**Different sects in Islam and its impact on Saudi legal system**

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**Introduction**

Saudi Arabia is one of those countries whose Legal system is always based on the Sharia, Islamic law that is always derived from the Holy Qur’an as well as from the Sunnah of Muhammad the Islamic prophet. To understand this clearly, it is perfectly in order to understand that Sharia law is derived from different Islamic scholarly consensuses that were developed after the death of Muhammad (Khoury, 2014). The law is applied in dealing with life issues as well as setting the right solutions for the issues that are experienced in the country based on two complementary principles. The first principle in Islamic law is that of the stability as well as the solidity of its fundamental doctrines on one side and the vitality of its supplementary sanctions on the other side (Blanchard, 2005). For those aspects of life that are considered not to change, the law plays a significant role in bringing about different fixed statutes.

On the other hand, for those aspects of life that are considered to be fixed in nature and are always affected by social development, advances in knowledge, and broadening of horizons, the law brings about general principles as well as some universal rules that are potentially useful in different ways and in various states of affairs (Khoury, 2014). It is also important to understand that Islamic Law in Saudi Arabia happens to be significantly influenced by the Islamic sects that exist within the country. As such, the purpose of this paper will be to look at a number of Islamic Sects in the country and highlight their influences on the Legal system of the country. This paper will also offer a brief overview of the Sharia law as well as stating some of the provisions of the law. The paper will specifically look at the Shafi’I, Hanbali, Maliki and the Hanafi Islamic sects within the country.

**Overview of Sharia Law**

From the fact that Islam happens to be generally a political system, it would only make sense that Islam possesses a legal code that should be followed by the Muslims. As such, the Islamic Legal code is always termed as Sharia that means the way. In most cases, the source of the Islamic Sharia happens to be the Qur’an and the Sunni, God said (interpretation of the meaning): " O ye who believe, obey Allah and obey the Messenger and those who command you, if you quarrel in something, send it to Allah and the Messenger." (The Holy Quran). That are always found in both the Hadith and the Sira. It is also important to note that both the Sunni and Shia Muslims have not always agreed on the type of Hadith to apply that makes them adopt slightly different Sharia systems The application of Sharia law in a given country has always been seen as effective as it always covers all the aspects of life.

It is important to note that the application of the Sharia law covers different areas that capture all aspects of human life including belief, moralities, devotions, transactions, and punishments, God said (interpretation of the meaning): "today I have completed your religion and I have completed the blessing and I have accepted Islam our religion" ( The Holy Quran ). In the area of belief, Sharia law gives a definition of how individuals are supposed to relate to Allah, His books, His Angels, the decrees of God and the Days of Judgment. Concerning moralities, issues to do with humility, patience and offering good counsel are always addressed. Additionally, the area of devotions deals with the alms, the five pillars, jihad, and the pilgrimage to Mecca . Transactions, on the other hand, tend to deal with issues of business law, divorce, marriage, and disputes. Lastly, the area of punishment happens to deal with issues like stoning, lashings, retaliation, and amputations as they are supposed to be carried out in the society that strictly follows Sharia Law (Blanchard, 2005).

It is important to understand that some of the people who apply Sharia Law have divided it into religious law and the rest. It is also important to understand that the application of all Sharia happens to be based upon the process of dividing all actions into two different sections into forbidden and permitted. The things that are permitted are further divided into five different classes like acts that are desirable but may be omitted at some point (Blanchard, 2005). On the other hand, the things that are forbidden are always divided into three categories like strictly unclean or forbidden.

It is also important to note that there is a total of four branches to Sunni Sharia law that happen to differ in very small issues. Despite the four branches, it is important to note that Sharia law happens to be perfect and sacred, God said (interpretation of the meaning): "If your Lord wanted to make people one nation and still be different (118) except from the womb of your Lord" (The Holy Quran). It is common in Islamic countries as a good number of Muslims nations tend to believe that any law that is based upon the democratic process is always offensive to the Islam for the sole reason that these laws are always based on the people. The reason why people follow Sharia law always does it based on the fact that the law is always based upon the Qur’an and Mohammad thus making it be termed as the perfect guidance to any country that adopts this type of law.

Despite a good number of Muslims accepting that Sharia law is the perfect law for their countries, there are others who are against the application of the law in their nations. In this, it gets hard to understand that an individual who strongly believe everything in the Qur’an as well as the Sunna of Mohammad happens to be an ideal pattern of life and then turn around and argue that Sharia law should not be followed for their sole reasons. As a result of this, those who are so much against the Law are considered to be a Kefir. Despite all these difference, it is important to understand that Sharia law happens to be exceptionally broad as it regulates public behavior, private behavior as well as the private beliefs of the individuals who are under the law. It should be noted that of all the existing structures in the entire globe, Sharia law happens to be the mainly invasive as well as restraining law particularly when it comes to ladies.

