Essay

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Similarities between Civil legal tradition and Islamic legal traditions

**Introduction**

Islamic legal system comprises of different legal institutions, practice, and determinants that are prevalent since fourteen hundred years ago, arising from a diverse source of geographical and cultural context. Sharia or Islamic legal system act as a framework of religious doctrine of Islam mentioned and directed by the Hadith and Holy Quran (Glenn, 2014). Islamic legal system act as a code of conduct for the Muslims, dealing with all dimensions of life such as fasting, donations, prayers and the intentions towards other beliefs and religions. It aims at helping Muslims understand how they should live their life (Vikør & K. S, 2019). Civil law tradition or Civil Law is defined as a legal system that originated in Europe and it is intellectualized in the framework of Roman law (Xie & T, 2019). Civil Law systems are also called continental or Romeo Germanic legal system that covers about 60% of the world (Glenn, 2014). It is also termed as a legal tradition that is termed as a continuing element, support to recognize some major doctrines and institutions that are ensured by the Modern Anglo American Law (Xie & T, 2019). Civil law courts are the decision-makers by using court provisions. Although the two systems seem totally opposite to each other, as a distinct framework and code of conduct are followed, still there are some similarities.

**Discussion**

Apparently, Civil legal tradition and Islamic legal tradition seem to be opposite frameworks because of the underlying orientations and the code of conducts that are followed by the two. However, as both the framework dealt with the notion of human existence and ensure efforts and laws that can ease the survival of human beings, it is assumed that there should be some similarities between the two (Glenn, 2014). Although Islamic concepts emanate from Allah and no one has the right to change the obligations while civil law is a continuation of compensation that is meant for a person. When he/she is harmed or affected by another human being, still, a broad approach affirms some commonalities, discussed as follows.

Jurisdiction over contracts is one of the major similarity that is found between civil law as well as Islamic law. There are different departments of life were this clause and code of conduct is applicable. One of the significant examples of that is "Marriage". In accordance with the civil legal tradition, marriage is termed as a contract that is signed between two parties and both the parties have to agree on some facts and ideologies. In the same way, under the impact of Islamic Law, marriage is termed as a contract between the two parties where both the parties have to agree on some basic things. Here, the notion of things and ideologies refer to the concerns and responsibilities that are going to be shouldered to the married couples such as the support of child, both economic and moral (Vikør & K. S, 2019). The custody of the child, where it is highlighted that initially the responsibility of a child is equally given to both mother and father. Adaptation of the child is also a concern that is discussed on the same approach of equality in both the laws. In a simplified form, both the laws assert that marriage is a contract that has to be guided with the understanding and attention of the other daily life contract (Vikør & K. S, 2019). However, the point of interest is, this contract is given a fairly high position in the overall framework of the contract and the attention that is given by the courts and the law-making besides to the other contract. Although Sharia law has promoted some Islamic connotations to the definition of marriage such as the sum of money that is given to the bride, and that there should be a religious background, etc., still, the underlying essence of the contract is same. Even under the civil law, there are some conditions that are to be enforced such as paradigms of creed and race in some narrow aspects. It would not be wrong to say that a comparison of after marriage status highlights that there is a synchronization between the codes of conduct and the facts that keep couples united such as responsibility towards society, government and then the children (Vikør & K. S, 2019).

Supremacy of court is termed as a notion under which courts are given the rights to make decisions regarding the actions of people. It ensures the supremacy of law, which infers that law would only dominate the thing that would be prevalent at any cost and in each condition (Joutsen & M, 2019). Supremacy of law is defined as the equal obligation to the rules and regulations that are imposed and designed by the authorities dealing with laws. Usually, the idea of the supremacy of law is dealt with general attention but, due significance is given to this idea in legal bodies. The context of the supremacy of law is discussed in the context of courts and the worldly affairs in which courts are the ruling bodies, having the right to impose some obligation on the people. Under civil law, it is asserted that all the citizens have to obey the law, they have to make their decisions under the framework of law and anyone who will challenge the supremacy of law has to be published. In a broader context, it is asserted that it is the rule of courts that keeps life and people going on a balanced track. Having a look at the Islamic Law, it can be retrieved that people are high or on whole dependent on the constitutions and the code of conduct that is handed over to the courts in the context of revelation. The notion of similarity exists in the justification of the responsibilities that each of the individuals has towards laws and regulations. Although the decision-making framework and the approach towards the dimension of life are different, still, the underlying approach asserts that all of the poles have to obey the law at any cost. Taking an example of Muslim countries, it is found that courts are designed and formulated in clear coordination with the spiritual teaching which ultimately directs the one who is rules to be answerable to the ruling bodies (Joutsen & M, 2019). This similarity places both the followers on the same board where legal bodies own the right to decision making. Courts and legal authority have a moral obligation to make laws that can be applied to all the people and then people are bound to spend their life doing actions that are parallel to legal settings (Joutsen & M, 2019).

Legal discovery is defined as a pre-trial procedure in which each of the party, the one who files the case and the one who is assumed to be culprit has the right to provide the court with the evidence. Here the collection of evidence is done between the two parties where both the parties are asked to consult the other party for the information that is related to case. In this trial both the parties are required and obliged to come up with the evidence that they are planning to use during the trial. Taking into account the framework of civil legal tradition, it is highlighted that before making any kind of decisions, both the parties are obliged to come up with some m evidence that can help to get an insight into the truth of the action or the point of conflict. As every individual is important and significant under civil law, each of the individuals is giving the righto come up with his or her side of justification regarding the subject so as to ensure fear play and justice (Elsan, & Mahmoodi). Under the impact of Islamic legal tradition, both the parties are brought on the same board where they are supposed to come up with the evidence that they have against each other or for the authentication and verification of the crime that is conducted. So, legal discovery is another similarity that exists between civil legal tradition and Islamic legal tradition, taking into consideration that each of the party has equal right of representation and this representation directs the two gibe justification of their side (Elsan, & Mahmoodi).

**Conclusion**

After an exegetical analysis of the three legal frameworks and its implication under both civil legal tradition and Islamic legal tradition, the similarities are affirmed. No doubt, the two legal systems are different but the underlying approach towards legality is the same. Both the legal system end at human welfare that is guided by supremacy of court laws as they tend to be applied in all human being. Legal discovery is also a general and compact idea that directs legal approach towards fair play and just decisions so as to maintain harmony and peace among the members of society and community. Jurisdiction over contracts is also a well-defined and evident example that united the notion of Islamic and civil legal system as incorporation of terms and conditions are mandatory to strengthen the contract and bond, with an aim to set patterns of family affairs and keep the scan set enact. In a nutshell, the three areas highlight the similarities in a highly efficient and obvious way, leaving no room for doubt.

References

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