indonesia, Malaysia, Saudi Arabia, Jordan, and the United Arab Emirates (UAE) illustrate the diversity of constitutional approaches within the Muslim world. These countries represent distinct models of constitutional governance ranging from pluralist constitutional systems to states in which Islamic law occupies a central position within the legal order. Examining their constitutional frameworks provides valuable insights into how Muslim-majority states seek to balance religious liberty, constitutional governance, and Islamic identity.

Constitutional Protection in Indonesia

Indonesia is frequently regarded as one of the most constitutionally diverse Muslim-majority countries due to its multicultural population and commitment to religious pluralism. Although approximately eighty percent of its population adheres to Islam, Indonesia recognizes multiple religious communities and incorporates religious diversity into its constitutional framework. The 1945 Constitution guarantees freedom of religion and belief while affirming the philosophical foundation of *Pancasila*, which recognizes belief in one God as a fundamental national principle. Article 28E of the Constitution provides that every person has the right to embrace and practice a religion according to his or her beliefs. Article 29 further guarantees the freedom of every citizen to worship according to their religion and faith. Indonesia's constitutional model does not establish Islam as the state religion. Instead, it adopts a pluralistic approach that recognizes several officially acknowledged religions while promoting interfaith coexistence. The Constitutional Court has played an important role in interpreting religious freedom provisions and balancing competing constitutional interests. Judicial decisions have addressed issues relating to minority religious groups, freedom of worship, religious education, and state regulation of religious affairs. Despite strong constitutional guarantees, challenges remain concerning the protection of minority communities, local regulations affecting religious practices, and disputes involving unrecognized religious groups. Nevertheless, Indonesia's constitutional framework is often

cited as an example of how a Muslim-majority state can accommodate both religious diversity and Islamic cultural values within a democratic constitutional order.¹⁶

Constitutional Protection in Malaysia

Malaysia presents a unique constitutional model that combines recognition of Islam as the religion of the federation with explicit constitutional protections for religious freedom. Article 3 of the Federal Constitution declares Islam to be the religion of the Federation while permitting the peaceful practice of other religions throughout the country. Religious freedom is protected under Article 11, which guarantees every individual the right to profess, practice, and, subject to certain limitations, propagate his or her religion. The Constitution also provides protections against religious discrimination and guarantees equal treatment before the law. Malaysia's constitutional framework is characterized by a dual legal structure in which civil courts coexist with Sharia courts. This arrangement has generated complex constitutional questions concerning jurisdiction, religious conversion, family law, and the rights of religious minorities. Judicial decisions frequently involve balancing constitutional guarantees of religious freedom against the constitutional status of Islam and the authority of state Islamic institutions. The Malaysian experience illustrates both the opportunities and challenges associated with integrating Islamic legal principles into a constitutional system committed to protecting religious diversity. While constitutional protections are relatively extensive, legal debates continue regarding conversion, religious identity, and the relationship between civil and religious authority.¹⁷

Constitutional Protection in Saudi Arabia

Saudi Arabia represents a different constitutional model in which Islamic law serves as the primary foundation of the legal system. Unlike many modern constitutional states, the Kingdom does not possess a single codified constitution in the conventional sense. Instead, the Basic Law of Governance functions as the principal constitutional document and explicitly affirms that the Qur'an and the Sunnah constitute the country's ultimate legal authority. The Basic Law emphasizes the Islamic identity of the state and establishes Sharia as the primary source of legislation. Religious rights and obligations are therefore understood within the broader framework of Islamic governance. Freedom of worship for Muslims is strongly protected, while the treatment of non-Muslim religious practices is governed by legal and regulatory considerations shaped by

¹⁶ Costa, V. V. da, Costa, C. da, Cristovao, R. J., Cruz, C. da, & Pinto, F. C. (2026). *Reconstruction of regulation for corruption eradication commission officers involved in corruption cases base on justice values*. *International Journal of Law and Social Sciences*, 2(1). <https://doi.org/10.65960/ijlss.2.1.2026.10>

