

Comparative Analysis of Fundamental Classifications in Islamic Criminal Jurisprudence and Western Criminal Law

Zeinab. Zarei¹, Hossein. Dehshyar^{2*}, Rahmat. Haji Mineh³

¹ Department of International Relations, NT.C., Islamic Azad University, Tehran, Iran.

² Professor, Department of International Relations, Allameh Tabatabaei University, Tehran, Iran.

³ Department of Law, ET.C., Islamic Azad University, Tehran, Iran.

* Corresponding author email address: h.daheshiar@atu.ac.ir

Received: 2025-04-03

Revised: 2025-05-25

Accepted: 2025-06-04

Published: 2025-11-20

DITOR:

Cavid Qasimov^{id}

Prof, Faculty of Letters Department of History, Van Yuzuncu Yıl University, Van, Türkiye. Email: cavidqasimov@yyu.edu.tr

REVIEWER 1:

Mohammadbagher. Jafari^{id}

Department of Sociology of Culture, Istanbul, Türkiye. Email: mbjafari@kmanresce.ca

REVIEWER 2:

Yuyu Zheng^{id}

School of International Relations, University of St Andrews, St Andrews, London, United Kingdom. Email: yuyuzheng@gmail.com

1. Round 1

1.1. Reviewer 1

Reviewer:

"Therefore, this paper begins by explaining classification from the perspective of logic..." — The roadmap for the article is helpful but remains vague. Please explicitly list the main sections or questions the article will address.

"Contrary to what is often assumed, each classification either constitutes a logic of its own..." — The quotation from Moallemi is rich but too lengthy without intermediate analysis. Please break it down and provide your critical interpretation of each major claim.

"Given the characteristics he outlines for classification..." — The transition to religious classifications is abrupt. Please provide a connecting paragraph explaining why religious foundations necessitate distinct classification systems.

"René David, contrary to many jurists and legal scholars..." — This paragraph introduces a major theme but lacks citation diversity. Please cite at least two additional scholars besides David who discuss the structural role of classification in law.

"Therefore, legal scholars in our context rarely engage with external legal systems." — Please nuance this assertion: there are exceptions in comparative Islamic law scholarship. Consider adding a sentence acknowledging recent comparative studies.

"There is little awareness that every classification is based on a foundation and directed toward an end." — The analogy of carrying glasses is engaging but a bit informal for a scientific article. Please use a more juridical or institutional example.

"With the emergence of states and the enactment of criminal regulations..." — You mention 'states' without specifying historical context. Please briefly note which civilizations or periods you refer to (e.g., Mesopotamian city-states, Greek polis).

"Therefore, from the Qur'anic perspective, qisas is the right of the people—not the government or state." — Please address the historical evolution of qisas enforcement in Islamic states, as it has sometimes involved judicial authorities, complicating the private/public distinction.

"However, because qisas has a penal character, it cannot be placed under private law..." — The logical dilemma is well presented, but please strengthen it by referencing comparative discussions in Islamic criminal law (e.g., Peters, 2005).

"As a result, within criminal law, the relationship between the state and its citizens becomes a central concern." — Please better distinguish between the state's role as guarantor of rights and state monopoly over punitive action in modern theory.

"From a legal system perspective, because qisas addresses behaviors such as murder and bodily harm..." — When stating that "placing qisas under criminal law distorts its Islamic character," provide more legal examples from Iran's recent penal codes to illustrate this distortion.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

"Classification is defined as the breakdown of entities into mutually exclusive parts..." — You reference multiple classical sources (Muzaffar, al-Farabi) but omit any modern logical theories of classification. Please integrate a few contemporary logic theorists to update the discussion.

"Sometimes the subject matter of the books becomes the basis—for instance, to facilitate accessibility..." — The example of library classification is illustrative but overly simplistic. Please provide a more legal or jurisprudential example here for better contextual relevance.

"Legal science, in its most general and fundamental division..." — Please specify whether you are discussing Continental European law (civil law tradition) or Anglo-American common law, as their views on public/private division differ.

"Accordingly, it can be claimed that criminal law and all penal matters are inherently sovereign phenomena..." — Please engage more critically with the assertion that criminal law must always be public; counterexamples (e.g., private prosecution systems) should be mentioned.

"The historical development of criminal law is, from one perspective, divided into three distinct periods..." — You should cite more comparative legal historians to support this division (e.g., Garland, 1990).

"Thus, while the number of jurisprudential classifications may appear considerable quantitatively..." — The conclusion implies systemic failure without offering enough empirical evidence. Please consider including statistical or legislative examples showing how Islamic rulings lost their effect.

"This article proposes an alternative: that the concepts, classifications, and institutions of Islamic criminal jurisprudence be liberated..." — Your proposal is important but underdeveloped. Please outline at least preliminary steps for establishing such an "authentic Islamic classification framework."

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.