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Restorative Justice and Its Connection with the Tolerance of the Islamic Religion in Saudi Arabia

Salim Hamid N. Almjnoni*, Mohamad Rizal Bin Abd Rahman

Faculty of Law, Universiti Kebangsaan Malaysia, Bangi, Malaysia

Abstract: This paper investigates the concept of restorative justice in connection with tolerance in the Islamic religion. Justice in Islam rhetoric is theological, ethical, political, social, or legal. The emphasis is on legal justice and its reference to Islam's criminal justice, one of the most misunderstood systems due to its tenets' shallow interpretation. The absolute nature of Shariah laws has led to the belief that Islamic Law is incompatible with aspects of restorative justice and its emphasis on the healing of the victims, integration of the offender in the community, and his and the victim's reconciliation. The study aims to show that despite the inefficiencies in Saudi Arabia's legal mechanisms governing fair trials, there are certain areas where the system excels. A qualitative method was employed, and 15 legal practitioners participated. Analysis of deep introspection of the legal tenets of Shariah laws shows tolerance to other beliefs, thoughts, practices and that Islam as a religion is compatible with any other perception of justice. The study's novelty is that despite the success experienced by Saudi's legal mechanisms governing fair trials, criminal suspects are still vulnerable. The implication of this would be significant for policymakers and judicial practitioners in the KSA.

Keywords: tolerance, Shariah laws, restorative justice, Islam, society.

恢復性正義及其與沙特阿拉伯伊斯蘭宗教寬容的關係

摘要：本文研究了與伊斯蘭宗教中的寬容有關的恢復性正義的概念。伊斯蘭教修辭中的正義是神學的、倫理的、政治的、社會的或法律的。重點是法律正義及其對伊斯蘭教刑事司法的引用，這是最容易被誤解的製度之一，因為其信條的解釋膚淺。伊斯蘭教法的絕對性質導致人們相信伊斯蘭法與恢復性正義的各個方面不相容，它強調受害者的康復、犯罪者融入社區以及他和受害者的和解。該研究旨在表明，儘管沙特阿拉伯管理公平審判的法律機制效率低下，但該系統在某些領域表現出色。採用定性方法，有 15 名法律從業人員參加。對伊斯蘭教法法律原則的深入反思的分析表明，對其他信仰、思想、實踐的寬容，以及伊斯蘭教作為一種宗教與任何其他正義觀念相容。該研究的新穎之處在於，儘管沙特的公平審判法律機制取得了成功，但犯罪嫌疑人仍然容易受到攻擊。這對沙特的政策制定者和司法從業者來說意義重大。

关键词：寬容、伊斯蘭教法、恢復性正義、伊斯蘭教、社會。

1. Introduction

The present study attempts to determine the legal mechanisms that guarantee fair trials in the Kingdom of Saudi Arabia (KSA). Nation's legal mechanisms efficiency is dependent on the fairness of its criminal system of justice, and the availability of a fair trial translates into guaranteed ways to prevent miscarriages of justice. Nevertheless, all accused individuals required their innocence or guilt to be determined by a

fair and unbiased legal process. A fair trial is not about protecting the defendant, and rather it is about ensuring that the society's legal mechanisms are unbiased, just and that the defendant or the plaintiff leaves the courts satisfied with the process, even if the outcomes are unfavorable to either of them. As a result, if the criminal justice system is not fair, trust in the rule of law and the government are likely to erode. The Human Rights Commission (HRC) and other

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About the authors: Salim Hamid N. Almjnoni, Mohamad Rizal Bin Abd Rahman, Faculty of Law, Universiti Kebangsaan Malaysia, Bangi, Malaysia

Corresponding author Salim Hamid N. Almjnoni, salim.maj@hotmail.com

international groups, on the other hand, frequently criticize the Saudi legal system, claiming that it is based on outdated Sharia laws.

Nonetheless, these types of laws are based on preserving basic human rights and maintaining social harmony. Hence, the present study aims to provide an analysis to justify that the Saudi criminal justice system protects all people against the violation of human rights regardless of their religion, race, and ethnicity. Contrarily, despite the inadequacies of Saudi Arabia's judicial systems for ensuring fair trials, there are certain areas where the system excels. For instance, Shariah laws protect all the vulnerable segments of society as the right to education and divorce and marry someone of choice is given to all women. They can also work, own and sell property, vote, and are legally protected. Sharia laws, in essence, encourage fairness and justice in society, as proven by the Zakah, one of Islam's foundations. Zakah is a tax levied on anyone who earns more than a certain amount of money, equating to 2.5 percent of their net worth. The money raised is given to groups and persons who are in dire need.