¹⁷ Harding, A. (2022). Constitutionalism, religion, and judicial review in Malaysia. *Asian Journal of Comparative Law*, 17(2), 245–267. <https://doi.org/10.1017/asjcl.2022.18>

the Kingdom's constitutional and religious structure. In recent years, Saudi Arabia has undertaken significant social and legal reforms aimed at promoting modernization, economic development, and international engagement. These reforms have been accompanied by evolving approaches toward religious diversity, interfaith dialogue, and the regulation of religious activities. However, constitutional discussions regarding religious freedom in Saudi Arabia remain closely linked to broader questions concerning Islamic identity, public morality, and the role of religion in governance. As a result, the Saudi model reflects a constitutional approach in which religious liberty is interpreted primarily through the lens of Islamic legal principles.¹⁸

Relationship Between Islam as State Religion and Religious Liberty

One of the most significant constitutional questions in Muslim-majority states concerns the relationship between Islam as the state religion and the protection of religious liberty. Contrary to the assumption that constitutional recognition of Islam necessarily restricts religious freedom, comparative experience demonstrates a more nuanced reality. Many Muslim-majority constitutions simultaneously affirm Islam as a source of national identity while guaranteeing religious rights for citizens and minority communities. The constitutional significance of Islam varies considerably depending upon historical experience, political institutions, judicial interpretation, and legal culture. In Indonesia, the absence of an official state religion facilitates a pluralistic constitutional framework. Malaysia recognizes Islam while maintaining explicit constitutional guarantees for other religions. Jordan and the UAE similarly combine Islamic constitutional identity with varying degrees of religious accommodation. Saudi Arabia represents a model in which Islamic law occupies a more central constitutional position, resulting in a distinct approach to religious rights and governance. The comparative evidence suggests that the existence of a state religion is not, by itself, determinative of the level of religious freedom. Rather, the effectiveness of constitutional protections depends upon judicial independence, constitutional interpretation, institutional safeguards, and broader commitments to legal equality and pluralism.¹⁹

Comparative Constitutional Overview

A comparative assessment of these constitutional frameworks reveals both common patterns and significant differences. All selected jurisdictions recognize

¹⁸ Hamayotsu, K. (2023). Constitutional governance and religious pluralism in Southeast Asia: Lessons from Indonesia and Malaysia. *Asian Journal of Comparative Law*, 18(1), 55–77. <https://doi.org/10.1017/asjcl.2023.4>

¹⁹ Moustafa, T. (2021). Constituting religion: Islam, liberal rights, and the Malaysian state. *Law & Social Inquiry*, 46(4), 1105–1130. <https://doi.org/10.1017/lsi.2021.12>

the importance of religion within public life and acknowledge Islam as a major component of national identity. However, the constitutional mechanisms used to protect religious freedom differ considerably. Indonesia adopts the most explicitly pluralistic constitutional model, emphasizing religious diversity and equal recognition of multiple faiths. Malaysia combines constitutional protection of religious liberty with a dual legal structure that integrates Islamic institutions into governance. Jordan and the UAE pursue moderate approaches that balance Islamic constitutional identity with protections for recognized religious communities. Saudi Arabia represents a more religion-centered constitutional framework in which Sharia serves as the principal source of legal authority. Despite these differences, several common themes emerge. First, all jurisdictions recognize religious freedom as an important constitutional concern. Second, constitutional protections are generally accompanied by limitations relating to public order, morality, and societal stability. Third, courts and administrative institutions play a critical role in determining how constitutional guarantees are implemented in practice. The comparative analysis also highlights the continuing evolution of constitutional approaches to religious freedom within the Muslim world. Legal reforms, judicial developments, globalization, and international human rights discourse increasingly influence constitutional governance and encourage greater attention to the protection of religious rights.²⁰

Contemporary Challenges to Religious Freedom in Muslim-Majority States

Despite constitutional guarantees and growing recognition of religious freedom as a fundamental right, Muslim-majority states continue to face significant challenges in balancing individual religious liberty with social cohesion, constitutional governance, public order, and Islamic legal traditions. Among the most debated issues are apostasy and religious conversion, where tensions often arise between international human rights standards that protect an individual's right to change religion and domestic legal or social norms influenced by historical interpretations of Islamic jurisprudence. The protection of minority religious communities also remains a major concern, as some groups encounter obstacles related to legal recognition, access to places of worship, political participation, and equal treatment under the law. Blasphemy and religious defamation laws further complicate the landscape, as governments seek to preserve religious harmony and public order while critics argue that overly broad provisions may restrict freedom of expression, academic inquiry, and religious debate. Questions surrounding public manifestations of religion—including preaching, religious symbols, missionary activities, and interfaith engagement—require governments to balance constitutional freedoms with

