

Legal Sanction in Islamic Law and International Law: A Comparative Examination

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Abstract

Despite the existence of judiciary authorities, the international legal system lacks the necessary and effective sanctions to enforce its rulings, and the only basis to sanction these rulings are countermeasures, which due to the imbalance of power among the parties, and also the possible influence of some parties over international bodies, could not provide a considerable and efficient measure to bind over the parties to keep their obligations. Thus far, then, we have witnessed forced wars and warmongering on the side of the world powers without any observation of human rights or humanitarian laws. On the other side, in monotheistic religions, and particularly Islamic laws, there are necessary and effective prerequisites for legislation and sanction, such as undisputed authority, justice, knowledge, and mercy. Contrary to the assumption that Islamic legal sanctions are limited to otherworldly punishments and are of no utility for the international legal system, the Islamic legal sanctions have various pedagogical; compensational; individually, socially, and internationally retributive; genetic and statutory; and worldly and otherworldly dimensions, each of which has many instances cited in Quranic verses and hadiths. This measure, not only guarantees the compensation of violated rights of subjects, is also of deterrent and preemptive quality against perpetration of crimes and injustices.

Keywords: Legal sanction; Islamic laws; international laws; countermeasures; obligation.

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