Unit 3 Assignment

[Writer]

[Institution]

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The legal system around the world comprises of different classifications and groups and considered to imperative for the apprehension of a comparative law. These groups are further divided into smaller subgroups primarily known as families of law. Across all the families, some terminologies and processes are common while some are entirely different based on history, traditions, norms, religion, cultural and mora-ethical qualities (Dölemeyer, 2010). Thus, a single issue can be entitled to extremely different treatment in these different families of law. The families of law in a legal system are civil law, common law, socialist and Islamic legal system (Dawkins & Server, 2014). For instance, a person who is prone commit assault or battery in different countries can face different legal treatment as sovereign nations follow their own defined distinct family of law. The major characteristics and general criminal process dealing with assault and battery will be different. The punishments and ethical concern that follow with it will also vary system to system.

In Australia, the common family of law system is followed in all its states including South Wales. A common law does not necessarily have to be a written constitution. The decisions by the judiciary are binding in nature and the verdict announced by the highest court of the state can only be overturned by the same court or by proper legislative process. Only few provisions are implemented onto legal contracts and there is extensive freedom for these contacts except for private consumers. Primarily, every action is permitted in the state if it is not specifically prohibited by the law. It is comparatively less prescriptive and government ensures the protection of its citizens (Gobbo, 2019).

Australian law recognizes assault as an offence regardless of the extent of the crime. There are specific types of assault defined by Australian law; common, unlawful wounding, battery, aggravated assault or aggravated battery and sexual assault. The common assault is charged when any argument is accompanied with threats, insignificant physical contact, injuries, hitting, pushing, spitting or throwing an object on the other individual. The unlawful wounding charges are implemented if the assault leads to serious wounding and bleeding and aggravated assault in the case of grievous bodily harm. (BGS Law, 2015). The punishment for basic assault is 2 to 3 years imprisonment based on the intensity of the harm while for aggravated assault it is 3 years imprisonment which can also be extended up to 4 and 5 years (Makela, n.d.). The legal ethical obligations are considered seriously by the Australian Law Reform Commission to ensure the professional integrity (Autralian Government, n.d.). Australian community take the safety and protection of its citizens as an integral part of its legal system. This punishment according to their beliefs is accurate and I personally believe assault offenders should not go around that easily. They should pay for what they do and meanwhile in the imprisonment, they can look into their unethical and unjustified actions.

Italian constitution is based on Roman law which is commonly known as civil law. It consists of written constitution including specific codes and statutes that assimilate the codes and regulate the parts of law where there are no existing codes. The judiciary is independent of legislature and executives. The jurisdiction is entirely in the hands of magistrates and the judges cannot be dismissed. Italian legal system is enormously complicated and the judiciary system is confused by the controversies of different laws that date back to centuries (Tushnet, 2017). If an individual is arrested in Italy, he has no right to see a lawyer prior to a hearing before a judge though, he can mention the name of lawyer in writing and notify the local consulate for assistance. In the case of assault, the offender is imprisoned in for 3 months to 3 years based on the category and intent of the crime. In Italy, offenders also have to pay fines along with imprisonment. However, Italy does not use capital or corporate punishment against the crime (Manna & Infante, 2000). The imprisonment in Italy is basically an attempt to emphasize on the rehabilitation within the prison system. The prisons in Italy are in very good condition and inmates are encouraged to study, work, play and perform their religious activities. They are even provided with incentives based on their good behavior (Voller et al., 2016). In my view this is a really good practice to give people the chance for brooding and redemption in such a supportive environment. The only wrong thing in this system is the inability of offenders to use their right to call a lawyer before the first judicial hearing.

Cuban law is governed by the civil law or the European Continental law which has been integrate in the socialist legal system. It is a rational system in which the civil laws are codified and provide more predictability for law violations. However, in Cuba, the freedom of expression is limited in both law and practice the policies of government cannot be challenged. The punishment for felony-equivalent crimes is a prison sentence for about one year along with fine of 300 cuotas (Inter-American Commission on human Rights, 2000). In Cuba, assault is considered as a felony crime and offenders are entitled to same or exceeding punishments based on the standard of the crime.

The assault offenders are prosecuted by provincial courts. Crimes with less serious circumstances are met with lesser punishments and prosecuted by municipal courts. The Cuban law is same for all, either the offender is a citizen or not, if he commits a crime on the land of Cuba, he will have to undergo the same prosecution procedure as the rest (Michalowski, n.d.). This treatment with the felons seem ethically right and is not over or under the standardized punishment of the assault. However, the offenders and general public should be able to voice their concern and beliefs for bringing reforms in the government policies and legal system.

Iran’s constitution is governed by Islamic legal system. It is based on Qur’an and countries of Islamic faith follow its instruction and principles of life of Muhammad in formulating their criminal law and the procedural system. It utilizes religious writings and it implies that Islamic law is the divine law. In a legal context, Sharia is used as reference and is the basis of legal system in Islamic countries (Dawkins & Server, 2014). Iran follows the same legal procedure and according to this system, there is no private or public distinction in the lives of the believers of this faith. This law governs all aspects of their lives and has some notoriety due to its sanctions for being stoned or amputations.

In Iran, the definition of assault and battery is damaging or breaking someone’s limbs or even disabling it and causing him a permanent illness or loss of bodily functions. Under Islamic jurisprudence, the concept of Qisas or Diyat can be implemented in this case both the parties can come to an agreement of equal punishment or blood money and resolve the matter outside the higher court. If not, the matter proceeds to formal prosecution system in courts and the offender can be sentenced from two to five years of imprisonment (Iran Human Rights Documentation Center (IHRDC), 2013). I believe this is an extremist punishment for cases of assault. This type of legal system restricts people from implementing their rights and takes away their liberty to challenge the policies and prosecution system.

Northern Cheyenne follows the thousands of years old governing system. The governance in a post-Indian Reorganization Act is maintained by people of Cheyenne by accepting to adapt two constitutions and governments. One of them is their traditional legal system while the other one is Western-based system (Elk & Sheldon, 2010). According to Northern Cheyenne law and order code, the definition of assault is purposely harming another individual and causing bodily injury by hitting, pushing or by a weapon. It also includes the insulting or provocative kind of physical contact or knowingly pointing a weapon towards another individual either it is loaded or not. It is a Class B offense. However, the aggravated assault includes serious bodily injury with or without a weapon or apprehension of serious harm and is a Class A offense.

According to the tribal code, any offender of Class A or Class B can be subjected to imprisonment, fines, labor or combination. Non-Indians who commit a crime are excluded from the tribal reservation for a time period of three times of the length of time in which he could be incarcerated for the Class B offense. In case of Class A offence, the non-Indians are excluded from the tribal reservation for period not more than year years (NORTHERN CHEYENNE TRIBE, 2013). The criminal activity that has occurred in the region, the pursuit and arrest of the offender will take place within the boundaries of State of Montana are entitled to be returned back to the Northern Cheyenne Reservation.

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