

# ***Hudud Crimes and their prescribed punishments in Islamic Shariah***

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## **ABSTRACT**

*Islamic Shariah is the code of conduct followed by Muslim and its origin in two main sources: the Quran and the Sunnah of the Prophet. Its objective is to welfare of humanity in both this life and in the afterlife. For removing vice from society and establishing good towards mankind, Islamic Shariah prescribes a complete code of laws. Hudud is one among Islamic criminal law. This word means the limit or boundary. According Islamic Shariah, Hudud is limited to punishments for crimes mentioned by the Holy Quran or the Sunnah of the prophet (Prophetic Tradition). The punishment prescribed under Hudud, could not be varied, increased and decreased. The Judge had no discretion in the matter. The wisdom behind ordaining the prescribed punishments is that they are means of deterrence, restraint and purification from sins. They are ordained to fulfill the Rights of Allah and then for the benefit of the Muslim community. Allah has made these punishments upon those who commit crimes stemming from weakness in human nature. Thus, such prescribed punishments are in the best interest of humankind in this world as well as in Hereafter. This article discusses on the Hudud crimes and their prescribed punishments separately.*

**Keywords:** *Al-Qur`an, Islamic Shariah, Hudud, Punishment, Criminal law.*

## **Introduction:**

The principal objective of Islamic punishing system is to protect society from the dangers of crime. The aim of Islamic punishing system is discouraging criminal behavior. Criminal behavior and actions are divided into three categories in Islamic criminal jurisprudence. *Hadd, Qisas* and *Ta'zir*. *Hadd* (Plural *Hudud*) is unchangeable and those crimes whose punishments are clearly stipulated in *Quran* and *Sunnah*, *Qisas* is crime involving the taking of life or the causing of bodily harm punishable by retaliation or blood money, the victim or his relative have the right to forgive or reduce the penalty of the accused person. *Ta'zir* punishments are not prescribed in the *Quran* or *Sunna*, and are executed under the discretionary powers of the judge. *Hudud* crime consists of *zina* (unlawful sexual intercourse), *qadhif* (false accusation of *zina*), *shurb al-khamr* (drinking intoxicants), *sariqa* (theft), *hiraba* (robbery), and *ridda* (apostasy). Punishment for the crime committed shall be imposed only when the evidence is established beyond all reasonable doubt. This is based on the *hadith* of the Prophet (sm). Some of the *Hadd* punishment is Death by stoning, some of flogging, some of is cutting of the right hand or left foot. No doubt the punishments of *Hudud* crimes are severe and the objective of awarding such kind of punishments is deterrent to crime.

## **Hudud Crimes**

Shaykhul Islam Ibn Taymiyah (Rahmatullahi Alaihi ) said,

*“The prescribed punishments stem from the mercy to all creatures and doing whatever is good for them. Thus, he who executes such punishments should have the intention of doing good and showing mercy to those on whom they are imposed, just like the father who seeks to discipline his son or the doctor who seeks to cure a patient.”<sup>1</sup>*

The word *hudud* is the plural of an Arabic word *Hadd*, which means prevention, limitation, restraint or prohibition, and for this reason it is a restrictive and preventive ordinance.<sup>2</sup> In Islamic *Shariah*, the word *hudud* is limited to punishments for crimes mentioned by the Holy Quran or the *Sunnah* of the prophet (Prophetic Tradition), while other punishments are left to the discretion of *Qadhi* (Justice) of the rule which are called *Ta'zir*. Enforcement of the *hudud* punishments are the rights of Allah or the combination of the rights of Allah and the rights of people.<sup>3</sup>

*Faqihs* (Scholars of Islamic Jurisprudence) state that the crimes for which executing the prescribed punishment is obligatory for following cases:<sup>4</sup>

1. *Zina* (Adultery or Fornication).
2. *Qadhf* (Slander).
3. *Hadd-al-Muskir* (Punishment for intoxicate).
4. *Sariqah* (Stealing).
5. *Al-Herahah* (Highway Robbery).
6. *Riddah* (Apostasy).

We shall now discuss in detail these crimes and their punishments.

### 1. *Zina* (Adultery or Fornication)

***“There are three to whom Allah will not speak on the day of resurrection, nor will he sanctify them, nor He will look at them- and theirs will be a painful torment, An adult, who commits unlawful sexual relation, a king who tells lies, and a poor man who is arrogant.”---Al-Hadith.***<sup>5</sup>

*Zina* is defined as: illegal relationship between a man and woman with a unique condition whether the offender is married or not. The *Faqihs* define *zina* as follows: It is the committing of illegal sexual intercourse in the vagina. That means anything outside this is not considered as *zina*.<sup>6</sup> *Ibn Rushed* said, “It is every sexual intercourse that happens in any circumstances other than valid marriage or what may be thought as marriage or one's slave girl.”<sup>7</sup>

*Zina* includes adultery and fornication. And for this, the punishment of *zina* is divided in two categories:

