

Notion of equality under the islamic law theology religion



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Contents

- “ O Mankind, we created you from a individual brace of a male and a female, and made you in to folks and states so that you may cognize each other (non that you despise each other) . Verily, the most honoured of you in the sight of Allah is he who is most righteous of you. ” (Al-Quran, Chapter 49, Verse 13)

Islamic jurisprudence based on unqualified entry to the will of God. This is the cardinal dogma of the Islamic faith, and since Islamic jurisprudence is based upon the Islamic faith, and since Islamic jurisprudence based upon the Islamic faith, it proceeds on the same cardinal premise. The will of Allah embraces all facets of life and the jurisprudence hence covers all of them. It is a way or manner steering the Muslims and the revealed jurisprudence regulating all these affairs is known as the ‘ Sharia ‘

In this chapter some major facets of Islamic jurisprudence such as history, beginnings of Islamic jurisprudence, Prophet Mohammed (PBUH) and Schools of Islamic jurisprudence will be discussed.

Significant periods in the Islamic history

First 10 old ages of Holy Prophet ‘ s life, the most of import period in the development of Islamic law

First 30 old ages after go throughing off of the holy Prophet Hijri 10 to 40.
Collection of the Holy Quran by four Caliphs.

Time period of 3rd Caliph, Usman - Hijri 40 to 3rd C Hijri, four schools of Thought

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The Prophet Mohammed (PBUH)

The prophet was an orphan, born in Mecca in 570 AD in the influential Quraish folk. He was the posthumous kid of the Abdulla and his female parent died when he was five old ages old.

At the age of 25 Prophet Mohammed (PBUH) was married to a widow named Khadija. He tried to unify the different folks and category and set up an independent state.

When he was 40, on a retreat on Mount Hira he visioned the first call that came in the signifier of an angel Gabriel telling him to read - iqra and spread worldwide the message of Allah.

Thereafter, Mohammad Prophet defined himself the courier of Allah and kept his message before the people in order to develop consciousness and consciousness in them. Prophet Mohammed (PBUH) was the last, the seal of the Prophets, the concluding courier of God.

Beginnings of Islamic Law

The Quran

The prophet dictated to his stenographers the word of God as revealed to him by the Angel Gabriel. The aggregation of these recitations is known as the Quran, the bedrock of Islamic jurisprudence and a book of elevated power.

No falsity can near it from before or behind it. It is sent down by one full of wisdom, worthy of all congratulations.

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The whole of the Quran was revealed in the life span of the Prophet (PBUH) unlike the Bibles of the other major faiths which were recorded long after the lives of their laminitiss.

The Quran is the supremely important, inalterable, comprehensive and the beginning standard of every legal regulation.

The Sunnah

Sunnah is the traditions or known patterns of the Prophet Muhammad, many of which have been recorded in the volumes of Hadith literature.

This includes many things that what Prophet said, did, or agreed to and he lived his life harmonizing to the Quran, setting the Quran into pattern in his own life.

Many issues referring personal behavior, community and household dealings, political affairs, were addressed during the span of the Prophet, decided by him, and recorded. The Sunnah can therefore clear up inside informations of what is stated by and large in the Quran.

Ijma ‘ (Consensus among the Scholars)

In state of affairs when Moslems have not been able to happen a specific legal opinion in the Quran or Sunnah, the consensus of the community is sought.

The Prophet Muhammad one time said that his community would never hold on an mistake.

Qiyas (analogy)

In instances when something needs a legal opinion, but has non been clearly addressed in the other beginnings, Judges may utilize analogy, logical thinking, and legal case in point to make up one's mind new instance jurisprudence. This is frequently the instance when a general rule can be applied to new state of affairss.

The schools of jurisprudence

First school was founded by Iman Abu Haniffa, Great Doctor of jurisprudence. It was the oldest and harmonizing to some, a broad school.

Second school was founded by Imam Maliki Ibn Anas. This school followed the traditions of the Holy Prophet and did non take topographic point much trust on Qiyas. The Muwatta, his main work is the oldest principal found in Sunnite jurisprudence bing and it is of great involvement because it forms a nexus between the Fiqh literature of the earlier yearss and aggregations of Hadiths subsequently times.