Additionally, Sharia law also protects children's rights. When parents divorce, for example, custody is frequently awarded after the child's needs are considered. Furthermore, it is the community's joint responsibility to care for the impoverished, orphans, the old, and widows. As a result, everyone, including suspected, should be treated with respect. Therefore, the present study will demonstrate that the KSA laws are based on beliefs, behavior, ritual worship, morals and manners, punishments, and transactions and contractions, which embody restoration of justice globally.

2. Literature Review

Law pervades every aspect of society because it assigns rights and imposes obligations on both individuals and governments. In this aspect, John Austin's view of law as a sovereign command upholds the state's coercive ability to direct men's affairs. Today, the state retains its force power, but it does it within set limits to protect citizens' rights. As a result, Austin's command theory assumes that the sovereign is the source of law, which could be important in an absolute monarchy like Saudi Arabia, where the King and Ulama prescribe the law. Notably, the term "sovereign" can refer to someone who has the authority to make laws or rule a country.

On the other hand, Thomas Aquinas's natural law theory is based on the law being a part of God's discernible plan for man to succeed in life only if he can understand it by practical or theoretical reasoning since humans have a natural ability to comprehend the truth, whether in science or metaphysics. As a result, natural law requires individuals to observe specific

moral obligations, whereas positive law is based on orders subject to constraints.

However, regarding the Kingdom of Saudi Arabia, her major shortcoming of the legal system is its incompatibility with common law precedence and other countries' codified civil laws. The Sunnah, prophetic teachings, and a variety of Qur'anic passages are the fundamental sources of KSA's legal system, and the *ijtihad*, or analogical derivation, in Sharia law is equated to case law in common law systems. Although the Kingdom of Saudi Arabia created a criminal code in 2001, it still refers to the Quran for criminal punishments. The Saudi Arabian government's refusal to sign the Universal Declaration of Human Rights (UDHR) because it contradicted Islamic law was a major setback in developing an ideal criminal justice system. Arafa focused on the makeup of the KSA criminal system from the standpoint of human rights [1]. According to Arafa, a five-pronged lens can be used to examine the criminal justice system in Saudi Arabia comprising of *haram*: the prohibited, *mubah*: the legal, genuine rules and injunctions, policy-related warning language, and procedural guarantees and evidentiary prerequisites in judicial discretion. Again, Arafa recommended a policy for reforming the criminal justice system but did not address the criminal legal system's inefficiency. The present study will address the connection between restorative justice and tolerance with the practice of the Islamic religion's legal systems.

2.1. Analysis of the Court System and Criminal Justice

The Saudi Arabian justice system starts with police apprehensions and leads to the courts. The First-Instance Courts are the system's lowest courts (also known as the General and Summary Courts) [2]. The Courts of Appeal are the next level above. The Supreme Court is the highest in the legal system renamed the High Court by King Abdullah through a royal proclamation. Royal Decrees are thus a source of law, but they are only secondary to God's and Sharia. It remains, however, the highest judicial body with authority to make final, non-appealable decisions. The Board of Grievances, part of the judiciary's administrative structure, represents the King of Saudi Arabia. The Board of Grievances addresses all complaints against the government.

It also serves as the non-Sharia tribunal's appeals court. Special committees in the court system adjudicate various aspects of the law, such as commercial law and criminal cases, including civil matters and administrative concerns. Depending on the level of justice they represent, these committees are established by different decrees. In a case where the defendant, plaintiff, or both did not accept a ruling issued by the Courts of First Instance (administrative, criminal, commercial, and many others), the ruling is

then forward to the Courts of Appeal (which are cited in all regions of KSA) for review. After that, Court hearings are scheduled before appeals courts to reconsider the ruling based on the appeal judges' consideration.

2.2. Brief Analysis of Islamic Law

Lawrence Rosen, an analysis of Justice and Islam, writes: "the central theme of Christianity is love and that the central theme of Islam is justice" [3]. This dichotomy presents Islam as a religion that emphasizes justice above any other thing. Ali Akbar, an Islamic legal scholar, asserts that: "Justice is Allah's attribute, and to stand firm for justice, even if it is detrimental to our interests as we conceive them or the interests of those who are near and dear to us, is to be a witness to Allah" [4].

However, as Islam claims justice above human law, it is prudent to understand the form of justice that Islam permits and promotes restoration and communal integration. There is the question of whether the Islamic Sharia Laws and their mode of punishment and award of justice favor restorative justice. The major conflict between the Western and the Middle Eastern civilization is their concept of justice and liberty. Islam is an integral part of life in the Arab world, and as such, it is considered a way of life. Criticism, however, arises from the considerations of the way Islam defines and rewards justice. Punishment in Islam is addressed using the Sharia Law, which draws its powers from the religious canons defined in the Qur'an and other legal definitions instituted by Sharia Laws specialists. However, the three sections of the criminal law draw whether Islam can be compatible with restorative justice. Islamic criminal law has three sections: Hudud (sing. *Hadd*), Qisas, and Tazir (also *Taseer*) [3]. Hudud is a rigid spell-out from the Qur'an and how it defines the relationship between men and God, while Qisas emphasizes retaliation. Tazir is based on the general interpretation of Sharia laws and covers traffic laws violations, bribery, and corruption [5].

