

Islamic Justice System Vs American Justice System

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A society needs a justice system to prevail in discipline such that people should follow it, and hence, rules and regulations are to be implemented accordingly. Implementation of rules and justice is not something adopted by communities from their own will, but it has to be implemented by the state forcefully, or else the system might collapse, and the weak would surrender to the unjust of a powerful lot of the society. Without the law establishment, every individual would need to uphold the laws around them. This, obviously, raises numerous issues, for example, contrasting understandings of laws, individual predispositions, settling on enthusiastic choices and the physically powerless being defenceless against the powerful groups of society.

This has been a piece of the development of society as individuals unite as one for security from outlaws and alternate advantages of human progress. A framework was expected from the powers and every individual to ensure that everything was genuinely taken care of. In the absence of law and justice, we have a circumstance while law implementation is sorted out and very much prepared constrain with the objective of securing every human being similarly under the umbrella of the same law. Such that we can see that there are different kinds of laws and systems that exist around the world; some of them are created according to the culture of the present society, and some societies follow their traditional laws, which might be implemented by their religion. Such is the case of Muslims who follow their Islamic law, which might have a lot of different protocols and law prevailing codes than the common laws that are implemented by states. Even amongst a lot of Muslim states, it is not important that they follow their Islamic law. Considering several examples, like in the Middle East, Muslim countries follow their state law, which in their case might be derived from Islamic law (Mumisa, Michael).

In many Islamic states which still practice the execution of people in certain situations, this practice has become a myth. Scholars and law enforcement institutes claim that the death penalty is not a compulsory action that needs to be taken in certain situations.

The confusion about Sharia law is the conviction that there is a reasonable and doubtful proclamation of what the disciplines are for specific offences. Actually, there are a few distinct sources alluding to the consequences; also, unique schools of Sharia law give distinctive identities to these claims in the light of a certain situation. Islamic laws state discipline for various offences that may result in the punishment of the death penalty and the diverse perspectives about every, demonstrating that Sharia law does not expressly constrain Muslim states to apply capital punishment. It looks at the acts and sometimes punishments like prison prerequisites that are implied in the situation of the death penalty under Islamic law, though they can be confined to certain situations to the point that they make it

practically inconceivable to force such a discipline (Mumisa, Michael).

In the understanding of moderate thinkers who have a connection with Islamic law do believe in going to the root cause of the situation that causes someone to perform such acts. Basically they drive this practice from their Islamic leaders in the early centuries. Thus, according to moderate thinkers and scholars, the death penalty might not be the punishment for offences that are conducted by an individual, which are applicable in the surroundings where Islamic law is imposed. Saying that there is this restriction where the laws can be implied and where it has to be handled from the common law because certain people of different nationalities might not come under the implications of Islamic law, but they might be residing in their territory. Sometimes, foreigners live in certain places where laws are not applicable to them, and they can demand immunity from that law. Islamic law is accepted to cover all parts of a Muslim's life.

For Muslims, it is the 'celestial direction' that, among different things, envelops the ethical code and religious law of Islam. Sharia oversees numerous territories of a Muslim's conduct, including those identifying with wrongdoing, governmental issues, charges, legacy, marriage, separation, cleanliness, abstaining from food, supplication, fasting and journey. It can be portrayed as a framework which is intended to guide how Muslims act in society and their interrelationship with those inside the Muslim confidence and those outside of it (Mumisa, Michael).

Most of the Islamic law is perceived from the teachings of the Quran and the words and activities of their Prophet Muhammad. Though Islamic law depends on situations, for example, equity and process, the universal group, for the most part, comprehends Islamic law to be an absurd and irrelevant way of providing justice, portrayed by severe disciplines and shameless treatment of litigants and the individuals who are indicted. Large portions of these impressions depend on generally advanced occasions in nations that have embraced Islamic law as a reason for their wrongdoings law frameworks, for example, a woman in Nigeria was punished for adultery, who faced death penalty (Peiffer, Elizabeth).

Basically, the Shariah law is directly based on the core principles of Islam and its practices, which are decided upon the consent of Islamic jurists, including the significance of the death penalty under certain circumstances. Muslims, paying little respect to their concepts, have continuously trusted the Quran was not some established book available as a whole content, yet the Quran was revealed in parts in the form of verses and was uncovered with regards to specific issues or events more than twenty-three years of the lifetime of Prophet Muhammad. This, it is accepted, was on account of the Quran came to answer and unravel the strong issues of an always showing the signs of change society. The evidences of Islamic law for every class of wrongdoing fluctuate regularly, various sect differences of law must be consolidated to finish the meaning of a given wrongdoing, recognize its components and build up its basic prerequisites. The schools that vary insects have different ways of contrast to a portion of the components of the violations contained in these classifications and their beliefs prerequisites, making their concentration all the more difficult. Considering the fact that Islam does consist of a lot of sects and their leaders have different ways of dealing with different types of

wrongdoings. Considering that even the punishment of the death penalty varies accordingly, their fore one cannot say that theirs a particular way of dealing with any certain punishment (Peiffer, Elizabeth).

