

LEBANESE ISLAMIC LEGAL SYSTEM

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Introduction :Law system in Lebanon

- ▣ Lebanon is located in the western part of Asia, bordered by Syria to the east and north, Israel to the south, and the Mediterranean Sea to the west. Lebanon has a population of around four million people, and an area of 10,452 sq. km, and hence counts among the smallest countries in the region. Beirut, the capital city of Lebanon, contains approximately half of the Lebanese population and is located towards the middle of Lebanon's 220 km coast. Despite its small size, Lebanon has figured prominently on the world stage for a diversity of reasons, not all of which are good. Lebanon has and has had immense cultural influence on its Arab entourage, as the Lebanese society is considered to be one of the most liberal in the region with its strong western ties, particularly with its former colonial ruler, France.

Introduction :Law system in Lebanon

- ▣ Lebanese individuals are also known to be natural-born entrepreneurs. The Lebanese community living abroad consists of approximately 15 million people, almost four times the Lebanese population living in the homeland, and is considered in its respective host countries as an economic force to be reckoned with.

The Lebanese legal system

- ▣ The Lebanese legal system is based on and inspired by the French legal system. Just like France, which occupied Lebanon until 1943, Lebanon is considered to be a civil law country and possesses its own set of codes. The most notable code is the “Code of Obligations and Contracts” promulgated in 1932 during the French Mandate. The COC, as it is known among law students, is the equivalent of the French Civil Code except for matters related to personal status (heritage, marriage, divorce, etc.), which are governed by a separate set of laws designed for the different sectarian communities. For instance, the Islamic personal status laws are inspired by the Islamic Sharia’a, some of which were promulgated during the Ottoman rule (ending in 1918).

The Lebanese legal system

- ▣ Although a civil law system, the courts in Lebanon are not reluctant to follow established precedents, which are usually set in place through landmark rulings by the Court of Cassation. In addition to this, one can find many court rulings that are based on precedent established in France or in Egypt, the two most influential legal systems in Lebanon.

Islamic law

- • 'Islamic law' refers to the diverse legal systems that have been and continue to be produced with the objective of being in accord with the Islamic faith.
- Islamic legal systems operate in multiple and sometimes discontinuous ways. Usage of the singular term 'Islamic law' should not be understood as suggesting the absence of legal polycentricity (multiple groups and institutions generate Islamic law) or legal pluralism (within Islamic societies, since Islamic and non-Islamic legal systems coexist).



Historical of Islamic law

- ▣ There are significant historical and substantive distinctions between 'Islamic law' and 'Muslim legalities' (the legal systems in use by Muslims).
- ▣ 'Islamic law' refers to juristic interpretations (fiqh) of divine law (sharī'ah); 'Muslim legalities' refers to either state law (where Muslims are the majority or minority) or the legal practices of non-state Muslim communities.

Islam means

- ▣ Islamic law, unlike the previously discussed systems, is not an independent branch of knowledge (Ende and Steinbach, 2010).
- ▣ Law is integral to Islamic religion, which defines the character of the social order of the faithful who create laws in the name of Allah, or God (Ghanim, 2010; Hallaq, 2009).
- ▣ Islam means “submission” or “surrender” and implies that individuals should submit to the will of God. Islamic religion states what Muslims must believe and includes the Shari’a (“the way to follow”), which specifies the rules for believers based on divine command and revelation. Unlike other systems of law based on judicial decisions, precedents, and legislation, Islamic law is derived from four principal sources (Shaham, 2010).

The key of Islamic legal

- ▣ The key distinction between these two overlapping categories is that Islamic jurisprudence is generated by an interpretive process anchored in canonical Islamic texts;
- ▣ In comparison, Muslim legalities are generated by an interpretive process anchored in a state or other legal system that may or may not be Islamic and with a population that may or may not have a Muslim majority (Salaymeh, 2014).

The principal source of Islamic law

- ▣ The principal source of Islamic law is the Koran, the word of God as given to the Prophet.
- ▣ The second source is the Sunna, which are the sayings, acts, and allowances of the Prophet as recorded by reliable sources in the Tradition (Hadith).
- ▣ The third is judicial consensus; like precedent in common law, it is based on historical consensus of qualified legal scholars, and it limits the discretion of the individual judge

Property and Housing Rights in Islam in Lebanon

- ▣ Under Islam all property vests in God and is temporally enjoyed by human beings. Islam promotes individual property rights subject to ethical rules laid down by Islamic law.
- ▣ Private homeownership is commonly a high priority for Muslims.
- ▣ Islam also has a pro-poor agenda facilitating collective rights and social housing. Muslim countries, despite their differential economic capacities, aim to prioritise the poor and homeless for initiatives through the State treasury.