The definition of Sharia Law, as explained above, shows that Sharia Laws are relatively rigid. Hudud and Qisas violations are not subject to appeal. The hearing and sentencing of these cases are also very different from the Westernized system of justice. For instance, violations of laws based on the interpretation of Sharia laws (cases that fall within Tazir) are done by judges, and appeals are allowed. However, crimes that include Hudud and Qisas are held as absolute rules, and the parties in the case must be content with the ruling [6]. For example, the Rule of Qisas demands that equal punishment measures be given to the offender after proof of their offense is established. Criminal offenses that end in the death of an individual are decided by allowing the deceased's family members to decide the offender's fate. The options available are forgiveness or a death affirmation of a death sentence. The crimes of

Qisas are aimed at inflicting punishment to the offender, and in the classic definition of Hammurabi law, an eye for an eye.

Nevertheless, blood money may be given as compensation for the loss [3]. Crimes of Hudud are punished with a fine, death penalty, public flogging, prison sentence or amputation, or a combination of either form of punishment. The interpretation of Islamic Law, as presented above, risks the portrayal of Islamic law as a rigid and unchanging canon that do not respect the virtues of change. Many Western adherents believe that the Prophet codified Sharia Law, and it has remained unchanged despite the evidence of changing times in the Arab world. However, this is not true.

Notwithstanding, the media has placed an image of a brutal, bloodthirsty bloke on the Sharia Law adherents. Still, in reality, Sharia Law is morphing to address the needs of restoration and restorative justice. Sharia Law and justice's emphasis is that Sharia is inferred from the teachings of God and the Sunnah. Islamic beliefs are that positive laws may be formed, but the absence of religious inspiration makes them void of justice elements [5]. As the Islamic laws are evolving to address contemporary issues, they have remained attached to the definition of Quranic and Sunnah concepts of justice.

The law is believed to protect all Muslims and non-believer alike, and although they may apply differently to the non-believers, they are nevertheless just. In most Muslim majority countries, the traditional Sunnah and Shariah laws are not emphasized in their absoluteness. Still, they are modernized to fit the definition of contemporariness. The Shariah laws have been codified in most of these states, and the influence of the European Legal codes linger and affect the formulation of their criminal justice systems. Many states that emphasize Shariah laws in determining justice apply these laws in personal matters that demand such intervention [5]. These nations insist that no law is recognized if contrary to the Shariah definitions, but the modernization trends force them to adopt the post-colonial regulations. The codification of the Shariah law modifies its essential nature, making it adapted to modern trends.

2.3. Analysis of Restorative Justice

The concept of restoration is based on returning things to their former state of equilibrium. On the other hand, crime upsets the status quo of society, leading to the dissatisfaction of one party or another due to the usurpation of their liberties. Thus, restorative justice views crime as an act of breaking the law and extends this concept to causing harm to the social fabric. Criminal activities, therefore, harm people, relationships, and the community. Islam views tolerance as a basic element of Islamic living [4]. Verses from the Holy Quran acknowledge the difference in thought, taste, and behavior as human life

facts [4]. This study aims to explain the relationship between restorative justice in the Islamic niche and tolerance as teaching of human living. The conclusion is that Islam recognizes the virtue of restorative justice to amending the wrongs inflicted on the community but limits what can be tolerated based on the considerations of Islam's teachings and the contemporary definition of justice.

The Center for Justice and Reconciliation asserts that restorative justice has three elements: 1) repair, 2) encounter, and 3) transform. Reparations acknowledge the harms that have resulted from anarchism, and restoration efforts must thus be employed [7]. Encounters mean facing the realities of the harm, and in some cases, facing the persons who were harmed by one's activities. Transformation is considered a fundamental change in the criminal and achieves a sustainable relationship with their family and the community. The essence of restorative justice restores the offender to the community and gets the community to support their recovery as they rejoin society. Crime causes harm, and therefore, justice is null if it does not focus on repairing the harm. Furthermore, the crime involves parties, and the parties must be involved in its resolution. The criminal justice systems must, however, participate in building the required peace.

2.4. Tolerance in Islam in Practice

The teachings of Islam are focused on achieving peace. However, the stereotypic description of Islam as a religion of conflict makes those outside the Islam community think that Islam is only tolerant with itself, and aspects of justice and restoration are alien in Islamic law. Islam's view of tolerance is that tolerance is necessary, if and only if the behavioral aspects tolerated are inconsequential to the social structure [8]. Nafisi states: "In the viewpoint of Islam, being indifferent towards wrong beliefs and misbehaviors means confirming them in a sense, and its ill consequences will seize the whole society rather than only the violators" [9].