As for considering the common law of the United States, the penalty of death is viewed in a different way. Considering the opinion of Warden Rob, The burden of capital punishment for the wrongdoing of murder has a long history of acknowledgement both in the States and around Europe. The precedent-based law runs the show forced a compulsory capital punishment on all indicted killers. What's more, the punishment kept on being utilized by the mid-twentieth century by most American States, despite the fact that the broadness of the precedent-based law control was lessened, at first by narrowing the class of homicides to be rebuffed by death and consequently by across the board selection of laws explicitly allowing juries the attentiveness to suggest kindness. The vast majority of the state laws in regards to capital punishment took after the lead of the Supreme Court in endeavouring to restrain, however not take out, the attentiveness of a jury by unmistakably posting the sorts of killings which would give rise to the capital indictment. An ordinary illustration is the statutory plan in the Condition of Indiana. There, capital punishment is accessible for murder just if the indictment can demonstrate the presence of no less than one of the 'exasperating conditions' forced by the state lawmaking body. On the off chance that the respondent was sentenced to death at trial a second technique takes after to decide the punishment (Warden, Rob).

Considering situations around the world where common law is practised, it can be observed that there are different ways of finding someone guilty of the death penalty. It depends on the consequences of the situation and how the jury decides. Thus, it is up to the lawmakers and practitioners of law, such as advocates, how well they defend or prosecute the case and seeing all this, the jury of 12 people in the court is to decide whether the person is a convicted felon or not. Even in death penalties, in common law there are different types. It might be the case whether the person should serve some time in a prison cell or must be immediately sentenced to death, depending on the situation. Be that as it may, arranging the states as homogeneous promoters of law followers does not precisely represent the structure of politics and justice of the country.

Inside the limitations of confinement characterized by the Constitution, every State applies its own particular criminal law, and the national government is intrinsically banned from requiring the administrations of the States to apply the law, which may include other punishments and the death penalty in certain cases. Numerous observers in the States have analyzed criminal equity framework and have remarked on the extreme cases by giving well-equipped legal advisors in genuine cases. There have been various cases archived of legal advisors with overpowering caseloads, legal advisors who were totally caught off guard for trial, and legal advisors who had no or inadequate involvement in taking care of complex matters. In capital cases particularly, the worries have been exceptional, with various cases at last being toppled because of the gross inadequacy of protection legal advisors designated to speak to poor respondents (Warden, Rob).

The Seven different Hadud offences that Islam emphasizes are merely the main and core things that

are considered to be the most important. Illegal affairs against the commandments of Islam and the orders of God in the correctional framework are called Hudud. Hudud's wrongdoings are an infringement of "normal law" as deciphered inside the particular societies of the Islamic State. Hudud's wrongdoings as an infringement of God's rights must legitimacy divine disappointment. Revelation of war against an Islamic state is deciphered as making war against Allah and his delivery person. This is unmistakably expressed in the Holy Book of Muslims, the Quran. The main reward of the individuals who make war upon Allah and his detachment and make progress toward defilement in the land will be that they will be murdered or executed. The Seven offences that Islam declares as the most punishable acts are Murder, Apostasy from Islam – making war upon Allah and his messengers, Theft, Adultery, Defamation – false accusation of adultery or fornication, Robbery, and Alcohol-drinking (Okon, Etim E).

It is additionally an express and unequivocal education for humankind and, accordingly, ties the Muslims, its uncountable activates ads up to a greater sin. It calls people to a life of excellence, ethical quality, and lawfulness. In various states where Islam is polished, the Syariah Criminal Establishment of Kelantan and the Syariah Criminal Authorization of Terengganu permit the use of hudud laws in specific conditions of Malaysia. Considering one of the biggest sins in Hadud offences, adultery, accordingly, it makes it impossible for the people who are involved in this act to be left without any punishment and yet, as it's part of the seven basic Hadud offences, Islam does punish the actor who is involved in this (Ali Ali Mohamed, Ashgar).

In our society, the most common offences that take place massively, Rape, Robbery, Murder, parents under the influence of Alcohol, mistreating their children and many others. As for the mentioned crimes, Rape is one of the biggest offences in states that is happening in huge ratios and comparing that; the Sharia law does abide by the consequences of someone involved in such activities. Though it might not result in the death penalty, there are other punishments which were decided by the jury of Islamic leaders and, hence, it was mentioned in the Quran. Certain other crimes that are mentioned in the Holy book of the Quran also mention the punishments and have categorized the offences in certain categories, such that the person who is about to commit such a crime should know what he would be convicted of if he is found guilty. Certain examples of these categories "Had crimes" in which all the serious matters are dealt. Crimes such as adultery, rape, and one of the biggest offences in Islam, which Shirk assumes someone is parallel to God. Certain offences do come under the category of "Had Crimes".