Third school founded by Imam Shaffie who was the student of Imam Malik. Imam Shaffie is placed as one of the greatest legal experts that of all time lived. He perfected the philosophy of Ijma. He adopted an electric attitude.

Fourth school founded by Imam Ahmed Bin Hal bal, who was the student of Imam Shaffie. He represented the most utmost school of idea and purely adhered to the rule of following the Hadiths literally and did non O. K. of following the consensus in sentiments.

The bulk of the Muslims in India, Pakistan, Bangladesh, Egypt, Afghanistan, and Central Asia are Hanaffis. The seashore Moors of South India the Muslims of seashore line of a good portion of Arabia, the bulk of Muslims in Sri Lanka, Malabar and Indonesia are Shaffies. In North Africa particularly in Morocco and Algeria and in West Africa in Nigeria Muslims belong to Maliki School.

Chapter 2

Critical Analysis of Islamic jurisprudence in comparing with other selected Torahs

Islamic jurisprudence and common jurisprudence

Islamic jurisprudence was superior to the crude legal system of England before the birth of Common jurisprudence. Muslim jurisprudence or the Sharia is the basic root for the English common jurisprudence. Islamic jurisprudence created three major establishments which played of immense function in making common jurisprudence.

The action of debt

The assize of fresh discord

Trial by jury introduced mechanisms for a more rational, sophisticated legal procedure that existed merely in Islamic jurisprudence

The features of the map and construction of Islamic jurisprudence demonstrates its singular affinity with the common jurisprudence in contrast to the civil jurisprudence.

Islamic jurisprudence and other broad Torahs

If we consider the Liberal societies, it does not see any rights of Persons who, due therefore physical disablements or societal wants, can not lend to society.

Islam gives rights to them every bit good. It has recognised five basic rights of persons such as,

Right to life

Right to religion

Intellect or knowledge

Family life and offspring

Wealth

In Order to vouch these rights, the desires of others need to be restrained and a part of public wealth allocated ' for these persons, which is not liked by other people, . Their disfavor should be restrained.

In contrast to the individualistic inclination in broad societies, Islam gives penchant to the rights of society. Broad Governments are willing to fire or throw 1000000s of dozens of grocery into the sea in order to forestall the market monetary value from interrupting down and the capitalists from incurring loss. They are willing to allow 1000000s of people dices of hungriness merely to protect their involvements ' stuff. Yet, Islam can ne'er

allow such a thing. The desire of such elements should be restricted harmonizing to Islam.

Economic freedom must not be ensured in any continent or any manner, it should be limited. Merely as the involvement from Deprived of the stratum of society and the disabled curtail the Interests of society, likewise single desires must be limited for the interest of the general Ensuring Interests of society.

Damaging stuff of involvement from society is an offense. Morally Besides damaging Acts of the Apostless are offenses. In every society, an onslaught on the unity and award of others, even if it is non a physical onslaught is considered an offense and the province has the right therefore brimming with the wrongdoer and punish him. In such instances, the warrant is executive jurisprudence. In Islamic society, spiritual abuse therefore holiness is the most serious misdemeanor of the rights of Muslims. In Islamic society there is nil more than spiritual Valuable Holiness.

Chapter 3

Islamic Human Rights

Human rights Doctrine in Islam was a logical development from its basic posits, viz. the sovereignty of God and the disclosure to the Prophet. From these postulates the basic rules of Human rights such as are now enshrined in International papers followed logically as a necessary portion of Islamic jurisprudence.

The literature of Islamic jurisprudence taken by itself even without the assistance of modern papers was hence sufficient to give the rules necessary to work out a Universal Declaration of Human Rights. It is singular that everyone with the rules set out in this, with its great similarity to the most modern preparations can be supported on the footing of specific Islamic texts.

Individual Dignity

Individual self-respect ranks high in Islamic jurisprudence and the construct of human rights fits of course within its model. The Quran warns repeatedly against persecution, denounces aggression, warns against the misdemeanors of human self-respect and remind trustees of the demand to detect justness in all their traffics. The warning against the persecution occurs 229 times in the Quran. The Quran poetry ' Lo, Allah enjoineeth justness and kindnessa^|a^| ' (sixteens: 90) makes merely criterions of behaviour mandatory on all and towards all.

