

PROTECTION OF HUMAN LIFE: A COMPARATIVE ANALYSIS BETWEEN SHARIAH AND CONTEMPORARY LAWS

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ABSTRACT

In whichever religion, society, or civilization, protection of human life is of utmost priority. This is the reason that in Islam, human being has been created as the most honoured creature. Messengers were sent to guide human beings so that on the day of judgement they will not raise a defense that they were not guided. Despite of those guidelines, man rebelled, causing mischief, and blood shedding. Even though bloodshed is a problem against any civilization, the mainstream media has been targeting Islam as a religion attributed solely to bloodshed, while the Muslims embellish their religion as the protector of mankind. The purpose of this paper is to provide a comparative analysis on both sharia and contemporary laws as what are the legislative as well as enforcement mechanisms in place for the protection of human life. The finding of this paper provides that Shariah (Islam laws) has more provisions in protecting

human life to compare to contemporary laws. Therefore, the paper uses comparative analyses between Islamic laws (Shariah) and legislations from Universal Declaration on Human Rights 1948, national laws (particularly Nigeria), and African Charter of Human and Peoples' Rights.

Keywords: *protection of human life, Shariah and contemporary laws, comparative analysis*

INTRODUCTION

Human capital is the most important asset any country can boast of. This is because if properly managed, the human resources of any given country can take the country to any height in all aspect of development. Based on the importance of human life countries around the World have formulated legislations meant to safeguard and protect human life.

However, the various enactments notwithstanding, millions of lives were wasted in the last century due to the two world wars, the struggle for independence in Africa, the post-independence border conflicts between different African countries as well as the struggle to dismantle apartheid rule in South Africa and Rhodesia respectively. In recent times, the activities of some groups (Al Shabab) in the horn of Africa, (Boko Haram) in Nigeria, Bandits and Cattle rustlers and the “Jihadist” in the Sahel more and more recently, the ongoing civil war in Sudan, a conflict of decades ago between Israel and its occupied Gaza are claiming more lives than the casualties suffered in some internal unrest or boarder conflicts. The Israel onslaught alone as according to the International Court of Justice (ICJ) “has resulted *inter alia*, in tens of thousands of deaths and injuries and the destruction of homes, schools, medical facilities and other vital infrastructure, as well as displacement on a massive scale.”¹ Apart from the conflict of Israel and Palestine, the annoying aspect of the matter is that most of the actors and the victims (of the above cited conflicts) belong to the same religious conviction (Islam) thereby provoking global disdain and condemnation to the religion.

¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel). Order of 26th January 2024 at page 22. <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf> (18.03.2024)

The main purpose of this paper is to provide a comparative analysis on both sharia and contemporary laws as what are the legislative as well as enforcement mechanisms in place for the protection of human life.

To achieve this, the paper is structured as follows:

- a) General Introduction
- b) Meaning and the purpose of life (Sharia Perspective)
- c) Sanctity and the protection of human life (Sharia perspective).
- d) Legal provisions for the protection of human life (Contemporary perspective)
- e) A comparative analysis of the provisions in both cases.
- f) Findings, Recommendations, and conclusion.

MEANING AND PURPOSE OF LIFE (SHARIAH PERSPECTIVE)

The terms sharia and life merit some clarification as follows: Sharia is the Islamic legal system that regulates the affairs of the faithful, it also forms the other side of the Islamic coin because Islam is faith and legal order fused together, they cannot be isolated from one another.

Interestingly, the inseparable nature of the relationship between religion and law has been highlighted as follows. “Law and religion need each other, law to give religion it’s social dimension and religion to give law it’s spirit and direction as well as the sanctity it needs to command respect” (Harold, J. B., 1973; 25). Likewise, in *Church of the New Faith v Commissioner of Pay-Roll Tar* (1983), Mason ACJ and Brennan J said that “religious belief is not by itself a religion. Religion is also concerned, at least to some extent, with a relationship between man and the supernatural order and with supernatural influence upon his life and conduct”.²

Life on the other hand can be literally defined as the state of being in existence as a human being. It follows therefore, that once a person is in existence then he is alive in respective of whether he is in comma for some times or he is receiving medical attention at an intensive care unit of a given hospital. A question may arise as who/what brought man into existence and why? Creation (or bringing into existence) according to Islamic faith is the prerogative of God (Allah) the Almighty. This can be deduced from numerous verses of the Holy Quran, one of which says, “[w]e created man from a drop of mingled fluid so that We might try [test] him; We gave him hearing and sight.”³

