**Comparative between Islamic Legal System and Legal System Jewish**

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Sharia is an Arabic word that means ‘the path’ about traditional Islamic law. The word Sharia came from the Quran which is the holy book for the Muslims who consider this to be the word of God. Mohammed also gave teachings, and from them, Sharia stemmed out. The Muslims have always believed that Allah (God) unveiled His true will to the holy prophet Mohammed who in return passed on Allah’s commands down to human beings in the Muslim holy book Quran (Brown, 2009). The Jewish, on the other hand, believe in the laws of Moses and the Bible as their Holy book. The Torah takes up its inspiration and exhilaration description from the legislation of Moses in the revelation from Mount Sinai. The three core sources of Jewish law are the Torah, the Gemara, and the Mishnah. These two religions have different legal systems that portray different strengths altogether. Theses papers are a comparative between the legal regime of the Islam and the legal system Jewish. The research will also stipulate the strengths and weaknesses of the two religions using evidence that will be portrayed in the text below. This will give the reasons as to why people do not think that the Jewish religion is as strong as the Islamic faith.

**INTRODUCTION TO THE ISLAMIC LAW IN THE ERA OF THE PROPHET MUHAMMAD AND THE CALIPHS**

Before there was Islam, the nomadic tribes constrained the Arabian Peninsula were idol worshipers. These tribes fought against each other while they all had their customs and practices in marriages, hospitality, and vengeance (Brown, 2009). The crimes committed against anyone were dealt with through a mediator or arbitrator. Some other times they were approached through personal retributions. Mohammed came in with a new religion in which only one God was to be worshiped. This religion demanded that only one God was to be worshiped.

The Quran was the holy book that was to be used to set down all the basic standards of human standards. During Muhammad’s lifetime on earth, He made sure that he interpreted the Quran for the people and at the same time he acted as a judge to conflicts brought to him. In this way, the Islamic sharia was integrated, and it became part of the Muslim religion (Brown, 2009).

Mohammad died in the A.D 632, and after this, friends of Mohammed ruled over this land of Arabs for roughly three decades. These Caliphs also known as the political, religious leaders continued with their development in Islam law incorporating their decisions and pronouncement. These first Caliphs went on to conquer territories outside Arabia. These areas included Palestine, Persia, Egypt, Syria and Iraq. Elements of Roman, Greek, Jewish, Christian and Persian law had an influence in the development of the Sharia (Fitzpatrick, 2014).

Islam was extended over vast territories by the Umayyad who were soon overthrown by the Abbasids who transferred large areas of criminal law from the mufti over to the government (Fitzpatrick, 2014). The mufti went on to solve cases that involved family, property, religion along with the commercial law. Shafii, later on, came up with solid laws of the Sharia that re-steal what was in the past. He talked about the government first contacting the Quran for answers, and if this would not pull through then, they could go on and interpret the law using the words of Mohammad (Alsunah). If this failed, the judge could go on and give the most appropriate preceding at the case. (Fitzpatrick, 2014). Shafii died from injuries of a martyrdom kind of experience when he was attacked by an angry mob (Fitzpatrick, 2014).

**INTRODUCTION TO JEWISH LAW.**

As stated earlier, the Torah takes up its inspiration and exhilaration description from the legislation of Moses in the revelation from Mount Sinai. The three core sources of Jewish law are the Torah, the Gemara, and the Mishnah (Lewittes, 1994).

• Torah means ‘teaching, ’ but most of the English translations give the translation of it as ‘law.' When the teachers of the Talmud speak of a Torah law, they may broadly mean laws that may explicitly be found in the Pentateuch or that which was given to Moses in the Sinai Mountains orally. Three views have been given on the antiquity of the oral law given to Moses. The traditional spiritual leaders fully accept that Moses was given the necessary instructions and explanations on the Ten Commandments. Later on, the teachers of the Talmud tried to find Biblical anchors for these explanations by the accepted rules exegesis. For others, however of the precepts, none is found in the Bible to give support, but all this is still open to doubt (Lewittes, 1994).

• Mishnah is the first vital Code of the Jewish Law, amassed by Rabbi Judah the Prince around about the year 200 C.E. from earlier material. The root of the word means ‘to repeat’ or ‘to teach. From the beginning of the Sages from the time of Ezra when they thoroughly took to study the Bible, just to derive teachings that could work for them in their attempt to have the Torah’s application in their entire lives. There is a difference between the Midrash and the Mishnah. When a law is derived from the close study of the Bible, it is known as the Midrashic method. When the law is given without reference from the Bible, then the law is a Mishnah. The language of Mishnah is Hebrew and bits of Greek and Latin. It is divided into six books or otherwise known as orders (Lewittes, 1994).