**Provisions of the Sharia Law**

As per the Sharia law, stealing is always punished by cutting off of the right palm, God said (interpretation of the meaning): "And the thief and the sarcophagus cut off their hands a penalty of what they earned Nkala of God and God Aziz Hakim" (The Holy Quran). it is condemning whichever section of the Qur’an is always punished by death, and refuting the fact that Muhammad is a prophet is always punished by death. Additionally, if any individual denies Allah, he or she should be punished by death. Again, it should be noted that any Muslim who leaves the religion should be sentenced to death while a Muslim who guides Muslims from Islam is always punished by death. The Sharia also states that a non-Muslim man who gets married to a Muslim lady should be put to death. Additionally, the law realizes that a man can get married to a newborn girl as well as accomplish the marriage at the time she reaches nine years of age.

Sharia law also indicates that a woman can only be a wife of one man who in turn can have as many as four wives, God said (interpretation of the meaning): "If you are afraid that you will not be humble in the orphans, let them give you what you have of women, two and three and four hundred. If you are afraid, do not change one or your own" (The Holy Quran). The man is allowed to beat his wife for insubordination, God said (interpretation of the meaning):"Men are based on women, so that Allaah has preferred one another to one another and spent their money" (The Holy Quran). The law also realizes that a divorced wife tends to lose the custody of all her children who are over the age of six years. Additionally, the law also determines that a total of testimonies coming from four male witnesses are all-important and highly required to prove a rape against a woman, God said (interpretation of the meaning):"And come to the obscene of your wives Vstahdoa them four of you" (The Holy Quran). It is also important to note that a witness that is given by a woman in a court happens to carry half the weight of the testimony that is given by men concerning the same case. God said (interpretation of the meaning): "They martyred two martyrs of your men, if they were not two men and two women who please the martyrs" (The Holy Quran).

It is also important to note that according to the law, a woman is not allowed to hold a conversation with a man who is not her relative or her husband when she is alone as well as noting that a female is not allowed to drive as it leads to fitnah. The law also notes that any meat that should be consumed by Muslims should be from animals already sacrificed by Allah while Muslims should keep in Taqiyya and give false information to non-Muslims for purposes of advancing Islam. The law also conditions that a woman always inherits half of what a man inherits.

**The Shafi'I Islamic sect**

The Shafi'I sect happens to be amongst the four schools of Islamic law in Sunni Islam. Al- Shafi’I, one of the greatest Arab scholars who contributed immensely towards the Islamic law, founded the Shafi’I sect and he was Malik’s student in the 9th century. It is important to note that this school of thought happens to be predominantly based on the Quran as well as on Sharia and the Hadith. It is important to note that where the passages of Hadiths and Quran happen to be ambiguous, then this school of thought goes ahead and seeks religious law guidance from Ijma that is defined as the consensus of Sahabah.

In the early history, the Shafi’I school of thought is termed as one of the most followed Sharia ideology and it was replaced with the Hanafi school of thought in a good number of Muslim worlds. However, it is important to note that this school of thought does not in any way give considerations to the individual predilection of Islamic lawful researchers as a satisfactory basis of spiritual commandments for the sole reason that it amounts to the human legislation of the Islamic law (Khoury, 2014). It is very important to note that one of the greatest contributions of The Shafi'I sect towards the Islamic law was that of being in a position to unite different schools into a single unit that could lead to the best law being drafted in the region. Importantly, school of thought united both the schools of tradition and the school of analogy for purposes of serving the cause of Islamic law better and more effective (Zamani-Farahani, & Henderson, 2010).

It is worth noting that before this school of thought was introduced, most of the traditionalists happened to be concerned with the study of only the traditions as well as narrating them to the others. The traditionalists did not like going into details about other subjects like philosophy, logic, and dialects among other subjects that were outside what related directly related to their subject of study. Additionally, the votaries of reason, on the other hand, insisted on resorting to analogy without doing a thorough search for purposes of making relevant references to the main subjects in the Hadith (Vogel, 2000). Irrespective of the traditions, they are supposed to pronounce on legal questions that are based on their personal opinions.