² 154 CLR 120

³ The Holy Quran Chapter 76:2 as translated by Maulana Wahiduddin Khan, <https://tanzil.net/#trans/en.wahiduddin/76:2> (11.09.2024)

Similarly, in a brief and precise way, “Allah is the Creator of all things, and He is the Guardian and Disposer of all affairs”.⁴ God the Almighty never created things save with a purpose, consequently he created mankind and jinns for the sole purpose of worshipping him. It is stated thus, “I created the jinn and mankind only so that they might worship Me”⁵ [(i.e. for them to worship Allah). The question now, what is worship? Worship is defined as “to show respect and love for god, especially by praying ...” (Longman Dictionary of American English, 1997; 922). In Arabic language, worship is called (*Ibadat*) which can be translated as total obedience or absolute compliance with the commands of Allah the highest. An act of *ibadah* with clean/purely good intention attracts rewards from Allah while neglecting it invites the wrath of Allah in which those involved will be subjected to severe punishment. “Islamic law is not to be considered only as a celestial entity that deals only with [...] worship issues (‘*Ibadat*), it also includes rules that govern daily practices and transactions among individuals along with the relationships between them and the government...” (MA Abdelaal, 2012; 155).

In another development, Muslim Jurists have classified *ibadat* into two main groups as follows:

- a) *Ibadat* in the strict sense i.e. a branch of *ibadat* that regulates the relationship between mankind and his creator (Allah) whose perfection is determined according to intention. It includes the five daily prayers, fasting throughout the month of Ramadan. *Ibadat* of Socio-Economic Dimension: That is *Zakat* (Alms) which is an Islamic poverty reduction mechanism through which a fixed fraction is collected out of the wealth of the rich members of the society and passed on to the needy members. *Zakat* has comprehensive rules and regulations which for obvious reasons cannot be extensively dealt with by this paper. *Ibadat* of physical and social dimension i.e., going on pilgrimage for those who have the Means (at least once in lifetime). These four categories of *ibadat* plus that there is no deity worthy of worship except Allah and Muhammad (SAW) is his messenger constitute the pillars of the religion of Islam (Elkhidr, n.d.; 24).
- b) On the other hand, there are other aspect of *ibadat* which Muslim jurists qualified as *Mu’amalat* (i.e., aspect of *ibadat* that regulates the relationship between/among the members of the society. They include rules governing

⁴ The Holy Quran Chapter 39:62 as translated by Yussuf Ali <https://tanzil.net/#trans/en.yusufali/39:62> (11.09.2024)

⁵ The Holly Quran Chapter 51:56 as translated by Wahiduddin Khan <https://tanzil.net/#trans/en.wahiduddin/51:56> (11.10.2024)

matrimonial matters, inheritance, business/commercial transactions, tenancy as well as agency relationships among others.

SANCTITY AND THE PROTECTION OF HUMAN LIFE (SHARIAH PERSPECTIVE)

Sharia (the Islamic Law) is viewed by some people as not really accommodate protection of human life and outdated, and therefore it cannot meet the aspiration of today's society (Rushda Fathima Khan, 2024; 139-161).⁶

Contrary to the above, Islamic Law is a growing organism in the contemporary legal systems. It is adaptive, dynamic, and progressive. It meets the challenges and changing conditions and current demands of life and society and caters for the social needs and genuine requirements of the people (A.M. Gurin, 2013; v).

Sharia on the other hand derives its validity from what jurists (Muslim scholars) call primary and secondary sources. In the former case, it refers to the Holy Quran and prophetic traditions (Sunnah) while in the later refers to other sources that include but not limited to consensus, analogical deductions, customs among others (MA Abdelaal, 2012; 155-159).

The primary sources refer to two distinct but complementary materials. They are the Holy Quran and the Prophetic Traditions (sometimes called the Sunnah of the Holy Prophet). These two terms (Prophet Traditions and the Sunnah) are however used interchangeably. At this juncture, the paper now shed these primary and secondary sources as follows; -

The Holy Quran

The journey of the present form and features of the Holy Quran began when the first chapter/verse was revealed to the Holy Prophet by Allah through Angel Jibril known in English as Gabriel in the cave of Hira when the Holy Prophet attained the age of forty in the year 610 AD during the month of Ramadhan. The present form of the Holy Quran remains as it is revealed (up) to the present day, a character that none of the previous sacred scriptures have. In fact, Allah

⁶ This is what has resulted what is known today Islamophobia around the World and especially from politicians who are trying to divide their people based on religion or to instigate religious discrimination against Muslims to win those who do not favour Islam.