• Gemara- Mishnah was intensely studied in the great schools of both Babylon and Palestine. The teachings, discussions, and expositions of the Palestinian schools created the Palestinian Talmud while those of the Babylonian schools known as the Babylonian Talmud (Hecht, 1996). Gemara is the final court of appeal in the law of the Jews, but there are numerous examples of departures from the ruling. Later lawyers felt that the conditions in which their original formulations were compelled were no longer obtained. Distinguished medieval authorities ignored the Gemara rules that concerned the reclining on the Seder eve. They argued that in Western lands, where the customs was not to recline at meals because this would symbolize the lack of freedom. With all these in mind, one should know that the laws of the Jews are traced all the way back to Talmudic authority (Hecht, 1996).

**SOURCES AND METHODS OF REASONING USED IN THE INTERPRETATION OF THE BASIC LAW OF THE ISLAMIC SOURCES. THE CONSENSUS OF MUSLIM SCHOLARS.**

Since the beginning, Human beings have always had the practice of diversity of opinion. This is to say that speaking out one’s mind. Islamic has been built and shaped by this opinions hence the practice of Islam in our today lives. Debates on different grounds like where the rationalists and the traditionalists just but a hand full of ahadith to bind their religion versus the people who choose the entire religion (Brown, 2009). There are those who opted to imitate the practice of Islam during the time when the prophet was still around versus those who put Islam into consideration climates when they were different either social or political. Those who sought to say that the doors of ijtihad should be closed while others believed that they were to stay open.

Even with numerous of individuals thinking as it has been stated above, there are still those Muslims who have been set apart and have been alienated despite significant technological and human advances. By is because they might have had failures here and there in subscribing to the traditional Islam way of doing things. Most of the students from the four biggest schools of thought differed and decided to make their schools that were opposing. Such things have affected our ways of thinking hence the reason why Islam is reshaped and sculptured to be what it is today (Fitzpatrick, 2014).

When it comes to the sources of Islamic low, there was a difference in the legal approach that arose in two common schools among some Islamic thinkers. There were those who had steadfast beliefs on the traditions (Sunna) of Prophet Muhammad, and the Quran is known as the traditionalists. These two sources were the only valid and paramount source of jurisprudence like in the case of the thought that is prevailing that stemmed from the Medina (Brown, 2009). Another approach which was the non-traditional approach relied on the use of free thinking and self-opinions which originally came from Iraq. The reason for the difference is because, in Medina, there were plenty of ahadith that was reliable and scholars were able to rely on that to come up with legislations. They relied on this because the prophet lived his last decade during a time of statute in the new Muslim community (Brown, 2009).

The available sources in Iraq were not as reliable as those in Medina hence the jurists had to go back to analogy due to the circumstances they were in. All in all a hadith may not have by by individuals from Iraq who may have had to use analogy when a reliable hadith was not present, but the hadith was agreed to by those in Medina (Husaini, 2002). There was a challenge in which the jurists was given the responsibility to reconcile which of the decisions and actions that were made by the prophet religiously bound and which were merely a personal discretion of the prophet. At the long run, the traditionalist eventually gave statute significance to much of Muhammad’s decisions whereas the other schools distinguished between the numerous roles that Muhammad played in his life as a prophet of Allah.

Muhammad made efforts that resulted in four sources of the laws of Islam. These sources were the Quran, the Sunna, ijma (unanimous agreements) and qiyas (analogies) (Husaini, 2002). These sources have been used throughout the history so as the order can be maintained by the Muslim jurists when they were given the obligation to determine the legality of an issue. The first and second sources of law have been analyzed above hence the remaining two sources of law which are the Qiyas and the Ijma will be explained below.

Qiyas is reasoning by the use of analogies. The course or reason of Islamic rule must be very clear before the application of Qiyas (Husaini, 2002). Take for example the consumption of alcohol which has been prohibited in the Koran due to its effect on the person drinking. We can create an analogy by banning drugs as well because it makes the abuser lose control of his actions just like the alcohol. Though the Quran does not give specifications on the reason why pork is prohibited, Muslims cannot go ahead and prohibit the consumption of any other meat product that might have the same cholesterol level as the pig and so forth. The use of analogies extensively varied from one scholar to another (Husaini, 2002).