Justice in Rulership

' When you rule over a people, you should govern with justness ' . (Quran: four: 58) clip and clip against the impression of the swayers duty in this respect is emphasised both in the Quran and Sunna. There was therefore an duty steadfastly adhering on the swayer to govern rightly and ne'er a license to regulate the free of the imperative dictates of justness.

The elements of the construct of justness which pertain to human rights are spelt out both specifically and in general footings in legion transitions. All

this is set against the background of penalty to the unfair swayer and warnings to him against the subjugation in any of its signifiers. ' Stay clear of subjugation, for subjugation is darkness on the Day of Judgment, warned Prophet Mohammed (PBUH) .

Alternate paths to Human Rights philosophy

One can make the consequence of the being of human rights in Islam by alternate paths. One is through an analysis of the Sharia Doctrine of authorities or disposal (Syasa) which harmonizing to the observers aimed at the public presentations of six maps.

The protection of life

Lineage

Mind

Fictional character

Property

Elimination of corruptness

The 2nd is to seek the stuffs, the Quran, Hadith and the Jitihad for the rules underlying Islamic jurisprudence. Among these will be found as Abdul Aziz said points out the rules of human self-respect, the integrity of world, the protection of minorities, corporate duty for the public public assistance, the holiness of life, the publicity of cognition and duty towards future coevals.

General rights

Right to life

Right to esteem

Right to justice

Right to freedom

Right to privacy

Right to protection from Slander and Redicule

Right to ' The Good Life '

Other rights

Rights of work forces, Women and kids

It is an interesting contemplation that the secular nature of Human rights in the West may hold been the consequence of trust by Church and province on Platonic instead than Aristotelean doctrine, which gave those in authorization many privileges over the person. A philosophical has footing therefore to be evolved, through the work of such philosophers to predominate over the philosophical footing on which those in authorization sought to continue their domination and maintain the mean citizen in his topographic point as an object of the swayer ship instead than a participant in the procedure.

Many an Islamic sovereign endeavor difficult to populate up to these warrants, though, as with every system there were others who did non.

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The Universal Islamic Declaration of Human Rights

Muslim legal experts did not hence have grapples with any of the fundamental of their religion or of its instruction over the centuries when they felt impelled by the forces of the contemporary universe scene to explicate the Islamic place in relation to human rights. They addressed themselves at the International Islamic Conference held in Paris on 15th September 1981 to tag the beginning of the 15th century of the Islamic epoch.

The Lockean thought of unalienable rights tantrums easy within the Quranic model, as does the thought of restraint upon the governments.

Article 21 (degree Celsius) declares that it is not merely the right but besides the responsibility of every Muslim to protect and endeavor against the subjugation even if it involves disputing the highest authorization in the province. Article 6 gives every individual protection against official maltreatment or power.

Among other articles of the Declaration are those vouching the right to life (Article 1) , the right to Freedom (Article 9) , the right to Equality and the prohibition of Discrimination (Article 3) , the right to Justice (Article 4) and right to fair test (Article 5) .

In a Muslim state spiritual minorities are declared by Article 10 to hold the pick to be governed in regard of their civil and forces affairs by their ain Torahs, and the Quran rule.

Economic and societal rights deducing as we have seen already, from Islamic rules (Article 16) include rights associating to the position and self-respect of workers, right in relation to zakat or the portion of the hapless in the wealth of the rich (Article 15 (vitamin D)) and the right that all agencies of production should be used in the involvement of the community as a whole and may non be neglected or misused (Article 15 (vitamin E)) . The right to nutrient, shelter, vesture, instruction and medical attention consistent with the resorts of the community is besides laid down. (Article 18)

Muslim law is therefore much in clip with current international jurisprudential and human rights thought. There is no uncertainty that a new epoch of Islamic law lies in front, as full of verve as any of the ages by and as full of finding to do of Islamic jurisprudence an instrument relevant to the solution of the most complex and modern jobs conjured up by the present proficient age.

Muslim Contribution to contempory Human Rights

Modern application of much unchecked individuality take many signifiers such as anti - societal land usage, pollution, transnational cooperate development, cornering of markets and communications monopolies. Western individualistic attacks to the human rights are non equipped for covering with this critical human right job today, for control over the flow of information between the developed and developing states neglects cultural, moral and political values of the weaker provinces. The difference in ideological attack to human rights as between the Western universe and Islamic law was expressed good by the representative of Saudi Arabia in the

arguments on the Universal Declaration in the Third Committee of the UN. This different attack appears besides in the arguments predating the acceptance of bill of exchange articles on economic, societal and cultural rights. The part of the Islamic states to Human rights was considerable and it is so the contrary of the truth for Western legal experts to propose that there was no philosophy of human rights in Islamic Jurisprudence. In fact the Islamic constructs took the philosophy of human rights good beyond their Western preparation by ground of the more rounded and community oriented attitudes of Islamic jurisprudence.