The consequences of ignorance in the face of issues that have a great societal impact are thus dire. In simple terms, watching without criticism, as others break the social contracts, the unwritten laws of social living, and the legal obligations is equivalent to participating in such crimes. The Qur'an's hadith of Thamud and the Camel of God confirms this belief. In the hadith, the wretched who killed the Camel of God were equally guilty as Thamud's infidels, who consented to the practice (Quran 91:14). Akbar in [4], in this respect, said Islam emphasized social responsibility and echoed in the assertions of restorative justice.

2.5. Restorative Justice and Tolerance in Islam

Restorative justice in Islam is attached to the elements of mercy, repentance, and forgiveness instead of the Western emphasis on communal and personal

attributions and confrontations with reality. Islam is translated from salaam, meaning it emphasizes peace as the base of any other conversation.

However, the crimes of Hudud present a conflicting interpretation of peace, forgiveness, and restoration since neither the victim nor the state has any authority to forgive the offender [3]. In this case, reconciliation is left between the offender and God. Islamic teachings assert that a repentant offender receives entry into Janna as they face the consequences of their earthly activities. The Qur'an states: "O My Devotees, who have committed excesses against their selves, do not despair of the mercy of Allah. Surely, Allah forgives all sins. Indeed, He is the Most Forgiving, the Merciful" (Quran 39:53). This belief thus reconciles the offender with the victim, and the community accepts the rule of law. With this respect, Islamic Hudud punishment, in the case that it results in the death penalty, the elements of restoration are evident.

Qisas crimes are based on the "eye for an eye" principle, but the victim's fate is largely left in the hands of the victim rather than the rule of law. The teachings of Islam on forgiveness are: "And the recompense of evil is punishment like it, but whoever forgives and amends, he shall have his reward from Allah; surely He does not love the unjust." (Quran 42:40). There has been an emphasis on forgiveness, and mercy is ubiquitous in the Qur'anic teaching, with the word's "forgiveness" mentioned about one hundred times and "Mercy" mentioned about two hundred times. This means that Islamic teachings prioritize mercy and forgiveness as the first steps in reconciliation. Those who forgive are assured of rewards from Allah. After forgiveness, the offenders are not locked nor subjected to isolation as characterized in Western penology. Still, they are given a chance to compensate for their faults, and in a way, rehabilitate themselves in the community. Islamic community does not also stigmatize the forgiven individual. They are given a chance to prove their loyalty to God's laws and show that they are part of the greater community. In broader perspectives, Qisas rules provide the opportunity of achieving restorative justice in greater fluidity than any other legal penology. One gets the opportunity to repair their relationship with God and the community at large.

3. Methodology

The present study employs the qualitative approach through interviewing key sources and administering interview questions. The interview questions were proofread after it was designed and approved by three panels of academicians who are experts in Islamic law and Jurisprudence, thus confirming to represent the study objectives. There are twenty questions in the interview. The cohort consisted of fifteen (15) lawyers who worked in various divisions of legal representation across the KSA. All of the law firms and offices where

these lawyers worked had secured a license to practice law from the Saudi Ministry of Justice, which the monarchy had granted these rights to practice. The necessity for a diverse perspective of different legal experts whose practice is guided by the same legal reference drove the decision for diversity. The interview process took a long time and was hampered by the ongoing influenza pandemic (Covid-19). As a result, some interviews were conducted face-to-face in line with the safety and health regulations, while others were carried out over the phone. In order to avoid biases associated with telephone interviews, every precaution was considered.

4. Data Analysis

From the fifteen interview participants, their areas of specialization ranged across fields. Six (6) out of the participant possess a Bachelor of Law, while eight (8) were with Master of Laws degree, and the remaining one (1) has a Ph. D in Sharia Law. All of the respondents were practiced lawyers in KSA; therefore, they had firsthand knowledge of the legal system in the country. Also, it was ascertained that all of the interviewees worked for law firms that were government-licensed to practice. The oldest firm started in 2000, while the newest was founded in 2014 and 2016. Participants from these newest firms all indicated that they had been legal practitioners for at least 15 years. In this regard, their experience was not necessarily represented in the duration of their employer firms. These data are analyzed in conformance with the interview questions. They are also organized logically based on the responses of the 15 participants to the questionnaire's 20 questions. The following interview questions were asked:

Q1: Is it possible to get information about your name, academic qualification, and current profession?

Seven (7) said they handled the majority of cases, including criminal matters. Four (4) said they specialized in administrative and commercial law, while the remainder said they handled all issues equally. Only one indicated that they did not address ethical, presentation, or drug-related issues. It was clear that the group had variable levels of understanding of the elements that influence various law sectors and would have differing viewpoints on the subject.

Q2: Do you face obstacles in the law when you are pleading in any case?

