

Sharia law and globalization

Law



Sharia law is a set of rules and regulations that influences the legal code of Islamic states. This law governs marriage, divorce, personal status, custody and inheritance. Sharia law has been in existence in the Muslim dominated countries since time in memorial. However, in the wake of globalization a debate has been ranging on whether it can work peace fully with democracy, secularism, or modernity.

Its influence on civil and criminal law is quite controversial although it has its own interpretation justifying its cruel punishments such as stoning and amputation and also the unfair treatment of women in matters such as inheritance, independence and dress code. All these have been perceived by other sets of law to be completely against the human rights, leading to its condemnation mainly by the Western countries (Duva, 2002). Effects of globalization on sharia law Controversy ranges in the application of the sharia law as it is considered by some quotas to treat some people unequally.

This is so especially on the issue of marriage and divorce. The criminal law is equally controversial as it normally resolves conflicts on a tit for tat basis. Sharia law recognizes five crimes as hard ones. These include false accusation, unlawful sexual contact, drinking of wine, highway robbery and theft. Their punishments are fatal and they include flogging, stoning, exile, amputation, or execution. However in the wake of globalization and integration of people of different origins and culture from all the corners of the world these punishments are reducing and their use and severity is decreasing.

Women in some countries which initially practiced sharia law are now able to inherit property which was unheard of when sharia law was strictly followed (Endersby, 2008). Globalization has greatly altered how sharia laws are applied, initially sharia laws were very strict and most of its judgments were accompanied by very harsh punishments like stoning of women who had committed adultery, execution and amputation for those people who have been found guilty of stealing others people's property.

The application of sharia laws in governance has also been minimized, under strict application of sharia law a government does not get in to office through voting by the citizens. But such countries as Pakistan, Morocco and Indonesia have responded positively to democracy as a way of governing them. This has not been easily achieved since there are some Islamists who strongly believe that democracy is a concept that is Western and should never be applied to their countries.

Even in some countries where democracy has been accepted there are still some fundamental changes that need to be addressed such as equal voting rights for both women and men as some Islamic states do not allow their women to participate in the presidential and parliamentary polls thus denying them their voting rights (Vriens, 2009). Some concepts of the sharia law have been incorporated with the secular concepts. This has made some of the Muslim countries to conclude that secular governance is an ideal way of observing the sharia law.

In this case though the sharia law is still observed it is not enforced coercively as this is not in line both with the Muslim religious teaching and

the secular concepts. Quite a number of the Muslim countries have eventually found themselves practicing both the sharia law and the secular ones. The Muslims are allowed to take their disputes to either wing. The jurisdictions in these countries differ from one country to another, but in most cases it includes disputes dealing with inheritance, divorce, marriage and guardianship.

Some countries have completely become secular with the use of sharia law being left to solving disputes at local level and thus mainly influencing the local customs. Such countries include Tajikistan, Azerbaijan, Senegal, and Chad (Duva, 2002). In the field of economics and world business, the Islamic finance and banking has modified modern practices in business making them to be in agreement with the sharia rules governing the world of business. The main subject in business that has been altered so as to work together with the sharia law is the elimination of interest.

The industry so far is quite small as compared to the global market but trends are showing that it might grow to some significant levels as some countries which are not Islamic are becoming compliant to these sharia laws. Thus although the influence of the sharia laws is decreasing as far as the criminal law is concerned its application in business is spreading especially as more and more banks Islamic financial institutions are being opened in several countries all over the world (Duva, 2002). The Islamic finance is reducing the Islamic law into ethics of business.

The Islamic finance is more often described as the compliance of the Islamic rules and regulations in the modern world of finance. Influence of the

western countries on sharia law The countries practicing sharia laws have actually increased in the wake of globalization. As more and more people travel throughout the world each day and settle in different places around the globe they carry with them their culture and traditions. This has led to the application of sharia laws by countries which were not applying them before.

The western which were the main countries which were opposed to the application of the sharia laws have of late started practicing it. However, its application in the western countries is limited to persons proclaiming the Muslim faith and in civil cases only. The western countries have also influenced the application of the sharia laws on issues concerning governance. The sharia law application in the western countries on issues dealing with governance and equality has been left out and they do not apply in the western countries.

This is due to the fact that some of its judgments are considered to contravene the laws governing human rights. The western countries have over and over tried to convince the Muslim world to drop some of its verdicts such as execution and stoning of women who have been found guilty of committing adultery, while the men who were involved escape free. Things are now changing as more and more Muslim countries continues to lessen so of their firm stands concerning such issues (Vriens, 2009). Globalization has led to people of different cultures and customs to come together.

This has led to the adoption of sharia laws in some countries where it was initially not practiced so as to cater for the Muslims who have migrated to

such countries and are now citizens in their new countries. Its application as far as the western countries are concerned has been a give and take situation. Whereas the western countries have led to the modification of the sharia law so as to appreciate such values as democracy and human rights they have also themselves adopted the use of the same law in their countries so as to cater for the Muslims who live in their territories.

The adoption of the sharia laws in these western countries empowers the sharia courts in these countries to pass judgment on civil cases of the Muslims. In Britain for example the government has slowly and quietly sanctioned sharia law powers enabling the sharia courts to rule on cases such as financial disputes, divorce and cases relating to domestic violence. Previously sharia courts rulings were not enforceable and mainly relied on the voluntary compliance of the parties involved. But this has changed and it's no longer the case, their rulings are now fully enforceable in Britain.

Both Indonesia and Iran practice sharia laws, but very differently. In Indonesia which is one of the counties in the world with a big Muslim following and a Muslim population that is very diverse. The sharia laws are only applicable to the citizens proclaiming the Muslim faith or those persons who would like to have the judgment of their case passed by the application of the sharia laws. In Indonesia sharia laws are only applicable in civil cases while cases of criminal nature are referred to the secular law.

In this country the minorities who do not proclaim the Muslim faith are allowed to peacefully observe their social and cultural practices. This is not the case for Iran where sharia laws are strictly followed and no other religion

or cultural practices are allowed. In Iran the sharia laws applies to both the Muslims and the non Muslims. Unlike for the case of Indonesia where sharia law is only applicable to civil cases only, in Iran sharia law is the supreme law and it is applicable to both the civil and the criminal cases.

In Indonesia the sharia laws have not been used to make it an Islamic state which is the case for Iran Indonesia and Iran are both Muslim countries but practice the sharia law very differently. In Indonesia its practice is limited to those who want to seek legal redress through it and thus it is not mandatory and it is restricted to only the civil cases. Indonesia has thus responded positively to globalization as far as the sharia law is concerned. On the other hand Iran practices the law to the letter and globalization has very little impact to its judicial system and governance (Royanian, 2005).

Conclusion Sharia law has been in existence for many centuries among the Muslim communities. As a set of rules and regulations governing the conduct of individuals the law should not be scrapped due to some of its short comings but should be amended to reflect the modern world. This has been achieved to some extent as some of the countries which were initially Islamic states can now allow other religions to be practiced. Also its application has extended to other nations such as the western countries where it is being used to settle civil cases among the Muslims.