(S.A.W) made a covenant for its reservation till the end of time, a promise which no other scriptures have (Ziauddin Sardar, 2011; 71).

In a related development. The Holy Quran is the final revelation of Allah to humanity, which was revealed to the Holy prophet Muhammad the seal of the prophets in the year 610 AD. Since then, the Holy Quran began to be revealed to the Holy Prophet in piecemeals for 23 years (M. Ahmad, 2016; 205-220). These revelations came at different times and events, and the various chapters were categorised as either Meccan or Medinan depending on, largely when and where they are revealed (Iffan, Ahmad et al. 2023; 296-311). It is firmly believed by the Muslims that the Holy Quran is the literal words of Allah the Almighty revealed down to the prophet Muhammad (SAW) through Angel Jibril in different ways fourteen centuries ago and unchanged since then (Muhammad Mustafa Al- A'zami, 2008).

Description of the Holy Quran

God the Almighty and the Prophet Muhammad (SAW) have described the features or characters of the Holy Quran in many ways. The scope of this paper is not dedicated to discussing the Holy Quran as exhaustively as possible; however, it is deemed imperative to speak a little about it because of its position in the eyes of the Muslims and its status in the administration of sharia. Allah said in the Holy Quran, “We have Set down the Book to you to make everything clear, a guidance and a mercy, and glad tidings for those who submit to God”.⁷

The Holy Prophet also ascribed the following descriptions to the Holy Quran: It is a Book of Allah containing the stories of nations before you, what will happen after you and the process of settling (any) any disputes among you... whoever seeks guidance away from it, God will (surely) sent him astray... etc. (Ministry of Education Republic of the Sudan, 1973; 5).

Meaning and Classification of Sunnah (Prophetic Traditions)

Prophetic traditions (sometimes called Sunnah or Hadith) are the second part of the primary sources of legislation under Islamic Law. Consequently, whenever one is confronted with any legal issue his first reference point should be the Holy Quran, if he could not find the solution therein, then he should proceed to

⁷ The Holy Quran Chapter 16:89. See Quran English Translation by Wahiduddin Khan <https://tanzil.net/#trans/en.wahiduddin/16:89> (12.09.2024)

the prophetic traditions (Muhammad Zaid Malik, 2024; 1-18). This approach/pattern is approved by the prophet himself when he sent Muaz bin Jabal as an envoy to Yemen. The prophet asked Muaz, what will be your grounds/basis sources of determining disputes that may arise? Muaz replied, “I will consult the Book of Allah. The prophet asked him again, “What if you could not find (the solution there)?” Muaz replied, “then I will consult the sunnah of the thy prophet (i.e. prophetic traditions or hadith). The prophet’s final question to Muaz was, “what if you could not find?” Muaz replied, “I will go by my individual opinion (based on my understanding of the purpose of sharia) without going out of the way. The prophet (SAW) affirmed that (approved).⁸

Relationship Between Sunnah (Prophetic Tradition) and the Holy Quran

It had already been said above that the two are Complementary to one another. Nevertheless, it is deemed imperative to put the classification of sunnah in terms of the relationship it has towards the Quran in a clearer perspective as follows:

a) Corroboration

Prophetic traditions (sunnah) sometimes corroborate the Quranic text by reinforcing the same command contained therein. For example, the Holy Quran provides; “Attend to your prayer, give the Zakat (prescribed alms) and bow down with those who bow down.”⁹ This is a Quranic command to the Muslims to keep to the five daily prayers and zakat in a manner and the time so prescribed by the Prophet.