The accent on rights demands to be tempered with a corresponding accent on responsibilities. The accent upon strictly material values demands to be tempered by an accent on the societal, cultural and humanistic values which tend to be obscured by a treatment of strictly civil and political rights.

On all these jobs of the future Islamic law have many penetrations to offer. It is non without ground that the Islamic universe, witting of the part it can do in these Fieldss, has sprung into revitalized human rights activity in recent old ages.

The Notion of equality Under Islamic jurisprudence

‘ The nobility of yore is trampled under my pess ‘ said the Prophet (PBUH) in his farewell discourse. There was no room for privilege under a system which subjected all every bit to the indistinguishable jurisprudence. The lone privilege recognised by Islam was the privilege ensuing from piety. , good workss and baronial character.

At assorted points the equality has been greatly stressed in the Islamic texts. One of the Hadiths records a statement of the Prophet that all people are equal as the dentition of comb, and another that all likewise are kids of Adam. The jurisprudence applies to all likewise for it proceeds from God ' s bids to his animals. There were so some limited exclusions, as in the instance of dhimmis, non - Moslems who lived in the Islamic province, who were capable to certain favoritisms but even they had rights under the jurisprudence.

There could non be one jurisprudence for the powerful and one for the underdog, one for the rich and one for the hapless or one for the vanquisher and one for the topic. The rules of the Universal Declaration of Human Rights and the wining paperss such as the Covenants on Civil and Political Rights and Social Economic and Cultural Rights were therefore inexplicit in Islam.

Consequently, all suers likewise in the tribunals of jurisprudence are entitled to be dealt with harmonizing to the jurisprudence 1. Ruler and the ruled were likewise the retainers of the jurisprudence and edge by it. Condemnable justness was administered to all impartially harmonizing to the Islamic regulations. The Judgess were non above the jurisprudence but were themselves bound by it. No particular offenses could be created after the event to seek peculiar individuals.

Another of import characteristic of Islam was the absence of particular privileges enjoyed by a priestly or erudite category. In the facile linguistic communications of Syed Ameer Ali:

The Prophet Mohammed (PBUH) recognises no caste of priesthood, allows no monopoly of religious cognition or particular sanctity to step in between adult male and his God. Each psyche rises to its Godhead without the intercession of priest or hierophant. No forfeit, no ceremony, invented by vested involvements, is needed to convey the dying bosom nearer to its sympathizer. Each human being is his ain priest ; in the Islam of Mohammed no 1 adult male is higher than the other.

Actually Islam gives its citizen the right to absolute and complete equality in the eyes of jurisprudence. Equally far as Muslims concerned, there are clear instructions in the Holy Quran and Hadith that their rights and duties they are all equal.

‘ The trusters are brothers (to each other) (49: 10) ‘ If they (nonbelievers) repent and maintain up supplication and pray the hapless – due, they are your brothers in religion ‘ . (9: 11)

The Prophet has said that:

‘ The life and blood of Muslims are every bit cherished ‘ . (Abu Dawud ; Ibn Majjah)

In another Hadith he has said:

‘ The protection given by all Muslims is equal. Even an ordinary adult male of them can allow protection to any adult male ‘ . (Al – Bukhari ; Muslim ; Abu Dawud)

In another more elaborate Tradition of the Prophet it has been said that those who accept the unity of God, believe in the Prophet – goon of his courier, give up crude biass and fall in the Muslim community and

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brotherhood, so they have the same rights and duties as other Muslims have.

Therefore there is absolute equality between the new converts to Islam and the old followings of the religion.

This spiritual brotherhood and uniformity of their rights and duties is the foundation of Islamic society, in which the rights and duties of any individual are neither Godhead nor lesser in any manner than the rights and duties of other people.