When asked if they encountered barriers during practice, eight (8) respondents said *Yes* or *Sometimes*, admitting that they did. The other seven (7) responded with a simple *No* or indicated that their practice was free of impediments. Respondents who affirmed the existence of difficulties spoke about nature and the sources of these impediments from their point of view.

Q3: To what extent is the need for legislation in the penal code law in the Saudi criminal justice system, as in many countries such as Jordan and Emirates?

All of the participants believe that the criminal justice system in Saudi Arabia needs to be codified. The arguments ranged from convenience to including a code to make the KSA legal system easier to understand and reference. The first responder stated that "in discretionary circumstances, there is a need for a penal code to codify sentencing according to judicial precedents." This attitude was shared by all of the respondents, who advocated for a penal code for "promoting cases" and legal constraints on judges' powers.

Furthermore, numerous discretionary punishments were imposed at the judge's discretion and did not adhere to a set of rules. In some circumstances, this mobility permits Shariah laws to be misused, obstructing justice. They all agreed that having a penal code would make it easier to apply the law, particularly for attorneys and judges. Furthermore, the codes would provide a solid platform for understanding case law, particularly regarding the intersection of Hudud and Qisas punishments. In such instances, a legal document would serve as a reliable reference that would provide order and eliminate confusion due to a lack of legal discretion.

Q4: Do you think that the criminal procedures currently applied in the Saudi criminal justice system fill the need for a penal code?

Analysis of the strengths and positive ways the KSA legal system has influenced criminal justice; all participants believed that the Saudi justice system had provided many benefits that could not be achieved otherwise using a different process. The inclusion of Article 200 of the systems of legal proceedings, which provides for appeals of judgments if the outcome is not satisfactory, was one of the strengths. In this case, the judgments may be appealed twice, and in both cases, the judgments had to be evaluated to see if they were suitable for the case.

Another legal structure also permitted the accused to pick their chosen counsel (or have one appointed for them by the state) that were highlighted as a reply to indictments, and dispute judge rulings, among other things. Another respondent stated that the system was constantly improving and evolving in order to respond to current concerns. Furthermore, the legal specialists could share their notes on court rulings, allowing for a better cooperation system inside the organization.

The issue of arrest warrants is one of the primary trends that recent technological advancements have aided. According to the respondent, the current system is set up so that the investigating officer has the right to prevent arrests after consulting with higher authorities regarding the legal merits of the case. The consultation was conducted electronically, with the investigating officer presenting the case against the suspect to a panel of investigators above them before deciding to arrest them. The procedure was quick and painless, and communication was swift and straightforward. This

provision ensured that if an arrest was carried out, it would be made after competent legal advice and that its legal weight would be taken into account, making it more likely to result in prosecution.

Despite their difficulties in representing their clients, the lawyers said that the system allowed them to contact them and plan for pretrial hearings and subsequent defense. This clause allows lawyers to get involved in preliminary inquiries to help their clients achieve their goals. The lawyers' early engagement allowed them to advocate for the accused's rights, ensuring that their clients were treated with humanitarian respect and given a chance to defend their acts legally. This move solidified the function of legal representation in Saudi Arabia and demonstrated that the Saudi legal system was extremely similar to western procedures for obtaining justice. However, they did agree that this system was still in its infancy and that when it matured, it would be a symbol of a changed criminal justice system.

Another benefit was that the criminal justice system was now accelerating justice for those who had previously been accused and imprisoned, giving these people hope by giving them a platform to review their cases and argue them out with greater evidence.

According to the respondent, this method was vital in bringing hope, and it was well-intended because it gave a special focus to a forgotten group. Furthermore, technological improvements that facilitate the activities of the criminal justice system were cited as a significant step toward improving the system's efficiency. Since the electronic system was integrated into the criminal justice system, it has enabled remote litigation and governance.

Except for one, all of the participants believed that the Saudi criminal justice system is flawed. Human error was blamed for the majority of the flaws rather than inefficiencies in the legal system. The first respondent stated that the misinterpretation and contravention of one item and the blind application of that article to judicial hearings have an impact on the case's conclusion. It is a symptom of a larger problem plaguing the criminal justice system: an absence of a clear code.

The lack of cooperation between the courts, jail departments, and legal departments was another flaw in the criminal justice system. Another respondent mentioned a lack of legalization of the judiciary in some circumstances that require it and a lack of legalization of litigation procedures. The respondents also stated that their activity was hampered by a lack of understanding of the legislation and the adaption of the criminal justice system's articles to crimes.

Another issue raised was the time it takes to resolve issues due to a complex and longer bureaucratic process required in some circumstances.