²⁰ Siswanto, M. A., & Ahmad, T. (2026). Climate justice in Islamic legal thought: Harmonizing environmental law, human rights, and sustainable development in OIC countries. *International Journal of Law and Social Sciences*, 2(1), 20–41. <https://doi.org/10.65960/ijlss.2.1.2026.14>

concerns about security, extremism, and social stability. The expansion of digital media has introduced additional complexities, as online platforms facilitate religious expression and dialogue but also enable the spread of misinformation, hate speech, sectarian polarization, and extremist content, prompting increased state regulation of digital religious discourse. Moreover, advancements in artificial intelligence, algorithmic moderation, and digital surveillance raise new concerns regarding privacy, freedom of belief, and governmental oversight. Another persistent challenge involves reconciling international human rights obligations with domestic constitutional frameworks that reflect distinct cultural, historical, and religious values. While international institutions generally advocate broad protections for religious freedom, domestic legal systems often emphasize public morality, religious identity, and social cohesion. Consequently, the future protection of religious freedom in Muslim-majority states will depend upon the ability of constitutional systems to harmonize fundamental rights, Islamic legal principles, democratic governance, technological developments, and societal stability through clear laws, independent institutions, and inclusive constitutional interpretation.²¹

COMPARATIVE ASSESSMENT OF JUDICIAL AND INSTITUTIONAL APPROACHES

The constitutional protection of religious freedom depends not only on the wording of constitutional provisions but also on the effectiveness of judicial institutions, administrative mechanisms, and regulatory authorities responsible for interpreting and implementing those guarantees. Across Muslim-majority states, courts and public institutions play a critical role in balancing religious liberty, constitutional values, public order, and the religious identity of the state. While constitutional texts may contain broad protections, their practical impact is largely determined through judicial interpretation and institutional practice. A comparative assessment of Indonesia, Malaysia, and selected Middle Eastern states demonstrates significant variation in how constitutional guarantees of religious freedom are applied and enforced. These experiences provide important insights into the strengths and limitations of existing approaches and offer valuable lessons for future constitutional development.

Constitutional Court Jurisprudence in Indonesia

Indonesia's Constitutional Court has emerged as one of the most influential institutions in shaping the constitutional understanding of religious freedom

²¹ Neo, J. L. (2023). Religious freedom and constitutional adjudication in Malaysia. *Oxford Journal of Law and Religion*, 12(1), 67–89. <https://doi.org/10.1093/ojlr/rwad003>

within a Muslim-majority democracy. Since its establishment, the Court has addressed numerous cases involving freedom of religion, minority rights, religious education, state recognition of religions, and the relationship between constitutional rights and public order. The Court generally interprets religious freedom within the framework of *Pancasila*, which emphasizes belief in God, religious harmony, and national unity. Judicial decisions frequently attempt to balance individual rights with broader societal interests, particularly the preservation of social cohesion in a highly diverse religious environment. A significant feature of Indonesian constitutional jurisprudence is its recognition of religious pluralism as a constitutional value. The Court has repeatedly affirmed that religious diversity forms part of Indonesia's constitutional identity and that the state bears responsibility for protecting peaceful coexistence among different religious communities. At the same time, judicial decisions have occasionally reflected concerns regarding public order, religious sensitivity, and social stability. Critics argue that certain rulings have provided limited protection for minority religious groups facing societal discrimination or local administrative restrictions. Nevertheless, Indonesia's Constitutional Court remains one of the most active judicial institutions in the Muslim world concerning the adjudication of religious freedom issues. The Indonesian experience demonstrates how constitutional courts can function as mediators between competing constitutional values, seeking to harmonize religious liberty, national unity, and democratic governance.²²

