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Assignment (Islamic Jurisprudence II)

TOPIC:

The Legislative System Islamic Jurisprudence II

Leads University Lahore

Islamic Legislative System of Islam

Introduction

The Islamic legislative system, also known as Shariah, represents a comprehensive framework that governs all aspects of a Muslim's life. Derived from divine revelation and interpreted through scholarly effort, it encompasses legal, moral, social, and spiritual dimensions. Unlike secular legal systems, Islamic law is deeply rooted in religious principles, aiming to establish justice, equality, and social harmony in accordance with the will of Allah.

Islamic jurisprudence (Fiqh) plays a crucial role in understanding and applying these laws. While Shariah refers to the divine law itself, Fiqh is the human interpretation and application of that law. Together, they form a dynamic system capable of addressing both timeless principles and changing societal needs.

Sources of Islamic Law

The Islamic legislative system is based on four primary sources:

1. The Qur'an

The Qur'an is the primary and most authoritative source of Islamic law. It contains direct revelations from Allah to Prophet Muhammad (peace be upon him). The Qur'an provides fundamental principles related to worship, morality, justice, family life, and economic dealings. Although not all laws are detailed, it lays the foundation for all legal rulings.

2. Sunnah (Hadith)

The Sunnah refers to the sayings, actions, and approvals of the Prophet Muhammad (PBUH). It explains, clarifies, and complements the Qur'an. Many legal rulings, such as details of prayer, fasting, and legal punishments, are derived from the Sunnah.

3. Ijma (Consensus)

Ijma refers to the consensus of qualified Islamic scholars on a particular issue. When scholars unanimously agree on a matter, it becomes a binding source of law. It ensures unity and consistency in the Muslim community.

4. Qiyas (Analogical Reasoning)

Qiyas is the process of deriving legal rulings for new situations by comparing them with established rulings in the Qur'an and Sunnah. It allows Islamic law to adapt to new circumstances while remaining rooted in foundational principles.

Secondary Sources of Islamic Law

In addition to the primary sources, several secondary sources are used:

- Istihsan (Juristic Preference): Choosing the more just or beneficial ruling.
- Maslahah (Public Interest): Considering the welfare of society.
- Urf (Custom): Accepting local customs if they do not contradict Islamic principles.
- Istishab (Presumption of Continuity): Assuming the continuation of an existing rule until proven otherwise.

These sources enhance the flexibility and applicability of Islamic law.

Characteristics of Islamic Legislative System

1. Divine Origin

Islamic law is believed to originate from Allah, making it sacred and authoritative. This distinguishes it from man-made laws.

2. Comprehensive Nature

It covers all aspects of life, including:

- Religious duties (Ibadat)
- Social interactions (Muamalat)
- Criminal law
- Family law
- Economic transactions

3. Flexibility and Adaptability

While the core principles remain unchanged, Islamic law allows interpretation through Ijtihad (independent reasoning) to address new issues.

4. Justice and Equality

Justice (Adl) is a central objective. All individuals are equal before the law regardless of status, race, or wealth.

5. Moral and Ethical Foundation

Islamic law is not limited to legal enforcement but also emphasizes moral responsibility and accountability before Allah.

Objectives of Islamic Law (Maqasid al-Shariah)

The ultimate goals of Islamic law are to protect and promote human welfare. These objectives include:

1. Protection of Religion (Deen)
2. Protection of Life (Nafs)
3. Protection of Intellect (Aql)
4. Protection of Lineage (Nasl)
5. Protection of Property (Mal)

These objectives guide the formulation and application of laws, ensuring that they serve the greater good of society.

Classification of Laws in Islam

Islamic rulings are generally classified into five categories:

1. Fard (Obligatory): Actions that must be performed (e.g., prayer).
2. Mustahabb (Recommended): Actions that are rewarded but not obligatory.
3. Mubah (Permissible): Neutral actions.
4. Makruh (Disliked): Actions discouraged but not sinful.
5. Haram (Prohibited): Actions strictly forbidden.

This classification helps Muslims understand the degree of obligation attached to each action.

Role of Ijtihad in Islamic Legislation

Ijtihad refers to the intellectual effort exerted by qualified scholars to derive legal rulings. It is essential for addressing contemporary issues such as:

- Bioethics
- Financial systems
- Technology and digital transactions
- Globalization

Through Ijtihad, Islamic law remains relevant and capable of responding to modern challenges.

Islamic Criminal Justice System

The Islamic legislative system includes a structured approach to criminal law:

1. Hudood

Fixed punishments prescribed by the Qur'an and Sunnah for specific crimes (e.g., theft, adultery).

2. Qisas

Law of retaliation, allowing equal punishment or forgiveness by the victim.

3. Ta'zir

Discretionary punishments determined by the judge based on circumstances.

This system emphasizes justice, deterrence, and rehabilitation.

Economic Principles in Islamic Law

Islamic law promotes a fair and ethical economic system:

- Prohibition of interest (Riba)
- Encouragement of charity (Zakat)
- Fair trade and honesty
- Prohibition of fraud and exploitation

These principles aim to reduce inequality and promote social welfare.

Family and Social Laws

Islamic legislation provides detailed guidance on:

- Marriage and divorce
- Inheritance
- Rights and responsibilities of family members

It emphasizes mutual respect, justice, and protection of rights within the family structure.

Challenges and Contemporary Relevance

In the modern world, Islamic law faces several challenges:

- Integration with secular legal systems
- Misinterpretation and misuse
- Adapting to technological advancements

Despite these challenges, the principles of Islamic law remain relevant due to their emphasis on justice, welfare, and moral integrity. Scholars continue to engage in reinterpretation to address contemporary issues while preserving core values.

Conclusion

The Islamic legislative system is a unique and comprehensive framework rooted in divine guidance and human interpretation. It provides a balanced approach to governance, law, and ethics, aiming to establish justice and welfare in society. Through its primary and secondary sources, flexibility, and emphasis on moral values, Islamic law continues to guide millions of people worldwide.