According to the response, some instances had to go through committees and be heard and reheard before

their destinies were decided. Each committee required time, and because this was the established rule of conduct, they (the committees) could not be coerced to speed up the process, which resulted in case decisions being delayed. The defendant also mentioned a sloppy cost analysis for courts, which caused a delay in the release of the judicial costs system. Another concern raised was the legal system's lack of support for lawyers while they performed their duty. Lawyers play a critical role in the legal system. They ensure that the rights of the accused are protected and that the justice system is administered fairly. However, the participants acknowledged that the government provided virtually little support for lawyers' efforts in some circumstances. This included the police and correctional service's refusal to provide them fair access to their clients, in certain cases, poor coordination between the lawyers and the top investigators, and the lawyers' failure to sway the outcome of some cases despite their best arguments.

This most recent instance was well-known for Hudud offenses. Furthermore, because the dictation of punishment was wholly dependent on the judge's discretion, the judge's description of the case's outcome carried much weight, and this was especially true if the judge or the panel was purposely biased. "The most notable of [such situations] was the judges failing to implement some restrictions and bypassing them or applying the greatest discretionary penalty in the regulations or below," the respondent said. "Nonetheless, the court systems, like any other criminal justice system, had measures in place to ensure that the judicial process of the law was followed to the letter. In response to these concerns, respondents mentioned various strategies that help people comprehend why these preventive measures are necessary. In essence, recent technical advancements permitted the ministry of justice to monitor judicial processes from afar. "All judicial sessions are undertaken with voice and image, directly sent to the Ministry of Justice, to ensure the correct conduct of trials and check their integrity," the response added. Thanks to this transmission, the trial procedure was scrutinized, and the panel's decision was scrutinized based on the conclusion of the case arguments. While this procedure does not guarantee that the judges' discretion will be influenced, it was a manner of assuring transparency and putting pressure on the judges to make the best decisions possible because they were being monitored. Furthermore, because the number of cases that could be conveyed was limited, only instances of judicial importance received this level of attention.

Another participant explained that legal counsel and judicial review are the most crucial aspects of the system. As previously stated, the KSA judicial proceedings are open to public observation, and the outcomes of cases, except for Hudud offenses, can be appealed and repealed to ensure that the final verdict

reflects justice. The answer mentioned that the criminal justice system allows for the representation of the accused, which is a significant step forward in terms of justice in Saudi Arabia. The benefits of legal counsel are immense, and legal teams have the power to argue matters and provide different views that may sway the judge's judgment. The system's strengths are thus found in the phases that govern the conduct and integrity of legal proceedings, such as legal representation for the accused, bringing litigants, and reviewing verdicts. The most praised part of the KSA legal system was the procedure of expediting justice. In this regard, one respondent indicated that the system's culture and customs fully understand the non-expressed elements of justice. As previously stated, Saudi Arabia's legal system is based on its interpretation of religious texts. The fact that the Holy Scriptures stayed untouched since they were penned is the most amazing feature. As a result of the circular transmission of these documents, a fundamental concept of how the law is defined has emerged. To grasp their meanings, legal professionals must dig deep. The importance of customs for the country as a whole, and notably for the justice systems, cannot be overstated. Another participant praised the courts' specialization in dealing with legal concerns. He claimed that the KSA legal system was perceived as non-specialized since judges were not required to define their areas of expertise. In terms of the process, however, KSA has a specific system in which each case is assigned to a court appropriate for it. As a result, there is a separate court that deals with commercial, social, and religious matters, among other things. These contracts allow the system to remain efficient while maintaining control over the administration of justice.

Finally, the fluidity with which the judges were treated was praised as system strength. The respondents pointed out that the Act outlines procedures that begin with the accused's comprehension of the charge and end with the execution of the final judgment. These procedures are used depending on the nature of the case and where it is in the legal process. As a result, judges are not forced to produce judgments based on a predetermined set of rules but rather on their comprehension of the facts of the case.

5. Conclusion and Discussion

These findings point to some concerns that should be investigated to understand the strengths and weaknesses of KSA's legal systems and how they are influenced by the elements listed. The data analysis has shown technological issues with the legal system in the Kingdom of Saudi Arabia. These are explained in the following section:

5.1. Judicial Independence and the Authority to Deny Pleading of Cases

Article 46 of the Saudi Basic Law of Governance stipulates that "the judiciary shall be an independent

authority and judges shall be subject to no authority other than that of Islamic Shariah in their administration of justice" [10]. Judges' actions are guided by independence, which gives them an advantage in the judicial system. According to Article 1 of the Law of the Judiciary, "Judges are independent, and in the administration of justice, they shall be subject to no authority other than the provisions of the Shariah laws in force." According to the same article, no one is authorized to tamper with judicial processes, and Article 5 of the same document elucidates this point. Interfering with the judiciary's operations is punishable by a fine or imprisonment of up to ten years.