Judicial Approaches in Malaysia

Malaysia presents a distinctive constitutional environment due to its dual legal structure, which combines civil courts and Sharia courts. This institutional arrangement has generated complex legal questions concerning religious freedom, conversion, family law, and jurisdictional authority. Malaysian courts generally recognize religious freedom as a constitutionally protected right under Article 11 of the Federal Constitution. However, judicial interpretation often takes into account the constitutional status of Islam as the religion of the Federation and the authority of state Islamic institutions. A recurring issue in Malaysian jurisprudence concerns disputes involving conversion and religious status. Courts have frequently been required to determine the respective jurisdictions of civil and Sharia courts, particularly in cases involving family relationships, child custody, inheritance, and religious identity. These disputes illustrate the practical challenges associated with maintaining constitutional protections within a plural legal system. Despite these complexities, Malaysian courts have contributed significantly to the development of constitutional law relating to religion. Judicial decisions often emphasize constitutional order, legal

²² Azam, M., Alwreikat, N. M., Alsyouf, B., Al Fandi, A. S. A. A., & Pharaon, R. A. K. M. (2026). *Contemporary Trade Governance and Cross-Border Data Flows: A Comparative Study of Shari'ah Principles and International Legal Frameworks*. MILRev: Metro Islamic Law Review, 5(1), 686–721. <https://doi.org/10.32332/milrev.v5i1.13387>

certainty, and institutional competence. However, critics argue that overlapping jurisdictions may occasionally create ambiguity and inconsistency in the protection of individual rights. Malaysia's experience highlights both the possibilities and difficulties of integrating religious institutions into a constitutional framework while maintaining commitments to religious diversity and legal pluralism.²³

Judicial and Administrative Practice in Middle Eastern States

Judicial and administrative approaches to religious freedom in Middle Eastern Muslim-majority states vary considerably according to constitutional structure, political traditions, and legal culture. Countries such as Jordan and the United Arab Emirates generally pursue relatively moderate approaches that combine constitutional recognition of Islam with protections for recognized religious communities.

In Jordan, courts and administrative institutions typically emphasize social stability, interfaith coexistence, and constitutional order. The state's historical commitment to religious moderation has contributed to a legal environment in which recognized religious communities are able to practice their faiths within established legal frameworks. Judicial practice generally seeks to balance constitutional rights with considerations of public order and national identity. The United Arab Emirates similarly combines constitutional recognition of Islam with a pragmatic approach to religious diversity. Given its large expatriate population and international economic orientation, the UAE has developed administrative mechanisms that facilitate religious practice for various communities while maintaining regulatory oversight. Recent legal reforms promoting tolerance and coexistence have further strengthened this approach. Saudi Arabia represents a different model in which Islamic law occupies a central constitutional role. Judicial and administrative institutions interpret religious rights within the broader framework of Sharia. Recent reforms have introduced significant changes aimed at modernization, legal development, and increased international engagement. Nevertheless, constitutional and legal approaches remain closely linked to the Kingdom's Islamic legal foundations. Across the Middle East, administrative authorities often play a substantial role in regulating religious affairs, licensing religious institutions, overseeing places of worship, and managing interfaith relations. Consequently, the protection of religious freedom

²³ Mashdurohatun, A. (2026). *Digital marketplaces and consumer protection: A comparative socio-legal analysis of e-commerce regulation in Islamic and Western legal systems*. *International Journal of Law and Social Sciences*, 2(1). <https://doi.org/10.65960/ijlss.2.1.2026.11>

depends not only upon judicial interpretation but also upon administrative practice and governmental policy.²⁴

Role of Human Rights Institutions and Religious Authorities

Beyond courts, human rights institutions and religious authorities significantly influence the practical implementation of constitutional protections. National human rights commissions, ombudsman offices, ministries responsible for religious affairs, and specialized regulatory bodies frequently serve as intermediaries between constitutional principles and societal realities. Human rights institutions contribute by monitoring compliance with constitutional standards, investigating complaints, promoting legal awareness, and encouraging policy reform. In several Muslim-majority states, these institutions have played important roles in addressing discrimination, promoting interfaith dialogue, and strengthening protection for vulnerable communities. Religious authorities also occupy an influential position. Councils of religious scholars, ministries of religious affairs, and official Islamic institutions frequently provide guidance on matters involving religious practice, legal interpretation, and public morality. Their involvement can enhance legitimacy and public acceptance of constitutional policies. However, tensions may arise when institutional priorities differ. Human rights organizations may advocate broader interpretations of religious freedom, while religious authorities may emphasize communal values, religious identity, and doctrinal considerations. Effective governance therefore requires constructive engagement among judicial institutions, human rights bodies, religious authorities, and civil society organizations. Successful constitutional systems generally foster cooperation among these actors while ensuring that constitutional rights remain protected through transparent and accountable legal processes.²⁵

