

## **A Comparative Study of the principle of Penal and Criminal Laws in Islam and Judaism**

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### **Abstract:**

In the field of religious studies, study of previous religions and orders is important, because divine religions have a one truth and essence; Judaism, Christianity and Islam are relative religions and have a common history. All three are attributed to religion of Abraham, Hence are called the "Abraham religions". All three of them have Semitic origins; therefore they are called the "Semitic religions". All three believe in one God, and for that, they are called "monotheistic religions". Though Islam subscribes the past of Jewish, does not necessarily defends all the Jewish teachings and holy books in its current form. However, these two religions are very similar and that is the value that they have given to religion. So that, none of the major live religions of the world have not such esteem. Many similarities in principles of the two relative religions have provided a suitable ground for comparative studies. In the field of law studies also found many similarities between two religions. The scriptures as a source of laws, criminal law, criminalization and punishments and ... all are of the important law issues that the way of their expression in both religions have many similarities. Since religion has a special place in Judaism and Islam, this research aims to review the principles and elements of criminal as well as some penalty goals in the religious teachings sphere of these two religions. In this regard, verses of The Quran, authentic hadiths (traditions) and The Torah should be known as the main sources of recognition of these two religious orders.

Although Torah has been distorted, but this does not mean that everything is distorted in Torah. There are many juridical and ethical rules in Torah that cannot doubt in their divinity. In the other hand, many of the adventures happened to the Moses Prophet and the Israelites have been mentioned with slight variations in The Qur'an which is immune to any distortion. In the juridical doctrines of religions, Jewish and Muslim have common concepts of criminal law which sometimes are in compliance and in some points is divergence. Requirements and criminal responsibilities have been defined what the holy legislator has set for criminals or sinners of this world, whether their crime is related to a sin which has a particular punishment or to other sins, whether criminal punishment is corporal or financial. Among the principles of Requirements in criminal law is the principle of legality of criminal offenses. Despite misconceptions about the founding this principle, what history shows is that this important principle in criminal law of Judaism and the criminal law of Islam is emphasized by clear wordings of The Qur'an and The Torah. Another principle of this case emphasized is "personal being of the punishment" which has also been emphasized in The Qur'an in many verses. The remarkable point about this is the apparent differences between The Qur'an and The Torah about this principle that these subjects should not be inconsistent with the principle of "personal being of the punishment". Because these verses are intended to express the conditional and hereditary effects of sin, and transferring the evil to future generations, not transferring apparent punishment and penalties to them. Criminal

responsibilities sometimes are missing in the objective form and sometimes in the subjective form. In some cases, the legislator, for some reason, removes the title of criminal from the action, on the others, the causes of disclamation and deterioration most lie in the criminal person not in transition. These factors, with some variations have come in both religions. Penalty goals in both religions have also many similarities in many aspects among which may be cited protection of Divine sanctuary, concealing the effect of the sin, restraining the offender and his family and friends.

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