As a result, judicial authority is more significant in preserving people's rights and ensuring that justice is administered fairly and adequately. Judges conduct judicial reviews and, as a result, protect the rule of law, making them strong agents in reinforcing compliance with the law. However, the data study found that judges in the KSA judicial system create their influence in various ways, including frequently prohibiting lawyers from filing a case. On closer examination, it is clear that the document's wording in the system of judicial arguments obligates judges to deny the lawyer the opportunity to plead when they believe it is necessary for particular offenses or owing to their discretion. There is no direct statement in a legal context that a judge has the authority to prevent a matter from being argued or answered.

However, it turns out that this authority is an approximation of the rule outlined in Article 61 of the Saudi Arabian Law of Procedure Before Shariah Courts: Hearing Procedure and Order. The article expresses: "Proceedings shall be in open court unless the judge on his own or at the request of a litigant closes the hearing in order to maintain order, observe public morality, or for the privacy of the family." [11]. Regarding pleading a case, Article 63 states that before questioning the defendant, the judge shall ask the plaintiff whatever is necessary to plead his case. He cannot dismiss the case to remedy a pleading, nor can he continue the matter before that. This is regarded as a technical challenge in the restoration of justice in the Kingdom of Saudi Arabia.

In terms of judicial power and the system of behavior, the study concludes that the KSA judges' judicial authority is indisputable, second only to the King's. In deciding case outcomes, judges enjoy near-absolute authority. The main concern here is if any biases have been identified that could influence the judges' decisions. Some problems can cause a judge to be disqualified from overseeing a case due to confirmed kinship relationships or prejudiced interests in the matter at hand. However, no research has been done to determine whether judges' personal biases influence their judicial judgments. In cases involving articles 61 and 63, the legislation authorizes judges to

proceed provided the defendant has a competent defense. The statute also guarantees that the Ministry of Justice will give them the necessary assistance if the defendants do not have legal representation. Even if there is adequate evidence to demonstrate that the argument presented is a higher contravention of religious behavior (Hudud cases) and defense is necessary since the mandated sentence may approach death, judges have no constitutional authority to deny any defendant the right to have their cases pleaded.

These characteristics have been criticized by scholars, who argue that it is wrong to prosecute small offenses in the context of international law. Okuno and a few other persons argue that every free individual has the right to freedom of thinking and the liberty to choose a religion, a spouse, move freely, and define one's preferences. In the context of a democracy, these civic liberties are wonderful and alluring. However, because Saudi Arabia is not a democracy, a "small crime in the eyes of these individuals" such as marrying someone of a different religion, cross-dressing, or adultery can result in a legal penalty.

Although the international community cannot and will never consent to these types of legislation, Saudi Arabians have become accustomed to them, and as evidenced by the replies, they believe the law is thorough. The best these organizations and critical thinkers can do is find a way to stimulate information sharing. This endeavor may help lessen judges' proclivity for misinterpreting the law and dispensing justice inconsistent with their system.

5.2. Pleading for Hudud Crimes

This is another technical issue identified with KSA restoration of justice. It focuses on the realization that not all cases would be pleaded. This demonstrates substantial difficulties in the administration of justice in KSA criminal courts that must be addressed. Given the nature of the significant offenses in Islamic KSA (Tazir, Qisas, and Hudud), it is clear that the only time the judge can use ultimate authority is while dealing with Hudud offenses.

Hudud crimes include allegations of sexual obsession and lustrous sins like sodomy and adultery, sacrilegious acts like blasphemy, carelessness of prayer, and disobedience to follow religious calendars, as well as apostasy and presbyterial charges. The religion of Islam has a big influence on how these crimes are judged. Islam is a religion whose aspects of faith define the culture, legislation, and social order in Saudi Arabia, as it envisions a society rigid to righteousness and justice. Hudud crimes are frequently defined as a violation of God's sovereignty, and as a result, they are punished more severely than other societal infractions. Although progressives have fought for major improvements in Islamic rules, it is normal to make judicial rulings on Hudud offenses based on archaic principles.

Other cases of disobedience against "God put leaders" on earth are included in the definition of Hudud offenses. As a result, defiance of the highest authorities, whether political or religious, is deemed a Hudud offense, punishable by death. Similarly, it is a Hudud felony to affiliate oneself with a faith other than Islam, which carries the death penalty. These rules are enshrined in Muhammad's hadiths, which state that: "The blood of a Muslim may not be legally spilled other than in one of three [instances]: the married person who commits adultery; a life for a life; and one who forsakes his religion and abandons the community". Hudud offenses are defined as high treason in these passages, and the sentence is death. They are absolute in the sense that they cannot be contested when *prima facie* evidence has been established, but they are an obstruction to justice in the larger sense of international criminal law.

