

CRIME AND PUNISHMENT IN ISLAM (PART 3 OF 5): 'HUDOOD'-PRESCRIBED PUNISHMENTS

Rating: 2.7

Description: A detailed discussion about the regulations Islam has set in regards to dealing with crime in society. Part 3: The first form of punishment – Prescribed punishments or 'Hudood', and the types of crimes for which it has been legislated, as well as the wisdom behind it.

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1. Prescribed Punishments

Crimes that fall under this category can be defined as legally prohibited acts that God forcibly prevents by way of fixed, predetermined punishments, the execution of which is considered the right of God.

These punishments have certain peculiarities that set them apart from others. Among these are the following:

1. These punishments can neither be increased nor decreased.
2. These punishments cannot be waived by the judge, the political authority, or the victim after their associated crimes have been brought to the attention of the governing body. Before these crimes are brought before the state, it may be possible for the victim to pardon the criminal if the damage done was only personal.
3. These punishments are the 'right of God', meaning that the legal right involved is of a general nature where the greater welfare of society is considered.

The following crimes fall under the jurisdiction of the fixed punishments:

1. Theft

Theft is defined as covertly taking the wealth of another party from its secure location with the intention of taking possession of it.

2. Highway Robbery

Highway robbery is defined as the activity of an individual or a group of individuals who go out in strength into the public thoroughfare with the intention of preventing passage or with the intention of seizing the property of passers-by or otherwise inflicting upon them bodily harm.

3. Fornication and Adultery

This is defined as any case where a man has coitus with a woman who is unlawful to him. Any relationship between a man and a woman that is not inclusive of coitus does not fall under this category and does not mandate the prescribed, fixed punishment.

4. False Accusation

This is defined as accusing the chaste, innocent person of fornication or adultery. It also includes denying the lineage of a person from his father (which implies that his parents committed fornication or adultery). False accusation includes any claim of fornication or adultery that is not backed up by a proof acceptable to Islamic Law.

5. Drinking

One of the most important objectives of Islam is the realization of human welfare and the avoidance of what is harmful. Because of this, it “permits good things and prohibits harmful things.” Islam, thus, protects the lives of people as well as their rational faculties, wealth, and reputations. The prohibition of wine and the punishment for drinking it are among the laws that clearly show Islam’s concern for these matters, because wine is destructive of all the universal needs, having the potential to destroy life, wealth, intellect, reputation, and religion.

God says:

“O you who believe! Verily wine, gambling, idols, and divination are but the abominations of Satan’s handiwork, so abandon these things that perchance you will be successful. Satan only wishes to cause enmity and hatred between you through wine and gambling and to prevent you from the remembrance of God and prayer. Will you not then desist?” (Quran 5:90-91)

6. Apostasy

Apostasy is defined as a Muslim making a statement or performing an action that takes him out of the fold of Islam. The punishment prescribed for it in the Sunnah is execution, and it came as a remedy for a problem that existed at the time of the Prophet, may the mercy and blessings of God be upon him. This problem was that a group of people would publicly enter into Islam together then leave Islam together in

order to cause doubt and uncertainty in the hearts of the believers. The Quran relates this event to us:

“A group from the People of the Scripture said: ‘Believe in what is revealed to those who believe at the beginning of the day, then disbelieve at the end of the day, so perhaps they might return from faith.’ (Quran 3:72)

Thus, the prescribed punishment for apostasy was instituted so that apostasy could not be used as a means of causing doubt in Islam.

At the same time, the apostate is given time to repent, so if he has a misconception or is in doubt about something, then his cause of doubt can be removed and the truth clarified to him. He is encouraged to repent for three days.

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