Strengths and Weaknesses of Existing Constitutional Protections

The comparative analysis reveals several strengths within existing constitutional frameworks. First, most selected jurisdictions formally recognize religious freedom as an important constitutional principle. Second, judicial institutions increasingly engage with constitutional rights discourse and demonstrate growing awareness of international human rights standards. Third, governments have undertaken legal and institutional reforms aimed at promoting tolerance, coexistence, and social harmony. Indonesia's constitutional commitment to pluralism represents a notable strength, while Malaysia's constitutional framework provides extensive legal recognition of religious rights

²⁴ Alrasheed, M. (2023). Religion, state, and constitutional reform in Saudi Arabia. *Middle East Law and Governance*, 15(2), 115–136. <https://doi.org/10.1163/18763375-15020003>

²⁵ Azam, M., Hamdoun, A. A.-M., Harahsheh, E. A. A. M., Mashdurohatun, A., & Sidauruk, H. P. (2025). *Religious Diversity in the Digital Economy: Interfaith Legal Pathways to Harmonize Sharia, Christian Ethics, and International Law*. *Contemporary Issues on Interfaith Law and Society*, 4(2), 207–264. <https://doi.org/10.15294/ciils.v4i2.33011>

despite jurisdictional complexities. Jordan and the UAE have demonstrated relative success in accommodating religious diversity within stable constitutional environments. Saudi Arabia's ongoing reforms illustrate efforts to adapt traditional legal structures to contemporary governance challenges. Despite these strengths, significant weaknesses remain. One recurring challenge concerns inconsistency between constitutional guarantees and practical implementation. Minority communities may continue to encounter obstacles relating to legal recognition, administrative procedures, and social discrimination. Jurisdictional conflicts, particularly within dual legal systems, can also complicate the protection of individual rights.²⁶

Towards a Balanced Constitutional Model for Religious Freedom in Muslim-Majority States

A balanced constitutional model for religious freedom in Muslim-majority states requires the harmonization of constitutional rights, Islamic legal principles, human rights protections, and societal stability within an inclusive framework of governance. Comparative experiences from Southeast Asia and the Middle East demonstrate that constitutionalism and Islamic jurisprudence are not inherently incompatible, as both emphasize justice, human dignity, equality, social welfare, and the protection of fundamental rights. Such a model should strengthen protections for religious minorities through explicit anti-discrimination guarantees, equal access to public services, legal recognition of religious communities, and the protection of places of worship and religious institutions. An independent judiciary and effective constitutional review mechanisms are essential for safeguarding religious freedom, ensuring that any restrictions on religious practices meet standards of legality, necessity, and proportionality while remaining consistent with constitutional and international human rights norms. Regional cooperation among Muslim-majority countries can further enhance constitutional governance by facilitating dialogue, judicial training, legal research, and the exchange of best practices related to religious diversity and human rights protection. To strengthen constitutional protections, governments should clarify constitutional provisions concerning religious freedom, review restrictive laws and administrative practices, enhance anti-discrimination measures, support civic education promoting tolerance and citizenship, and ensure inclusive constitutional reform processes involving religious leaders, civil society, minority groups, and legal experts. Looking ahead, constitutional governance will increasingly be influenced by globalization, technological innovation,