On the other hand, a prophetic tradition narrated by Abu Huraira (may Allah be please with him) said he heard the prophet to say, “The first of his deeds for which a man will be taken into account on the day of resurrection will be his prayer. If it is sound he will be saved and successful, but if it is unsound he will be unfortunate and miserable. If any deficiency is found in his obligatory prayer the Lord who is blessed and exalted will issue instructions to consider whether His servant has said any voluntary prayers so that what is lacking in the obligatory prayer may be made up by it. Then the rest of his

⁸ <https://sunnah.com/abudawud:3592> (17.10.2024)

⁹ The Holy Quran Chapter 2:43. See Translation of Yussuf Ali at <https://tanzil.net/#trans/en.yusufali/2:43> (17.09.2024)

actions will be treated in the same fashion.”¹⁰ It is very clear that, the Holy Quran prescribes salat (prayers), and the sunnah high lights on the importance of the salat. Thereby complementing one another.

b) Elaboration

The prophetic Traditions (sunnah) elaborate or elucidate the provisions of the Holy Quran to enable the believers to comply properly. There are several provisions in the Holy Quran enjoining the believers to pray (generally) without specifying the actual time, the number of rakat, etc. Example, “Establish regular prayers - at the sun’s decline till the darkness of the night, and the morning prayer and reading; for the prayer and reading in the morning carry their testimony”¹¹ The literal meaning of this verse is not easily comprehensible without elaboration/additional explanation from the Holy Prophet. Consequently, the prophet used to explain the Quranic provisions verbally and sometimes by actions, in other situations by the combination of the two. When it comes to the question on how Muslim should pray the Prophet Muhammad is reported to say, “...Pray as you have seen me praying...”¹²

c) Supplementing

Quran as a guidance it is consisted of expressly legal provisions and non-legal provisions.¹³ Either be legal or non-legal, there are some few instances that were left unattended by the provisions of the Holy Quran, so to resolve the issues, reference must be made to the Sunnah (Taha Jabir Alalwani, 2017; 33-55). Reference must be made to the sunnah because Allah himself puts emphasis on the importance of what the Prophet explains as not coming from his desires to speak. Whatever he orders he orders according to the command

¹⁰ Mishkah al-Masabih 1330, 1331, In-book reference: Book 4, Hadith 738 <https://sunnah.com/mishkat:1330> (30.09.2024), see also, Jami` at-Tirmidhi 413, In-book reference: Book 2, Hadith 266, English translation: Vol. 1, Book 2, Hadith 413 <https://sunnah.com/tirmidhi:413> (30.09.2024)

¹¹ The Holy Quran Chapter 17:78. See Translation of Yussuf Ali at <https://tanzil.net/#trans/en.yusufali/17:78> (17.09.2024)

¹² Sahih al-Bukhari 631: Book 10, Hadith 28 <https://sunnah.com/bukhari:631> (17.09.2024)

¹³ The Holy Quran Chapter 3:7 to 3:9. See also <https://quran.com/3:7/tafsirs/en-tafisr-ibn-kathir> (26.09.2024)

from Allah.¹⁴ Therefore, “[W]hatever the Messenger gives you, take it; and whatever he forbids you, abstain from it”¹⁵. According to the wording of these verses from two chapters, it is therefore correct to say, it is mandatory to Muslims to follow the Quran and the Sunnah. We can classify the Quran as the principal legislation and the Sunnah as subsidiary legislation to the Quran because the Sunnah explains, expands elucidates, interprets, and supplements the Quran (Taha Jabir Alalwani & Roberts, Nancy, 2017; 56-90; Mohammad bin Jameel, Aladdin Adawi, 2016; 794; Ahmad Maigari Dutsinma, 2022; 121). After such brief analysis on the relationship of the Sunnah towards the Quran, let us now see some of the sharia legislations on the respect and protection of human life.

(i) Say come! I will tell you what your Lord has really forbidden you! Do not associate anything with him, be good to your parents, do not kill your children for fear of poverty. We shall provide sustenance for you as well as for them, refrain from Committing indecent deeds, whether openly or in secret and do not kill the life which God made sacred save by right...”¹⁶ The last command in this verse is central to this paper as it clearly states that human life is made sacred by God. At the same time the verse indicates that sometimes owing to one right or the other, the blood of the sacred life can be legally shed. It had been stated above that prophetic traditions explain, elucidate, interpret and supplement the Quranic provisions. Therefore, the circumstances under which the blood of the believer can be shed are clarified in the following tradition:

Abdullah bin Mas’ud reported that the Prophet of Allah said, “It is not permissible to take the life of a Muslim who bears testimony (to the fact that there is no god but Allah, and I am the Messenger of Allah, but in one of the three cases: the married adulterer, a life for life, and the deserter of his Din (Islam), abandoning the community.” (Chaudhry, M A, 2001; 224-225)¹⁷ This tradition together with the above verse set the limit that life must be protected and the second one if one thinks idly about it, the sanctity or the sacred status of his life is lifted.