Various traditions that were practiced on similar subjects were all gathered under one heading for purposes of making the reader be in a position to determine their chronology as well as to decide which of the traditions had abrogated the other. Additionally, followers of this school also started studying Hadith and this lead to the development of a new avenue for the development of Islamic law was realized as a result of the effort that was put by the Shafi'I sect (Khoury, 2014). Additionally, it is important to note that the aim of the sect was to discredit the local traditions as legal sources as well as offering the right opinion of the various arguments of authority without having extra evidence to support the stature as well as the reputation of the author. As such, it is important to note that sect contributed greatly towards making the Islamic law a reality in the country and developing the right laws to lead the individuals and citizens in Saudi Arabia (Zamani-Farahani, & Henderson, 2010).

**Hanbali Sect**

The Hanbali School happens to be the fourth mainstream school of law that exists within the Sunni Islam. The school happens to derive its decrees from the Sunnah and the Qur’an that it places above any form of inference, opinion, and consensus (Zamani-Farahani, & Henderson, 2010). Additionally, the school happens to be in a position to accept the opinions that are provided by the cohort of the prophet provided there was no form of discrepancy with the other cohorts. In this, it is important to note that in case any form of disagreement arises, then it is very clear that the view of the cohort closest to that of the Qur’an or the Sunnah will be successful.

The contributions of this school of thought came from its founder who was termed as having been learned in the traditions more than in jurisprudence. He was termed as an individual who had the knowledge of a number of Hadiths collection and exposition thus linking him to his status. Additionally, the founder of this school of thought is known to have contributed greatly towards the Islamic scholarship through his collection of 50,000 traditions that was famously recognized as the Musnadul-Imam Hanbal (Khoury, 2014). The followers of this school of thought happens to have been regarded as reactionary as well as troublesome based on the kind of reluctance that they possessed in giving people opinion on matters that concern the law. The followers also rejected what is termed as an analogy, have a kind of fanatic intolerance to all views that are given by people who are not from their own school of thought as well as having opponents from power as well as the judicial office (Zamani-Farahani, & Henderson, 2010).

It is important to note that this school of thought is termed as the easiest in terms of the social and individual rules. As such, it is very clear that the administration of Saudi Arabia has adopted the thoughts of this school and has enforced its prohibition against a good number of communal spiritual phrases other than that of individuals who tend to tag along with the government’s elucidation as well as the presentation of the Hanbali school of Sunni Islam. Under the Sharia interpretation of this school of thought, it is very clear that judges happen to discount the statement of those citizens who happen not to be committed Muslims or those who do not possess the right fait. It is also very important to note that different legal source reports have stated that most of the testimonies that are given by non-Muslims are always ignored in Saudi courts of law. The testimonies are also considered to have less weight compared to the testimonies that are given by the Sunnis. The explanation of this is that scholars have argued that the Hanbali school of Islam tends to religiously deny people from other faiths the right to operate without fear in the country, a right that happens to be strongly protected by the international law (Zamani-Farahani, & Henderson, 2010).

**Maliki Sect**

The Maliki sect happens to be amongst one of the key sects of religious law that exists within the Sunni Islam and it was named after Maliki bin Anas who happened to be a leading jurist from Medina. The Maliki sect basis its arguments from the Medina agreement of view and applies the Hadith as its key guidance. The Maliki sect happens to be predominant in different parts of the world including the north, west and central Africa as well as in Egyp. It is important to note that as a result of the founder of this great sect, the school bases its argument on the idea of common good and it plays an important role towards the Islamic Sharia Law (Zamani-Farahani, & Henderson, 2010).

It is also important to note that the founder of this sect did not give a statement of the basic principles upon which he laid a foundation for his school and on which particular basis that he came up with his judgments and to what he restricted himself in deriving his main verdicts. As a result of this, he closely resembled his current Abu Hanifa but he never was like his student who failed to record the principles that he used in derivation as well as deriving them accurately while identifying the purposes that moved him to reassess their deduction spot (Blanchard, 2005).

From this sect, it is very clear that what was transmitted is only that what people had absolute confidence in. As a result of this, it gets very clear why the sect greatly focused its attention on the choice of the transmitter. It is thus important to note that when the founder had some poise with intelligence, nature, and the familiarity of the source, he always allotted it through a series of recitations. Additionally, Maliki greatly indicated that analyzed and employed the norms of the people from Medina as a basis. From following of the sect, it is important to note that it is greatly followed in some parts of North Africa as well as other sections of Western Africa. It is generally termed as the second largest of the four sects as it is followed by an approximated 25% of Muslims. It is important to note that the Maliki School happens to be closely related to the Hanafi School and the main difference that exists between them happens to exist between the degree rather than the nature of the schools (Zamani-Farahani, & Henderson, 2010).