Chapter 4

The impression of equality under bing system

All are equal before the jurisprudence and are entitled without any favoritism to equal protection of the jurisprudence. All are entitled to equal protection against ant favoritism in misdemeanor of the Universal Declaration of Human rights and against the any incitement to such favoritism.

All human existences are born free and equal in self-respect and rights. They are endowed with ground and scruples and should move towards one another in a spirit of brotherhood.

Equal does non intend that we all the same. Each of us is different in our ain particular manner, but we besides have the common qualities that make us all worlds. So each of us should be treated with regard and self-respect and should be dainty from others in the same manner.

Equality and American Law

In the instance of *Dred Scott v Sandford* (1856) 1 US Supreme Court declared that all inkinesss, slaves every bit good as free were non and could ne'er go citizens of the US. The tribunal besides declared the 1820 Missouri Compromise unconstitutional, therefore allowing bondage in all of the state ' s districts.

In *Plessy v Ferguson* (1896) , 2 the US Supreme Court decided that a Louisiana jurisprudence mandating separate but equal adjustments for inkinesss and Whites on transatlantic railwaies was constitutional. This determination provided the legal foundation to warrant many other actions by province and local authorities to socially separate inkinesss and Whites.

This was overturned in 1954 by *Brown v Board of Education*. 3

Black kids were denied admittance to public school attended by white kids under Torahs necessitating or allowing segregation harmonizing to races. The white and black school approached equality in footings of edifices, curricular, makings and instructor wages.

This instance was decided together with *Briggs v Elliott*⁴ and *Davis v Country school Board of Prince Edward Country*. 5

Milliken v Bradley, 418 US 717 (1974) , was an of import US Supreme Court instance covering with planned integration busing of public school pupils across territory lines among 53 school territories in metropolitan Detroit. It was concerned the programs to incorporate public schools in the US in the wake of the *Brown v Board of Education*, 347 US 483 (1954) determination.
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Equality under Indian Law

Article 14 of the Constitution trades with the equality before jurisprudence. It states that the State shall non deny to any individual equality before the jurisprudence or the equal protection of the Torahs within the district of India.

Equality before the jurisprudence implies that no 1 is above the jurisprudence of the land.

However, the Constitution allows the undermentioned exclusions to the regulation of equality before the jurisprudence:

The president or the Governor of a province is non answerable to any Court for the exercising and public presentations of the powers and responsibilities of office

No condemnable proceeding is to be instituted or continued against the President or a governor in any Court during his term of office

No civil proceeding in which alleviation is claimed against the President or the Governor can be instituted during his term of office in any Court in regard of any act done by him in his personal capacity, before or after he entered the office of President or Governor until two months expire after notice in authorship has been delivered to the President saying the nature of the proceedings, the cause of action and other inside informations.

Article 15, 16 and 17 entirely trades with the equality before the jurisprudence.

Equality in Great Britain

Mandla and another V Dowell Lee and another (1983) 6

A Sikh male child was refused entry to Park Grove School, Birmingham by the schoolmaster, because his male parent refused to do him halt have oning a turban and cut his hair. The male child went to another school, but the male parent lodged a ailment with the Commission for Racial Equality, which brought the instance. Derry Irvine appeared for the Commission for Racial Equality.

Court of Appeal held that Sikhs were non a racial or cultural group but House of Lords declared that Sikhs were a racialA or cultural group.

Chapter 5

Law of equality under Islamic jurisprudence

Earlier chapter I discussed the impression of equality under bing system with the support of the distinct instances.

Islam does non recognize absolute equality between work forces irrespective of any differentiation of coloring material, race or nationality but makes it an of import and important rule, a world. The Almighty God has laid down in the Holy Quran:

‘ O world, we have created you form a male and a female ‘ . In other words all worlds are brothers to another. They all are the posterities from one male parent and one female parent.

‘ And we set you up as states and folks so that you may be able to recognize each other ‘ . (49: 13)

This means that the division of human existences into states, races, groups and folks is for the interest of differentiation, so that people of one race or folk may run into and be acquainted with the people belonging to another race or folk and cooperate with another. This division of human race is neither meant for one state to take pride in its high quality over others nor it is meant for one state to handle another with disdain or shame or see them as a mean and degraded race and their race.