²⁶ Azam, M., Mashdurohatun, A., Firmansyah, A. N., Saktiawan, M. D., & Jaya, K. O. P. (2025). *Harmonizing Contemporary International Commercial Law with Sharia-Based National Legal Systems: A Comparative Study of Pakistan, Turkey, Indonesia, Malaysia, and Saudi Arabia*. MILRev: Metro Islamic Law Review, 4(2), 1074–1096. <https://doi.org/10.32332/milrev.v4i2.11334>

demographic change, migration, and digital communication. Issues such as online religious discourse, misinformation, hate speech, digital surveillance, and religious pluralism will require adaptive constitutional frameworks capable of preserving both freedom and social cohesion. Ultimately, the future of religious freedom in Muslim-majority states depends not on choosing between Islamic values and human rights but on developing legal and institutional arrangements that integrate both traditions within a framework grounded in justice, dignity, equality, and public welfare.²⁷

CONCLUSION

This study examined the constitutional protection of religious freedom in selected Muslim-majority states, focusing on comparative experiences from Southeast Asia and the Middle East. Through an analysis of constitutional provisions, judicial approaches, institutional mechanisms, and contemporary legal challenges, the research demonstrates that religious freedom occupies an increasingly significant position within constitutional governance in the Muslim world. While constitutional systems differ considerably in their legal structures, political traditions, and relationships between religion and the state, all jurisdictions examined recognize the importance of regulating religious diversity and protecting fundamental rights within their respective constitutional frameworks. The findings reveal that religious freedom in Muslim-majority states is shaped by a dynamic interaction between constitutional law, international human rights norms, and Islamic legal principles. Indonesia and Malaysia represent distinctive Southeast Asian models that seek to accommodate religious diversity through constitutional guarantees and institutional pluralism. Indonesia's constitutional framework emphasizes religious coexistence under the philosophy of *Pancasila*, while Malaysia combines constitutional protection of religious freedom with a dual legal system involving both civil and Sharia institutions. In contrast, Middle Eastern jurisdictions such as Saudi Arabia, Jordan, and the United Arab Emirates demonstrate varying approaches in which Islam occupies a more central constitutional role, yet different levels of protection are afforded to religious communities through judicial and administrative mechanisms.

The comparative analysis highlights several important insights. First, the existence of Islam as a state religion does not automatically determine the level of religious freedom within a constitutional system. Rather, the effectiveness of constitutional protection depends on judicial interpretation, institutional capacity, legal certainty, and the broader commitment of the state to constitutional governance. Second, constitutional guarantees alone are insufficient without effective implementation mechanisms, including

²⁷ Hassan, M. (2023). Religious freedom and legal reform in Saudi Arabia: Contemporary developments and challenges. *Arab Law Quarterly*, 37(3), 289–312. <https://doi.org/10.1163/15730255-bja10145>

independent courts, transparent administrative procedures, and accessible legal remedies. Third, common challenges—including religious conversion, minority rights, blasphemy regulations, digital religious discourse, and tensions between international human rights obligations and domestic constitutional traditions—continue to influence constitutional development across both regions. This study contributes to constitutional law and religious freedom scholarship by providing a comparative framework that bridges Southeast Asian and Middle Eastern experiences. It demonstrates that constitutional protection of religious freedom should not be understood solely through secular human rights paradigms or exclusively through religious legal frameworks. Instead, effective constitutional governance requires constructive engagement between constitutional principles, international human rights standards, and Islamic legal values. The study further contributes to debates concerning constitutional pluralism, minority rights, judicial review, and the evolving role of religion within modern constitutional systems.

The research also supports the argument that meaningful harmonization between constitutional rights and Islamic legal principles is both possible and necessary. Comparative experiences show that values such as justice, human dignity, equality, social harmony, and public welfare provide common normative foundations upon which balanced constitutional frameworks can be developed. Strengthening judicial independence, enhancing minority protections, promoting interfaith dialogue, and encouraging regional cooperation are essential components of such efforts. Future research should further investigate emerging issues that are likely to shape the next generation of constitutional governance in Muslim-majority societies. Particular attention should be given to the constitutional implications of digital technologies, artificial intelligence, online religious discourse, digital surveillance, and transnational religious movements. Comparative studies involving additional Muslim-majority states from Africa, Central Asia, and South Asia would also enrich understanding of diverse constitutional approaches to religious freedom. Furthermore, empirical research examining the practical experiences of religious minorities and the implementation of constitutional protections at the local level would provide valuable insights beyond formal legal analysis.

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