**The Hanafi Sect**

The Hanafi Muslim sect was named after its founder Hanafites Abe Hanifa was born in Iraq. The school that was founded by this great individual is considered to be amongst the schools that have more logic and reason than any of the other schools that offer similar content. To understand this sect well and better, it is important to note that the teachings of this school are much easier to follow as finding the right ruling is always easy. It is also important to note that most of the individuals who follow this sect happen to be more active on the Internet for their own reasons from time to time (Khoury, 2014).

In this sect, it is very clear that those who apply it tend to make considerable use of opinion or reason in attaining to the legal decisions that given in areas where the knowledge of his sect exists and gets applied. The application of the knowledge of the sects can be generally said to be a perfect example of the use reason in making legal decisions (Blanchard, 2005). It is important to note that the Sunni Hanafi creed happens not o follow any type of hierarchy and decentralized that made it extra hard for most of the rulers in the 20th century to entail its spiritual leaders into some sturdy federal organizations (Zamani-Farahani, & Henderson, 2010).

From the presentation that has been made, it is very important to note that the four schools of thought are unique from one another and they each give a unique teaching to their distinctive followers. Despite the differences that exist in these school of thought, it is very clear that most f the content in Sunni Muslim is commonly considered to be equally valid thus making these schools contribute immensely towards the development of the Sharia law in one way or the other (Zamani-Farahani, & Henderson, 2010). In these schools, it is very clear that most of what has been recorded happens to be effective and how each of the recordings has been recorded has guided much of what is done by the systems followers from time to time.

Additionally, there has been a general fear that adding to the content of these religions to the law could generally lead to distortion or even in misuse or even the intrusion of human content has resulted greatly to the works of the four founders of these schools gaining some milestones in being recognized as comprehensive as well as definitive gate of ijtihad (Blanchard, 2005). Consequently, it is important to note that the main task for different jurists was to give an interpretation of the already existing corpus law that was considered to be a strongly divined code that did not need any supplements to be effective. As such, it became very important to note that the idea that lawmaking is a purely divine task tends to leave both the rulers as well as the jurists with the interpretation job and not that of legislation (Zamani-Farahani, & Henderson, 2010).

From these law schools, it coming out very clear that innovation in issues concerning the law or even religion happens to be considered as being heresy while at the same time considering imitation as being a virtue. As such, it has been greatly argued that the opinions that were given by the four founders of these schools should not in any way be binding on succeeding generations for the reason that better and more effective interpretations might be made possibl. Based on this view, it is very clear that the sources of law are all divine and infallible while anything that is written about the laws can be considered to the products of the fallible individuals.

Generally, it can be stated that these sects have each contributed towards the generation of the Sharia law in a number of ways. To start with, the Hanafi sect can be linked with the process of setting a given legal order that was based on an interpretation of different sources that generally appeals to human judgment nut not a complete substitution for the revelation (Zamani-Farahani, & Henderson, 2010). The meaning of this is that, it is very clear that within the framework of Sharia law, this specific sect admits that the contribution of the personal opinion of the judge that is commonly referred to as preferential judgment may be applied in solving a given case when the traditional sources like the application of the Qur’an and Sunnah fails to offer the right direction to a given case (Khoury, 2014). The most important thing to understand in this is that the application of this approach, as well as the resulting decision, must be generally based on the process of widening the third source of law or the analogical way of thinking. This school happens to be known to enter into details in discussing issues that do not exist for purposes of solving them long before they arise (Khoury, 2014).

The second school is said to have been founded by the Imam of Medina who was considered to be a traditionalist as well as the founder of the school of Maliki legal Islamic law Sunni. Thus, those who believe in this school have all given the right evidence on what this school has contributed towards the development of the Sharia law in Saudi Arabia (Khoury, 2014). Thirdly, it is important to note that the contribution of Shafi’I was brought to the table by one al-Shaafa’I who happened to be a lawyer and at the same time an Islamic Scholar. Generally, the founder of the school, as well as his followers, radically attacked the legal conformity for purposes of bringing about better and effective rule (Zamani-Farahani, & Henderson, 2010).

The school aims at discrediting the local traditions as they are applied as legal sources while restricting the citation of the opinion of the great imams as arguments of authority without having the right evidence to support the reputation as well as the stature of authority. The other important sect to look at is the Hanbal sect that happens to be linked with the founding of the Islamic theological school and it is made based on the interpretation of texts of the Hadith and Qur’an to the saying of the religious opinion (Blanchard, 2005). Thus, it will be in order to argue that, the teachings of the four schools have all agreed in their rulings about fasting, prayer, hajj, charity, and effort in way of truth. Additionally, it is very clear to note that all the four schools are agreed in their interpretation of the Qur’an on how the Sharia law should be applied to different individuals within the country (Zamani-Farahani, & Henderson, 2010).