Another type is "Tazir Crimes", in which all the crimes of least concern are dealt like robbery, misbehaviour etc. and the "Qiyas crimes" are the ones in which revenge-type crimes are dealt with, such as if someone has injured someone or killed someone relative. A few journalists in the broad communications have scrutinized the prospect of revenge as brutal. They named the practice as undemocratic and harsh. Qiyas' violations are based upon the criminal exercises presumption of revenge. The idea of retaliation was found in the primary statutory, which is clearly mentioned in the Code of Hammurabi and in the law "tit for tat." However, Muslims do believe that yet it is ideal to pardon (Ali Ali Mohamed, Ashgar).

The prominence of any human being can be judged based on his religion unless we are comparing humans on a material basis. Religion is the only thing in this world that can become any person's identity, and for that, we should have known in which religion we rely on ourselves and what we believe in it. In order to completely understand which religion is better than the other, we had to go for a deep comparison between the two most basic and prominent religions of the world, which are Islam and Christianity, and the rules which every religion follows, especially in the field of justice. There are many limitations in the Islamic law system as compared to the United States law system. The American judicial establishment is grounded on antimonarchism, traditional tolerance, and federalism. At the same time, U.S. law allows you to exercise any religious conviction, given that it is non-violent (Edwards, Tito).

The Islamic judiciary law follows the Sharia, which had its strong base depending on laws being implemented over a long history. The Prophet Muhammad SAW is the person who can be considered as the source of knowledge about all the justice laws being governed even now in Muslim countries and wherever the Muslim community is resident, the Islamic laws have been followed, but when it comes to the judiciary system, then it may depend on the country where the person is living. The Sharia law is the core ingredient of the Islamic Judiciary made by the Allah system, where all aspects of Islam must be followed, while in the American judiciary system, all the rules and regulations have been made by normal human beings like advocates and judges. For example, in the Islamic Judiciary System, women have been given half place as considered to men when it comes to giving testimony for any justice purpose.

While they had equal rights in the American judiciary system, another basic and most important difference is in the division of property from the parents, where women hold half the share in assets as compared to their male siblings. In the Islamic law system, if a man doesn't want to live with her wife, then he can divorce her in no time by just saying the words (Talak) three times, but if a woman doesn't want to live with her husband, then she had to take a judiciary procedure known as "Khula" while in American system it's quite a lawful procedure where women got equal rights for deciding. Also, there is no concept of money given to divorce women from their husbands if they are separated. In the Islamic law system, a non-Muslim person cannot give witness in Sharia court, not even on his own behalf. There is no such thing in the U.S. law system to pay tax if you are Muslim. Recently, on June 26, 2015, a rule was passed for same-sex marriage by the U.S. government, while two cannot be married as per Islamic rules and regulations ("Commonly Requested U.S. Laws And Regulations | Usagov").

In Islamic states, there is a rule by which all the Christians and Jews have to pay the non-Muslim tax known as "Jizya" to be eligible to have dhimmi status and keep performing their religious acts and not become Muslim. When it comes to insurance circumstances (blood money), the Jewish community and Christian men have a lower value (half) than Muslim men. When it comes to theft, then in the Islamic justice and law system, the arm or hand of the thief must be cut down, as this tradition has been occurring since the start of the Islamic religion. But in today's world, Islamic countries have been imposing another system in which the thief has to return all the items or money equivalent for it and

go to prison. At this point, the Islamic and U.S. law coordinates with each other to some extent. There are some cases where both law seems straightforward and coherent, such as the case where oral testimony and an oath are considered the most promising confessions of any person in the Islamic constitution of Law and judiciary. In a Sharia court, the written proof is only allowable with the confirmations of numerous witnesses believed dependable by the judge (Edwards, Tito).

To conclude the discussion, one can say that the current state of Islamic laws and regulations is characterized majorly due to stereotypical assumptions of Radical Muslims. Media has played a huge role in shaping the perspectives of people as they wanted by taking the critical views of a few radicalistic Muslims into accord and spreading them as opinions of Muslims at large. This is entirely unjust on the part of all Muslims and has moulded their image as terrorists and slaves of intolerant religion. However, researchers have established that fixed punishment for all corruption and lawbreaking is the basis of Islamic Shariah. Researchers and writers also infer that Islamic juries are devoid of freedom of choice in their verdicts of perpetrators in the Shar'iah Court System. However, studies show there are 4 Hadd misconducts that do have permanent penalties (as prescribed in the Qur'an). However, all Hadd crimes are not fixated on getting a punishment as a compulsion.

While Islamic Law is entirely variated from English Common Law or the European Civil Law customs, however, the aim of both remains to ensure justice and the well-being of people. Muslims, by their religion, are to explicitly follow the lessons and code of conduct prescribed by the last Prophet Mohammad, the very same interpretation of which is given by Allah in the Qur'an. Muslims are to abide by the Shariah Law at all sorts of verdicts in their life, but non-Muslims are not restricted to following the customary (orders from Allah). However, Muslims and non-Muslims are both to live in a harmonious way where they have to abide by regulations legislated by the various forms of government, such as tax commandments, traffic rules, crimes of business, and theft etc., to create an atmosphere for peace and prosperity regardless of any disparities (Wiechman, Denis J. et al.).

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