¹⁴ In Chapter 53:2-5 of the Quran, Allah says, “Your companion [Muhammad] has not strayed, nor has he erred. Nor does he speak from [his own] inclination. It is not but a revelation revealed. Taught to him by one intense in strength.” <https://tanzil.net/#trans/en.sahih/53:1> (17.09.2024)

¹⁵ The Holy Quran Chapter 59:07. As translated by Wahiduddin Khan <https://tanzil.net/#trans/en.wahiduddin/59:7> (17.09.2024)

¹⁶ The Holy Quran Chapter 6:151. As translated by Wahiduddin Khan <https://tanzil.net/#trans/en.wahiduddin/6:151> (17.09.2024)

¹⁷ Sahih Muslim 1676a: Book 28, Hadith 34. <https://sunnah.com/muslim:1676a> (17.09.2024)

Furthermore, Shariah went further to spell out the appropriate punishment for violating the tradition cited above as follows; If anyone (man or woman) kills a believer (man/women) deliberately (i.e., in contravention of the above provision) his reward shall be eternal hell. God will condemn him, reject him and prepare for him a terrible punishment.¹⁸ Note that murder under Shariah is a two-way offence:

- a) Offence against Allah SWT whose punishment is stated above.
- b) Offence that inflicts injury to the relation of the deceased for which Allah (through Shariah) provides three options as follows:
 - i) Qisas, the relatives of the deceased may seek qisas (retribution) as provided thus: “O you who have believed, prescribed for you is legal retribution for those murdered - the free for the free, the slave for the slave, and the female for the female. But whoever overlooks from his brother anything, then there should be a suitable follow-up and payment to him with good conduct. This is an alleviation from your Lord and a mercy. But whoever transgresses after that will have a painful punishment.”¹⁹ Under the Islamic principles, “... should a family choose to retaliate by taking the life of the perpetrator, very specific and clearly stipulated conditions apply. “In most cases the family would need to be able to prove beyond any doubt that the murder was deliberate ...” (Willem Fourie, 2018; 176)
 - ii) Diyyah (compensation) translated as blood money (Saleem Nawaz, Muhammad Ali Shaikh, 2022; 57-76; Abdul Basir Mohamad, 2000; 197-205). The heirs of the slain victim may make concession and collect the diyyah in lieu of retaliation (Qisas). The sum to be collected from the murderer or his heirs was originally pegged at one hundred (100) camels of different features (Murad, M. M, 2001; 539; Mohamad, A. B., 2015; 441-473).²⁰ However, owing to the changes of circumstances the cost of the camels is now calculated in monetary

¹⁸ The Holy Quran Chapter 4:93. <https://quran.com/an-nisa/93> (26.09.2024).

¹⁹ The Holy Quran 2:178, as translated by Wahiduddin Khan <https://tanzil.net/#trans/en.wahiduddin/2:178> (30.12.2024)

²⁰ See also; <https://sunnah.com/bulugh/9/25> (26.09.2014). In another narration (hadith), Abu Dawud and At-Tirmidhi transmitted on the authority of ‘Amro bin Shu’aib on his father’s authority, who reported from his grandfather (RAA), who reported that the Messenger of Allah (ﷺ) said: “The Diyah (of intentional homicide) is paid in three different types of camels: 30 she-camels ‘hiqqah’ (in their fourth year), 30 she-camels ‘Jaz’ah’ (in their fifth year), and 40 pregnant she-camels.”

terms by concern Muslims financial experts (Evan Gottesman, 1992; 433-462).

- iii) Out right forgiveness: The heirs of the deceased can (subject to certain conditions) forgive the murderer without any consideration from him or from any of his relation (Mohamad, A. B., 2015; 452). In this sense, forgiving is a personal and responsible action based on free choice (Yoachim Agus Tridiatno, 2021; 131).

