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Comparative Criminal Justice System Criminal Law has and will continue to be a fluid and ever-changing aspect of humanity, and yet the distinctive base of religious belief is still a foundation for a variety of laws today. While the separation of church and state is in effect, history states a wide range of laws have been established based on religious beliefs and ideals, the Bible for one, and currently the Qur’an, which is the basis for Islamic Law. It is the only true form of law in the present time that is not backed by a Government because it is a form of law based completely on religion.

The two primary sources of the Islamic Law stem from the Shari’s and the Sunnah, the Shari is the law defined by God, or Allah, and told directly to Gods’ prophet on Earth, Muhammad. The Sunnah, the second factor in Islamic Law deals with the issues not addressed in the Qur’an, yet is still in the word of the Prophet. “ In a few Islamic countries, including Iran, Saudi Arabia, Pakistan, and Sudan, it is proclaimed as the basis for all law, including the harsh Islamic criminal law based on the ideal of retribution” (Fairchild & Dammer 2001 P. 61).

Also stated in the text Comparative Criminal Justice Systems by Fairchild and Danner is the four distinct types of schools in the belief of Islamic Law: “ There are four major schools of Islamic Law, derived from religious leaders living in different areas and facing different problems in the two centuries following the death of Muhammad. These schools are Hanafi, Hanbali, Maliki, and Shafi’i. The main differences between these schools are in matters of emphasis, whether on tradition, judicial reasoning, or the elaboration of the Qur’an” (2001 P. 62).

Therefore in the following paper the objective will be to describe the countries currently an Islamic Law, the key characteristics and the advantages and disadvantages that the system provides, furthermore, the paper will address one particular country and discuss the policies and procedures used in their form of Law. Afghanistan is one of the poorest and most troubled countries in the world. The land that occupies Afghanistan has a long history of domination by foreign conquerors and strife among internally warring factions. At the gateway between Asia and Europe, this land was conquered by Darius I of Babylonia circa 500 B. C. and Alexander the Great of Macedonia in 329 B. C. , among others. In recent years, war and lawlessness had destroyed much of the country; millions of people went into exile and brought its economy to a standstill. Brief History During the imperial days Afghanistan became a buffer zone when both Britain and Russia agreed that an incursion into Afghanistan would be considered a declaration of war against each other. Both respected this arrangement. After Britain’s departure from the region, Russians increased their influence in Afghanistan with help and support from India, which wanted to keep Pakistan carved out of British India in 1947.

Meanwhile, the Russians believed that the Americans, who replaced Britain as the new superpower, were too far away from this region to get physically involved. So in 1979, when the pro-soviet communist regime in Kabul showed signs of weakness, the Soviet Union sent its troops into Afghanistan. They faced no resistance and captured the entire country in a few days. However, the Soviets were mistaken about the United States response to their invasion. The Americans did not like the Soviet presence in Afghanistan as it could have allowed the Soviet Union to have undue influence in South Asia and the oil rich Middle East.

In engaging the Russians in Afghanistan, the Americans also saw an opportunity to avenge their defeat in Vietnam. The Pakistanis were equally keen to prevent the Russians from strengthening their position in Afghanistan, particularly because of the theory, which was popular at the time, that Moscow wanted to reach the warm waters of the Arabian Sea and the Indian Ocean. Many in Islamabad believed that after consolidating themselves in Afghanistan, the Russians would make a move to take over Pakistani city of Karachi, the nearest seaport for the former soviet Central Asia.

Pakistan also wanted to end Indian influence in Afghanistan because India had used its Afghan allies for stirring troubles in the Pakistani provinces of Northeast Frontier and Balichustan. The tribes living in these two regions have ethnic affinities with the Afghan tribes, and India and its Afghan allies were supporting secessionist movement in these two provinces. What followed was a ten year long guerilla war. The United States gave billions of dollars, through a secret CIA operation, to revolutionary militia forces called the mujahideen (soldiers of God).

Thousands of people including more than 50, 000 Russians were killed. With U. S. weapons and Pakistan’s support, the Afghan mujahideen forced the Soviet Union to leave Afghanistan in 1989. Unfortunately, when the Soviet Union pulled out, different factions of the mujahideen entered into a civil war. In present day throughout the country some countries still practices Islamic laws and hold their citizens accountable not only for the religion but also for the law. Some countries such as Egypt and Pakistan use Islamic law to certain extent.

One country who uses Islamic Law is Afghanistan under the rule of the Taliban, while other countries use a little bit more discretion with their laws against women. Islamic law in Afghanistan a man’s beard must be long enough to protrude with a fist passing the chin if not he is subject to punishment. Islamic laws in Afghanistan are stricter with the women of the country a few examples, of the Islamic law in Afghanistan are they forbid native women or native women from working or driving, the woman are allowed to have profession in the medical field, but their have been reports of some female doctors being beaten in the medical field.

The woman also cannot wear any jewelry, makeup, and their shoes cannot make any noises when they walk. If in fact the woman works outside the home they cannot travel in the front passenger seat with their male counterpart when traveling form home to work they must travel in the rear passenger seat of the vehicle. Afghanistan uses the Qur’an as a book of guidance which gives them guidance on legal issues, religious guidance, commerce, family relations, and diet. The Qur’an is used as book in order to guide them through their beliefs in Islamic laws. Although it may have different interpretations throughout the world in

Afghanistan it is not only used for law it is also used to interpret the way you should live your life. The most important aspect of Islamic law in Afghanistan is that it derives its authority not from the state but form its religion. As a result Islamic laws have clashed not only with customary laws, but also with positive laws which co-exist within the state. Some believe that there is a great deal of inhumanity occurring within the country of Afghanistan, but others believe they are only enforcing Islamic law which the country is used to enforcing.

It is difficult for a country to adopt a system such as the Islamic law, because people are not used to that style of law, but in Afghanistan it is just the opposite it is difficult to try to change Islamic Law especially in a country where many individuals truly believe in Islamic Law. Islamic law does not exist in very many countries but in Afghanistan those who follow the Islamic laws keep it alive and well which will make it difficult for the government if they wish to change anything within the Islamic laws of Afghanistan.

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