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## **THE MUSLIM LEGAL SYSTEM**

There is no single definition of Islamic law in the scientific legal literature. Scientists, focusing on one or the other characteristic of its terms, give very different definitions. So, L. G. Syukiyaynen treats Islamic law as a system of valid legal norms supported by the government and representing the interests of the ruling socio-political forces. Zweigert K. and H. Katz define it in another way: "Islamic law (Sharia) is a set of rules or norms derived from divine discoveries, which must follow the Muslim believer, if he wants to fulfill his religious duty properly".

In the encyclopedic reference book "the Legal system of the world" Islamic law is formulated as one of the main legal systems (legal families) of modernity as a complex of social norms. The main part of which is religious teachings and requirements of Islam, as well as organically related, imbued with a religious spirit, moral and legal norms.

In General terms, Islamic law can be defined as a religious legal system that regulates social relations within the community which professes Islam.

Islam is the world's youngest religion. Its emergence in the seventh century associated with the Prophet Muhammad activities, according to tradition conveyed the will of Allah to the people. In spite of its relatively young age, Islam is spread rapidly around the world. First, it found its supporters in Africa, later spread further into southern Europe and Asia.

Now, Islamic law consists of about 1 billion people and is one of those legal systems that continue to develop rapidly.

### **The main Islamic law characteristics**

1. The inextricable relationship of law and Islam. Islamic law, unlike national legal systems, is not an independent system of norms but as an integral part of Islam. This religion contains, first, a theology, which establishes the dogmas, and clarifies what a Muslim must believe; second, the Shari'ah, which instructs believers that they should and should not do that.

2. Regulation of the Islamic law of social relations only between Muslims. The Islamic law (Quran, Sunnah, Ijma and Kias) is applied as and secular right of these States (regulations, customs, precedents) in Muslim countries. Thus, multiple legal systems can co-exist within one state.

3. Islamic law consists mainly of human responsibilities and sanctions for their violation. These responsibilities require the Muslim to perform certain decent from the point of view of Islam the actions and to refrain from unseemly. For example, the Quran requires that a Muslim should be sympathetic to the helpless and the weak, honestly conducted trade business, not bribed the judge, was not involved in usury and not play games of chance. Islamic law provides for the violation of many provisions the severe punishment — the death, mutilation, beating with sticks. For example, for theft the Qur'an prescribes cutting off hands: “the Thief cut his hands ...” [5, c. 42].

4. Archaic, casual and formal law. Islamic law emerged in the Middle Ages in the 7<sup>th</sup> – 10<sup>th</sup> centuries and seen as the result of divine revelation, so that it does not rely on the authority of any earthly creator rights, causing certain consequences.

One of its is the fact that the Muslim right, as a right is divine, is in principle unchanged. Islam comes from the postulate of the God-given nature of all things law, which Allah revealed through the Prophet Muhammad. Therefore, the Islamic law does not know the historical approach to law, which should reflect existing social relationships. Moreover, the right is granted to man by Allah, once and for all. This leads to the fact that many provisions of Islamic law is archaic in nature, that is does not meet modern requirements of social development.

5. Unstructured nature of law Islamic law is never knew the wide systematization, unlike some other families, such as Romano-Germanic law, for which codification has become an integral feature. Rules the two primary sources of Islamic law — the Quran and Sunnah were never systematized and exist in a stable form for centuries.

Attempts to systematize Islamic law began in the Ottoman Empire. The worst codification of Muslim law was held in the course on modernization of the country in 1869-1876 years, the result of which was made only source - Madzhalla.

6. The existence of several movements and schools of Islamic law. Islam split into two streams - Shiites and Sunnis. According to Shia Imam dignity, spiritual head of the Muslim community is hereditary in the family of Ali (the last of the four caliphs who ruled after the death of Prophet Muhammad), based on divine guidance of Muhammad, and only the descendants of Ali had a legitimate right to be Imam. Shiites consider the first three imams, especially the Umayyads, who came to power after the death of Ali, the usurper. Religious rituals and legal practice Shiites and other Muslims - Sunnis are different. Today Shiites make up

about eight percent of all Muslims. Most of them are living in Iran, in southern Iraq, Yemen and in the Central Asian states formed in the former Soviet Union, mainly in Turkmenistan, Kazakhstan and Uzbekistan. Subsequently, each of the currents split into several law schools.

In the new and newest times between canon and secular law is separation, Shariah courts limited in many Islamic countries . Islamic law is modernized to meet the requirements of the market, issued by Modern civil and penal codes. This, however, does not preclude the recurrence revival of medieval Islamic law institutions where the top is Islamic fundamentalism.

**Conclusion.** So, Islamic law based on the Koran, should be seen as a system completely independent of all other legal systems that do not have the same source. The similarity with other systems, which can be observed in decisions on an issue can be explained with the orthodox Muslim point of view just a coincidence. In no case cannot talk about borrowing some ideas of foreign Islamic law and regulations.

You can, however, put the hypothesis that in certain circumstances a limited impact could be that the elements Talmudic law, the Canon law of the Eastern churches, and Persian law became Muslim law in the era of its formation, even if we assume that this effect is implemented for the very few cases that have yet to establish the prevalence of this influence. The roots of Islamic law and jurisprudence put before the historian and numerous very interesting problems.

## LITERATURE

1. Алексеев С. С. Теория права – М.: Изд – во БЕК, 1994. – 224 с.
2. Загальна теорія держави і права: [Підручник для студентів юридичних вищих навчальних закладів] / М. В. Цвік, О. В. Петришин, Л. В. Авраменко та ін.; За ред. д – ра юрид. наук, проф., акад. АПрН України М. В. Цвіка, д – ра юрид. наук, проф., акад. АПрН України О. В. Петришина.– Харків: Право, 2009. – 584 с.
3. Калінін Ю.А.,Харьковщенко Є.А. Релігієзнавство. – Київ: Наук. думка, 1998. – С. 195.
4. О.М. Майборода. Меджліс кримськотатарського народу // Енциклопедія історії України : у 10 т. / ред.кол.: В. А. Смолій (голова) та ін. ; Інститут історії України НАН України. – К. : Наук. думка, 2009. – Т. 6 : Ла – Мі. – С. 579.
5. Сюкияйнен Л.Р. Мусульманское право. – М., 1986.