Ijma came in when there was an issue in question and guidance was looked into from the Qoran and the traditionalists, but there was no answer for the query (Husaini, 2002). This would lead to the jurist to come together and brainstorm on the matter at hand. One would come with an interpretation, and if it were accepted by the majority, then a conclusion would be arrived into. Anonymous conclusions would rarely be arrived into by elites hence sometimes the diverseness would be narrowed down to a conclusion that majority would clearly work with (Husaini, 2002). Ijma is not only the consensus of the jurist of the past because the challenges that the Muslims of the past went through then are not the same as the current Muslims are going through today. There are still some sit-downs by jurists in the present day (Husaini, 2002).

**SOURCES AND METHODS OF REASONING USED IN THE INTERPRETATION OF THE BASIC LAW OF THE JEWISH SOURCES.**

The basis of all Jewish texts is known as the Torah as stated in the essay above. These are the five books that talk about the story of the creation of the world (Elon, 1994). They talk about God’s agreement with Abraham and the descendants, the exodus from the land of Egypt, the Mt. Sinai revelation and the giving of the Ten Commandments, the walking of the Israelites in the desert and a recap of that experience shortly before the entrance to the Promised Land. All this was to show the unity of the Israelites with God (Hecht, 1996).

The Bible is known in the Hebrew as the Tanakh, which is an acronym of the Pentateuch, the writings, and the prophets. The latter two are inclusive of the nineteen compilations which are large in Hebrew but have certain books of the books of writings (Lewittes, 1994). The books of writings contain quite a huge portion in Aramaic that were composed a couple of centuries ago. The books of the prophets have historical literature that covers the time between the settlements of the Jews in the land of Israel along with exile in Babylon. Along with all this religious and moral exhortations of the prophets. The writing is also known as the Hagiographa which are a mix of secular poetry, liturgical, wisdom literature, and writings of history (Hecht, 1996).

The Tanakh happens to be the canon of the Jews which adopted its final shape when there was the Babylonian exile along and the first century CE. The sage who was part of the finalization decided to exclude some scriptures that were called the Apocrypha and the Pseudepigrapha that they did not see as being in divine inspiration (Elon, 1994).

**BENEFIT FROM THE USE OF ISLAMIC LAW DEVISE MECHANISMS OF LAWS FOR EXAMPLE (CONSENSUS OF MUSLIM SCHOLARS -QIYĀS - THE OPINION OF JURISPRUDENCE SCIENTISTS).**

The Islamic law has become quite flexible in the sense that all these devices can be used in the gauge how good or bad something is. The Quran can as well be the reference point of all that should be done, but it should not hinder the new things and ideas of others from coming up. As stated earlier the Islamic religion has been chiseled to shape buy all these devise mechanisms hence the reason why almost all answers one can ask has been answered in one way or another. On the same note, time is changing, and new things are cropping up daily. This is to say that as much as Muhammad is not here to oversee all that is happening, the use of Islamic law devices will aid the Jurists in figuring out what is best for the Muslim community in accordance with the Koran (Brown, 2009).

**IS IT THE ABSENCE OF THE CHAIN OF TRANSMISSION OF SOURCES ONE OF THE MAIN REASONS FOR THE WEAKNESS OF JEWISH LAW AND NOT TO BE USED WIDELY?**

That might be the case because the scope to which solutions to cropping queries can be handled is limited to a small source of information. In as much as nobody should go on to question the will and the word of God, there should be other ways that the Jurists could try and sought out issues for the betterment of the Jewish community as a whole. The Jewish law is seen as a weak law because they have not tried to prove that the laws placed in the Bible work. They only do all that is written in the faith that it is going to work for the greater good. Most people are afraid of getting involved with the Jews because there have been no debates on their laws hence questions have not been answered hence even when asked later on, they will not go on to answer them in the later times.

**CONCLUSION**

Summing up on the comparison of the Islamic and the Jewish law. From the texts written above, it would be clear to state that the Islam religion seems to be much complicated or serious for that matter in solving issues in accordance with what they believe is right, Muslims, therefore, believe that the Quran does not hold all the answers, but there can be a connection to which all the answers can be met. Opinions can be cropped up for individuals who are masters of the scripture to determine what is right for the Muslim community as a whole.

The Jewish community, on the other hand, has placed all its faith in the Bible and the Pentateuch as their source of governance. No man should go against the Laws of Moses and the words written in the bible. No questions should be asked on the matter because all the answers are written in the Bible. Most people have not gotten into the Jewish faith because they fear that their questions will not be answered by the truth but to the Bible however it fits. In accordance with the observations traced above, all religions should be respected because their legal systems have always worked for the individuals involved. As much as one legal system is deemed to be weaker than the other, there is a reason to believe that they are both strong in their fields hence they can peacefully govern their believers through the ways that would best please Allah for the Muslims and the Jews.

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