It is also important to note that there might be minor differences that exist in penal codes, the methods of performing prayers and other different areas that may bring about very slight differences in the application of the Sharia law to different individuals in Saudi Arabia and on the basis of what school is adopted in giving major rulings in the courts. It is also very important to note that none of the presented schools gives room for the ruling of Non-Muslim or Lesser-Muslim for a Muslim practicing according to another school (Zamani-Farahani, & Henderson, 2010).

**Impact of the Sects to the Legal System of Saudi Arabia**

The four tenets have each contributed significantly towards in impacting the Saudi Legal system. To start with, it is important to note that the Shafi'I sect has significantly contributed towards making traditionalists to start following a discipline in their subject thus starting to write the Hadith under very different chapters and later impacting the legal system of Saudi when the published Hadiths started being applied in different cases (Zamani-Farahani, & Henderson, 2010). It is also important to note that this school of thought accepts that a new consensus can replace an old consensus and bring about better laws to lead the people within Saudi Arabia.

Additionally, it is very clear that the contributions of the Hanbali school of thought happen to be very influential in Saudi Arabia and its input has contributed greatly towards the development of the Islamic law in the country as it defined how Muslims and Non-Muslims were supposed to be handled while following the Sharia law (Vogel, 2000). The law that was developed through this school of thought is already being used and this makes the sect to be significant towards shaping the legal system of Saudi Arabia.

The Maliki School does not put much of its focus to analogy but it always derives its rulings from pragmatism through the application of itis lah principles where the Shih Hadiths and the Qur’an do not offer any form of guidance. This thus makes it important to note that this school has contributed significantly towards the development of the Islamic Law in Saudi Arabia as well as giving important guidelines on its application in the country (Zamani-Farahani, & Henderson, 2010). Additionally, the Maliki School has also contributed towards the legal system of Saudi as it has offered the right direction on how to judge people who are not Muslims and those who do not follow the teaching of the Muslims including the Hadiths.

Again, the Hanafi sect has also contributed greatly towards the development of the Sharia law in the country and it lead to the development of some of the most important laws that have been applied in this specific country and defines how the law should be applied by those who apply it (Zamani-Farahani, & Henderson, 2010). Through the knowledge that comes from this sect, it gets important to note that this school championed for the application of common knowledge as well as reasoning in making important decisions while in the Saudi law system. From this discussion, it is very clear to understand that all the four sects have all impacted the legal system of Saudi Arabia as all of the contributed significantly towards the development of the Sharia Law in the country (Vogel, 2000).

**Contributions of Sharia Law to International Law**

It is important to note that Sharia law that has been shaped by a number of Islamic Sects including the ones that have been discussed above has contributed significantly in International Law. Despite the fact that modern international law has been overwhelmingly been Euro-Centric as well as Christian-based, there have been a number of contributions from Sharia law that has contributed greatly towards shaping International law (“The Holy Quran”, n.d). The contribution of Sharia law to international law is always based on the fact that Sharia law entails a good number of provisions that could help in times of war, conduct of war, property occupied enemy territory, handling of detainees of combat as well as non-combatants, as well as in guaranteeing the secure behavior for non-combatants as well as agreement of tranquility (Khoury, 2014).

The contribution of Sharia law to the International law has also been linked to its ability to disapprove economic exploitation that may eventually escalate into a threat to communal stability and peace. Sharia law has also been incorporated in International law because it insists on peaceful disputes settlement in all sectors thus being adopted to help solve most of the issues that experienced in different sectors of the economy (“The Holy Quran”, n.d). Sharia law has also contributed in the International law in the dichotomy between worldwide and local law.

References

The Holy Quran. (n.d). Retrieved

Blanchard, C. M. (2005). Islam: Sunnis and Shiites. Library of Congress Washington, DC Congressional Research Service

Khoury, F. I (2014). Imams and Princes: The State, Religion and Doctrines in Islam (Volume 3). Saki.

Rashid, M. (2010). There is a history of Saudi Arabia. University of Cambridge Press.

Vogel, F. E. (2000). Islamic Law and the Saudi Legal System: Saudi Arabian Studies (Volume 8). Brill.

Zamani-Farahani, H., and Henderson, J. C. (2010). Islamic Tourism and Tourism Development Management in Islamic Societies: Issues of Iran and Saudi Arabia. International Journal of Tourism Research, 12 (1), 79-89.