Legal Provisions for the Protection of Human Life (Contemporary Perspective)

This part discusses legal instruments on the subject from the national, regional and global perspectives respectively. Consequently, the examination is placed into the local perspective, the Constitution of the Federal Republic of Nigeria which provides:

*Every person has the right to life, and no one shall be deprived intentionally of his life save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.*²¹

It follows from the above that certain offences in Nigeria such as armed robbery, among others attract capital punishments.²² From the regional perspective, the reference instrument is the African Charter on Human and Peoples' Rights which provides, "Human being are inviolable. Every human being shall be entitled to respect for life and the integrity of his person. No one may arbitrarily be deprived of this right."²³The instrument further provides for the respect and dignity of human being, and this prohibits torture, slavery, cruel, in human and degrading treatment.²⁴ From the global perspective the main legal instrument that is focused in this paper is the United Nations Universal Declaration of Human Rights of 1948 which in Article 3 makes clear that: *Everyone has the right to life, liberty and the security of person.*

²¹ Section 33(1) The Constitution of the Federal Republic of Nigeria 1999 (As amended)

²² Nigeria Penal Act Section 68 (1) (a), Section 49A, Section 319, Section 402 (2) (a) (b). <https://lawsofnigeria.placng.org/laws/C38.pdf> (25.08.2018)

²³ Article 4. The African Charter on Human and People's Rights

²⁴ Article 5, the African Charter, 91.

COMPARATIVE ANALYSIS

At this juncture, the contemporary provisions on one end and the Sharia provision on the other will be subjected to comparison as follows:

1. Nigerian Constitution

Section 33 (1) of the Constitution of the Federal Republic of Nigeria (1999) as amended can be broken down as follows:

- a) Every person has the right to life.
- b) No one shall be deprived intentionally of his life.
- c) Save in execution of the sentence of a court in respect of a criminal offence of which he is found guilty in Nigeria.

2. The African Charter on Human and People's Rights

Likewise, to the Nigerian Constitution Art. 4. of The African Charter on Human and People's Rights can also be broken into the following.

- a) Human beings are inviolable.
- b) Every Human being shall be entitled to respect and for life and integrity of his person.
- c) No one may be arbitrarily deprived of this right.

3. United Nations Universal Declaration of Human Rights 1948

In Article 3 of the Declaration everyone has the right to life, liberty and security of person.²⁵ Like the Nigerian Constitution Art. 4. of The African Charter on Human and People's Rights can also be broken into the following.

- a) Human beings are inviolable.
- b) Every Human being shall be entitled to respect and for life and integrity of his person.
- c) No one may be arbitrarily deprived of this right.

If one examines these three legal instruments, he will find out that they all share some common factors. These are: the right to life enjoyable by everyone (without regard to his racial affiliation, geographical location, gender, or any other consideration). However, while the Constitution of the Federal Republic of Nigeria and the African charter on Human and People's Rights emphasized

²⁵ <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf> (28.12.2024)

that no one shall be deprived of the right to life, the Universal Declaration of Human Rights of the United Nations is silent²⁶. That means, the declaration does not provide a strict prohibition against the depriving of someone's life.

In addition to that, out of the three provisions only the Nigerian Constitution states the circumstances under which a person can be deprived of his right to life. By implication and perhaps going with global campaign against capital punishment they don't envisage any situation under which one should lose his life even if he killed One hundred (100) other persons.

4. Shariah/Islamic Provisions

The Holy Quran under chapter six (6) verse one hundred and fifty-one (151) clearly prohibits the killing of even one's own children and made (human) life generally sacred and shall not be tampered/ taken away except by rights. Like the Nigerian Constitution, Sharia as translated in the Prophetic hadeeth/sunnah went ahead to clarify the circumstances that warrant the sacred life to be taken away.

It follows therefore, these two provisions, (Sharia and the Nigerian Constitution) share some similarities. Note that the other two provisions of the African charter and the United Nations Human Rights Declaration also have one thing in common that is the right to life. But they are silent on the circumstances that can led one's life be deprived of. Apart from the fact that these two international legal instruments or some national laws are silent on how a person who is responsible to the killing of someone can be deprived of his life, there are however nowadays, some countries that have enacted laws instruct mechanisms that a personal life can be deprived not as a means of punishment but on a pretext of humanity that a personal life can be mercifully deprived of. That process is commonly known as euthanasia.

Euthanasia has been defined to mean "the act or practice of causing or permitting the death of hopelessly sick or injured individuals (such as persons or domestic animals) in a relatively painless way for reasons of mercy".²⁷ Etymologically, this term euthanasia was adopted from the Greek word "eu" and "thanatos" to mean "good death" or "easy death" (Sailaja Petikam, 2021). Therefore, as a means of avoiding prolonged period of the unbearable pain

²⁶ Article 3 of the United Nations Universal Declaration of Human Rights 1948 and Article 4 and 5 of the African Charter on Human and Peoples' Rights.