In summary, Hudud offenses are predetermined, and there is a widespread consensus that their punishments are harsh. However, the reality is that there is no way to handle this issue without hurting the legal authority of the Kingdom of Saudi Arabia, which includes invading Islamic doctrines. Islam should be distinguished from the state and defined as "traditionalistic, legalistic, and conservative." Many scholars of Islam and law respond by stating that Islamic law must be informed, cultured, and personalized. As a result, it is necessary to dismantle core Islamists' traditional thinking, which assumes that laws written centuries ago reflect modern-day justice desires. Traditional notions that emphasize traditional punishing means such as execution and chopping off bodily parts, or whipping and public humiliating, must be abandoned.

However, given that Islam is a divine religion that conforms to every time and location, this will be problematic, if not impossible. This point denotes a fork in the path, and it will not result in trend convergence. Another illustration of applied Islamology, a progressive-regressive form of justice in which long-term historical ideas are fused with short-term viewpoints to guide verdicts is the use of judges' discretion in cases. This is a sort of dogmatic Islam, a prescription that does not allow for the liberty of thinking to be exercised at the judge's discretion.

5.3. Administrative Coordination and Codification of Shariah

More issue raised was the absence of administrative coordination of case development among court staff due to differing interpretations of some articles and the paucity of judges in the courts. The assessments revealed that the source of this stumbling block was the lack of codification in the specialization of courts in light of new case law updates, the opening and assigning of courts for each case and the lack of a process in the progression of each case from one court to another.

A professor of political science and international affairs at George Washington University mentioned that the Saudi justice system is difficult to comprehend and extremely exceptional, describing it as opaque and sui generis: one-of-a-kind. He points out that while the legal framework is not complicated on its own, the terminology employed to refer to its judicial procedures differs. For instance, in Saudi Arabia, the Supreme Judicial Council, common in other Arabian countries that control judicial proceedings and subordinate the judiciary to the executive, is overtly supreme, with absolute power over all other courts and serves as the appellate court, and resists executive pressure.

The KSA legal process consists of a Shariah-based dual judicial system and independent administrative courts known as the Board of Grievances. The Shariah courts became a dual system after the formation of juvenile courts under the Shariah courts. The Court of Guarantee of Marriages and the Juvenile Delinquency Court are therefore included. The Supreme Judicial Council, which has eleven members, is the highest court in the land. The Courts of Appeal, with the principal head judge and other judges whose capacity is decided by the case, is the second higher-ranking court.

The final and most popular court is the First-instance courts, often known as general courts or summary courts. Although it hears the bulk of cases, the importance of the first instance courts cannot be emphasized. However, these courts, paradoxically, have extremely few judges, and in some circumstances, only one judge to rule over the proceedings. The single judge who liaises with the Ministry of Justice and the Supreme Judicial Court to judge the cases before them has overburdened the summary and general courts. Furthermore, they have limited experience with certain Hudud matters, monetary damages cases, and some Qisas cases. In addition, despite Saudi Arabia's huge size, there are only about fourteen (14) general and summary courts in the country. The minister of justice defines the general, Board of Appeal, and Summary Courts, which makes it somewhat complex and redundant.

The application of various articles that guide judicial proceedings is also inconsistent, resulting in a chaotic environment in which order and justice are valued. For example, article 1 of the legal codes provides that the Board of Grievances is an independent judicial board when dealing with the legal demands of foreigners. The Board, however, is not independent because it must coordinate its work with the Minister of Justice, as previously stated. The Board's role is thus blurred with that of the Board of Appeal Circuits, as both can accept adjudicative and judicial complaints, submit them to the relevant minister, and wait for the recommended guidelines on the verdict. The Board can also make decisions in circumstances where the administration is not involved.

When the definition of its limits involves resolving disputes between foreign nationals, there is much misunderstanding.

Based on the previous, the study has shown a novelty in the vulnerability of criminal suspects despite the success experienced by Saudi's legal mechanisms governing fair trials. With the current study, the new findings showing a strong relationship between restorative justice and tolerance in Islam as a religion and its legal mandates enshrined in Shariah laws, the Sunnah, and other Islamic codes, could be said to be novel in academic literature. These elements are well developed, as shown in the understanding of Hudud and Qisas crimes. The ordinary populace does not understand these elements well because they are not well developed and explained in much literature as the Western legal systems have been explained. Islam is tolerant of other people's belief systems, and the believers prioritize justice restoration and reconciliation above anything else. The Shariah laws are evolving to meet the modern perception of the legal order, but this does not mean that they are ineffective in upholding justice among those who hold within the law. This paper has only analyzed the legal bounds of Islamic law and its relationship with restorative justice as understood by the Western definition of law. Further analysis is needed to establish a relationship between Islamic codes and how they fail to meet the western definition of restorative justice.

6. Limitations

The current study is qualitative in which interviews were done over the phone with respondents due to the advent of Covid-19. Therefore, findings and conclusions on the KSA system of justice are not confident enough to be generalized as there might not be transparency on the respondents. Hence, further study is advised to carry out a focus group or face-to-face interview to ascertain the sincerity of respondents.

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