

Dissolution of Deductions in Islamic Jurisprudence and Customary Jurisdiction

Comparative Study Bethlehem Model

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Abstract:

This study shows the methods of solving discounts and problems in the tribal judiciary compared to Islamic jurisprudence. By the tribal judiciary, following personal interviews with the tribal judges in Bethlehem Governorate. The researcher examined the following: the characteristics of the tribal judiciary, its specifications, the reason for its appearance, its origin, its most important sources and references, the Custom effect. This study has dealt with the most important methods which used to solving problem in the tribal judiciary. The tribal judiciary has the effect of controlling the civil peace and ending the conflict between the people. The tribal judiciary also has the power to extend its authority and its authority among the people, especially with the absence of the Islamic state, and disabling to Implementation of Legitimacy punishment.

The tribal judiciary is characterized by its own ways of resolving disputes, from "truce" between the parties, hearing the arguments to issuing judgments in the presence of the guarantor, and indicating the most important methods of punishment, such as "Almanshd" until reaching reconciliation, it was also characterized by the imposition of large financial sanctions aimed at deterrence and denial of the oppressors and aggressors.

As well as issues and issues related to assaults on women and supply, theft, defamation, money, and other matters in which people may quarrel. The study concluded with a series of results, the most prominent of which is that the tribal judiciary in most of its punishments may be legitimately accepted provided that it serves the purposes of Islamic law and does not contravene the Shari'a provisions, taking into account the need and necessity of invoking the tribal judiciary and safeguarding the general interest of the Islamic community.

The most important recommendations are that the tribal judges should consult the scholars of the law and the judiciary by following the personal interests and interests, and maintain the control of civil peace in wise and sound ways and approval of Sharia .