²⁷ <https://www.merriam-webster.com/dictionary/euthanasia#legalDictionary> (21.05.2024)

due to some illnesses or diseases, these hopelessly sick individuals have increasingly sought to opt for euthanasia, as according to them, to die painlessly or mercifully (Ercan Avci, 2019; 1770). It means to one circumstance, to these hopelessly sick individual, dying is not what they desire but because all hopes for recovery have waned, they find themselves “a burden to other people” and therefore they had better die than living pessimistically. However, research reveals that “when it comes to choosing euthanasia, pain does not even make it into the top five reasons”.²⁸ In whatever the reason that might be, should a sick individual opt for being euthanised or become patiently persistent?

Euthanasia has been a topic of fierce discussion between religious and cultural beliefs, medical doctors, legislatures, judges as well as human rights activists. There are countries that support it through enacted laws and those that are against it (Golan Luzon, 2019; 329-345). In comparison to Islamic religion, apart from the reason we have mentioned earlier in this paper, hopelessness due to illness or sufferance is not considered as a reason for a someone’s life to be condemned to death.²⁹ In Islam, human beings after creation, may not be left without being tested. They must be tested through many ways such as death, fear, hunger, diseases and other calamities. Once tested, it is important that he becomes pertinently patience.³⁰ It is through test that a result of a true Muslim and a liar is observed.³¹ To put emphasis on the important of being patient it was narrated from Abu Umamah that the Prophet (SAW) said: “Allah

²⁸ Elizabeth Jackson, “Euthanasia: It’s not just about unbearable pain, it’s about self-determination, expert says”, <https://www.abc.net.au/news/2017-12-02/euthanasia-is-not-just-about-unbearable-pain/9214008> (23.05.2024)

²⁹ Life and is only a gift from Allah. It is only Allah who can take it away as a means of testing who among human beings is the best of virtue. In the Holy Quran Chapter 67. Verse 1-2, Allah says “Blessed is He (Allah) in whose hand is dominion, and He is over all things competent. [He] who created death and life to test you [as to] which of you is best in deed - and He is the Exalted in Might, the Forgiving”.

³⁰ In the Holy Quran chapter 1 verse 155-157 Allah says, “And We will surely test you with something of fear and hunger and a loss of wealth and lives and fruits, but give good tidings to the patient. Who, when disaster strikes them, say, “Indeed we belong to Allah, and indeed to Him we will return.” Those are the ones upon whom are blessings from their Lord and mercy. And it is those who are the [rightly] guided.

³¹ See translation of the Holy Quran (Chapter 29:03) Allah says, “But We have certainly tried those before them, and Allah will surely make evident those who are truthful, and He will surely make evident the liars”. <https://tanzil.net/#trans/en.sahih/29:3> (03.09.2024)

says: ‘O son of Adam! If you are patient and seek reward at the moment of first shock, I will not approve of any reward for you less than Paradise.’³²

FINDING

Contrary to the understanding of many who oppose Islamic religion due to the activities of misguided Muslims who are doing wrong in the name of Islam in reality Sharia does not endorse depriving of one’s life simply except in a manner and circumstance expressly specified by the Prophetic traditions. The circumstances under which Sharia provides mechanisms for a person to be lawfully deprived of his life are to be established to the satisfaction and in accordance with the rules of procedure. Example, life for life requires proof of intentional killing not beyond reasonable doubt rather beyond any iota of doubt. The Prophet is reported to have said, “[a]vert the prescribed punishment by rejecting doubtful evidence.”³³ This means the accused person can escape death for a doubt no matter how slight (Alkali, Muhammad Bashir, 2021; 147-166).