‘ Indeed, the noblest among you before God are the most attentive of you ‘ . (49: 13)

In other words the high quality of one adult male over another is merely on the footing of god - consciousness, pureness of character and high ethical motives, and non on the footing of coloring material, race, linguistic communication or nationality and even this high quality based on piousness and pure behavior does not warrant that such people should play Godhead or presume poses of high quality over the other human existences.

Assuming poses of high quality is in itself a reprehensible frailty which no God - fearing and serious adult male can of all time woolgather or perpetrate. Nor does the righteous have more privileged rights over others, because this runs counter to human equality which has been laid down in the beginning of this poetry as a general rule. From the moral point of position, goodness and virtuousness is in all instances better than frailty and immorality.

This has been exemplified by the Prophet (PBUH) in one of his stating therefore:

‘ No Arab has any high quality over a non – Arab, nor does a non – Arab have any high quality over an Arab. Nor does a white adult male have any high quality over a black adult male or the black adult male any high quality over the white adult male. You are all the kids of Adam and Adam was created from clay ‘ . (Al – Bayhaqi and al – Bazzaz)

In this mode Islam established equality for the full human race and struck at the really root of all differentiations based on coloring material, race, linguistic communication or nationality. Harmonizing to Islam, God has given adult male this right of equality as a birthright.

Therefore no adult male should be discriminated against on the land of the coloring material of his tegument, his topographic point of birth, the race or the state in which he was born.

Malcolm X, the celebrated leader of African Negroes in America, who had launched a acrimonious battle against the white people of America in order to win civil right for his black compatriots when he went to execute the pilgrim’s journey and saw how the Muslims of Asia, Africa, Europe, America and those of different races, linguistic communications and colorss of tegument, were have oning one frock and were travel rapidly towards God ‘ s house – the Ka’bah and offering supplications standing in one row and there was no differentiation of any sort between them, so he realized that this was the solution to the job of coloring material and race and non what he had been seeking to seek achieve in America so far.

Today, a figure of non - Moslem minds, who are free from unsighted bias, openly admit that no other faith or manner of life has solved this job with the same grade of success with which Islam has done so.

Some Miracles of Allah

Chapter 6

Decision

Muslim legal theory asserts that jurisprudence can merely be established by an impartial legislator who has full cognition of the intent of human being. By necessity, the therefore, God (Allah) must be the ultimate jurisprudence giver of society. Harmonizing to Islamic legal theory, Sharia is revealed therefore supply a set of standards so that right may be distinguished from incorrect. By adhering to the regulations of jurisprudence, Muslims are assured a develop a society superior in its moral every bit good as stuff quality to other Societies that fail to detect disclosure because disclosure ceased upon the decease of the Prophet, the community lost its direct entree to the Godhead will. 1

The Quran and the Sunnah, which are the primary beginnings of Islamic jurisprudence, put great accent is equality. Consequently, in the Islamic legal system there can non be one jurisprudence for the swayer and one for the topic, one for the powerful and one for the weak, one for the rich and one for the hapless. 2

Islam has recognised five basic rights of persons such as,

Right to life

Right to religion

Intellect or knowledge

Family life and offspring

Wealth

In Islam, the construct of equality is more comprehensive, critical, and sacred than in any other system of life. It is one of the Fundamental Objectives of the Islamic province to supply equal justness to all Muslims and Non - Muslims excessively.

If we consider the current existing of impression of Equality under Islamic jurisprudence, with European states and other Asiatic states, we can clearly place that the equality construct exists in the just and equal among all the community.

As an illustration, Under Islam the racism is wholly prohibited. All are equal before the jurisprudence.

“ O Mankind, we created you from a individual brace of a male and a female, and made you in to folks and states so that you may cognize each other (non that you despise each other) . Verily, the most honoured of you in the sight of Allah is he who is most righteous of you. ” (Al-Quran, Chapter 49, Verse 13)

And besides if in today ' s context each and every University, establishments have Islamic module with them.

Islam is a system of cosmopolitan Torahs of which have non been formulated for any specific group of people or for a specific period of clip.

Islam focal point is on the “ natural adult male ” ; that is attending is its centered upon the natural construction of the human being and the conditions of a common person, whether they are is hapless or rich, strong or weak, black or white, an Arab or a non-Arab, male or female, old or immature etc.

Today, a figure of non - Moslem minds, who are free from unsighted bias, openly admit that no other faith or manner of life has solved this job with the same grade of success with which Islam has done so.