Adultery is another offence that attracts stoning to death under the sharia. However, the same Sharia laid down a very stringent procedure that makes it difficult to establish the very offence. As a matter of fact, those stoned for adultery during the lifetime of the Holy Prophet were not convicted on the weight of any evidence against them rather they personally and voluntarily submitted themselves by confessing many times to the commission of the offence.³⁴ Yet the Prophet tried an escape way for them by first ignoring them, (so that they may have a second thought and go away).³⁵ The Prophet asked them several questions whether they were mentally all right or under the influence of intoxication.³⁶ For example, there was a time when a man admitted before

³² <https://sunnah.com/ibnmajah:1597> (03.09.2024)

³³ <https://sunnah.com/bulugh/10/17> (26.09.2024)

³⁴ See example of a narration (hadeeth) mentioned in Sahih Muslim, Book 29, Hadith 27. <https://sunnah.com/muslim:1692a> (26.09.2024)

³⁵ Example in one of the narrations of the Prophet, it was reported that a woman went to the Prophet and admitted having committed adultery of which punishment is stoning to death. But the Prophet postponed the punishment until the woman gave birth and later after until the born baby was able to eat. See Sunan Abi Dawud 4442 In-book reference: Book 40, Hadith 92 English translation: Book 39, Hadith 4428. <https://sunnah.com/abudawud:4442> (26.09.2024)

³⁶ Sahih Muslim 1691c, In-book reference: Book 29, Hadith 23, USC-MSA web (English) reference: Book 17, Hadith 4196. <https://sunnah.com/muslim:1691c>

the Prophet that he had committed adultery. Finally, the Prophet asked him “have you actually committed adultery? The man answered yes. There upon, the Prophet ordered for his stoning.³⁷ Had he said no! The prophet would have allowed him to go free. (But Allah knows and will judge him appropriately at the appropriate time). As Allah says: *Or do they who commit evil deeds imagine that they can escape from Us? What an evil judgement they impose!*³⁸

RECOMMENDATIONS

Based on the above discussion, the paper recommends that:

- a) Legal expert / Human Rights activists need a thorough knowledge of sharia in order to enable them to make constructive observation/criticism not blind and blanket condemnation of the system and the religion it represents
- b) The Muslims themselves need adequate knowledge of the religion and the sharia as well. This is because Islam is based on submission to those in authority whether you are pleased with them or not (provided they did not command you to disobey/contravene Allah’s command). In a prophetic tradition from Abdullah bin Omar (RA), he said, “[i]t is obligatory upon a Muslim that he should listen (to the ruler appointed over him) and obey him whether he likes it or not, except that he is ordered to do a sinful thing. If he is ordered to do a sinful act, a Muslim should neither listen to him nor should he obey his orders.”³⁹
- c) The media out fits should be fair in their reporting and stop linking any unwarranted / senseless killing by any light skinned or anyone who chanted Allahu Akbar under whatever disguise to sharia / Islam as a religion rather the individual concern should be personally held liable.

CONCLUSION

The paper is hereby concluded thus:

³⁷ Sunan Abi Dawud 4419, In-book reference: Book 40, Hadith 69, English translation: Book 39, Hadith 4405. <https://sunnah.com/abudawud:4419> (03.10.2024)

³⁸ The Holy Quran (29:04) as translated by Ahmed Reza Khan <https://tanzil.net/#trans/en.ahmedraza/29:3> (02.10.2024)

³⁹ Sahih Muslim 1839a, In-book reference: Book 33, Hadith 61, USC-MSA web (English) reference: Book 20, Hadith 453. <https://sunnah.com/muslim:1839a> (03.10.2024)

- a) Both Shariah and other laws uphold sanctity and respect the right to life for every human without regard to any natural or primordial divisive factors e.g. colour, race or religious conviction. The right to life is for everybody, However, Shariah explained in an elaborate form certain circumstances under which one may be deprived of one's life. This is meant to make the killer think twice before embarking on his terrible and senseless act which translate into protective mechanism of other peoples' lives. Nevertheless, such circumstances are very difficult to come by. Under Sharia there are mechanisms in place that may be resorted to spare the life of a murderer. They are (i) Concession i.e accepting Diyah (Blood money in lieu of retribution and (ii) out right forgiveness. On the other hand, there is a stern warning by Allah against intentional killing of an individual by his fellow being. "If anyone kills a believer deliberately his reward shall be eternal hell. God will condemn him and reject him and prepare for him a terrible punishment".⁴⁰
- b) Contemporary laws are only interested in protecting the life of an individual once he is alive. Some people can stage a demonstration against the execution of a murderer no matter how many people he deliberately killed; by so doing they are rendering the life of the deceased worthless and demonstrations may indirectly encourage others to kill at the slightest provocation.
- c) Shariah, the Islamic Law, is many centuries older than the contemporary laws and yet it's provisions if complied with will go a long way in curbing the frequent killings which humanity is increasingly failing to control.

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