- 1.1. Punishment of Adultery.
- 1.2. Punishment of fornication

#### 1.1. Punishment of adultery

Adultery means extra-marital sex between a married Muslim man and a married Muslim woman, or a Jew or a Christian who are not married to one another.<sup>8</sup> The prescribed punishment of adultery in Islamic *Shariah* is stoning to death.<sup>9</sup> This is the opinion maintained by the men of religious knowledge of the prophet's companions, the successor of the companions, and those who followed them in the various states through different areas. In addition to this stoning to death as a legal punishment for adultery is stated in the *Sunnah* of the prophet (sm)<sup>10</sup> and it was also mentioned in the noble Quran, then it was abrogated in wording but its ruling is still valid. It has been stated in the following verse before it was abrogated:

الشَّيْخُ وَالشَّيْخَةُ فَارْجُمُوهُمَا أَلْبَتَّةَ نَكَالًا مِّنَ اللَّهِ

“When a married man and married woman commits adultery inevitably stone each one of them as a punishment from Allah”<sup>11</sup>

#### 1.2. Punishment of Fornication

Fornication means sexual intercourse outside marriage. If a free person commits fornication while he/she is not in a state of *Ihsan* (A person who has never married before) he/she is to be lashed a hundred lashes.<sup>12</sup> Allah said:

الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِئَةَ جَلْدَةٍ

“The Fornicatress and Fornicator, flog each of them with a hundred lashes.”<sup>13</sup>

It is authentically stated in *Sunnah* of the prophet (sm) that a fornicator is to be exiled for a year in addition to lashing him/her. The prophet (sm) said, “When an unmarried male commits fornication

with an unmarried female (they should received) a hundred lashes and exaltation for a year.”<sup>14</sup> The Hanafi School does not exile unmarried offenders in addition to flogging them, but Shafiyyi and Hanbali Schools requires flogging as well as exile.<sup>15</sup> On the other hand, Maliki school says for exiling male only not female.<sup>16</sup>

The prescribed punishment mentioned in the Quran for fornicator and fornicatress is lashing. In addition to this, exiling for a year is stated by the prophet statement clearly and there is no difference between male and female in this regard. It is mentioned here that, if the adulterer is a slave, he is to be lashed fifty lashes, Quran said about this, *But once they are sheltered in marriage, if they should commit adultery, then for them is half the punishment for free (unmarried) women.*<sup>17</sup> The punishment of exiling is not be executed on slaves.<sup>18</sup>

### **Proof of Zina :**

i. Islamic law insists that the four eye witnesses must confirm physical observation of the actual intercourse directly. Witness must be full legal capacity and of character. ii. Confession by an offender. iii. Pregnancy without a legitimate father.<sup>19</sup>

Adultery and fornication from the Islamic perspective are not personal and private prerogative; it is a serious violation of the normative principles of society.

### **2. Qadhf (Slander)**

***“Verily, those who accuse chaste women, who never even think of anything touching their chastity and are good believers- are cursed in this life and the hereafter, and for them will be a great torment.” – Al-Qur`an<sup>20</sup>***

Only false accusation of zina is considered as Qadhf crimes. Faqihs define slander as accusing some person of adultery, fornication or sodomy.<sup>21</sup> And whoever by words either spoken or reproduced by mechanical means accuses another person of having unlawful sexual act in any former expression and the accusation could not be established as true is said to have committed Qadhf. The punishment for Qadhf is eighty (80) lashes. Quran mentioned about this regard,

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً

*“And those who accuse chaste women and then do not produce four witnesses- lash them eighty lashes.”<sup>22</sup>*

The verse indicates that if those who accuses chaste modest women do not produce four witnesses to testify to what they have claimed, then they (the accusers) are to be lashed eighty lashes. It does not make any differences whether the accused person is a man or woman, but woman are mentioned in particular because the verse refers to specific incident, and because slandering women is an uglier and more recurrent deed than slandering men.<sup>23</sup> The slandered person must have following characteristics:

1. Free.
2. Muslim.
3. Chaste.
4. Sane.
5. Adult.
6. Able to have sexual intercourses.

If any of these conditions is not fulfilled the application of the punishment for slander becomes invalid.<sup>24</sup>

### **Words of Slander**

**Direct words:** Such words imply nothing but slander, so the slanders allegation of intending something other than slander is not acceptable in this case. Direct words includes such expression as *you adulter, you fornicator or you sodomite.*

**Allusive words:** Such words imply along with other meanings so the slander's claim of intending something other than slander is acceptable in this case. Allusive words include such expressions as: *you lecher, you dissolute.* In such condition the punishment of slander is not applicable on slanderer, because his word is allusive and indicates other meanings.

### 3. Hadd -al- Muskir (punishment for intoxicants)

**“Drinking alcohol is the mother of all vices, who drinks it, Allah will not accept prayer from him for forty days.” Al-Hadith.<sup>25</sup>**

The prophet also said, *every inebriant is intoxicant, and every intoxicant is forbidden.*<sup>26</sup> Umar (Ra) said, *An intoxicant is that which deranges mind.*<sup>27</sup> So every beverage that intoxicates is forbidden according to the Quran, the sunnah and agreement of Muslim scholars. Quran says on this: *“O you who believe! Intoxicants, gambling, Al-Ansan and Al-Azlam (arrows for seeking luck or decision) are an abomination of Shaitan’s handiwork. So avoid (strictly all) that (abomination) in order that you may be successful. Shaitan wants only to excite enmity and hatred between you with intoxicants and gambling, and hinder you from the remembrances of Allah and from As-Salat (prayer). So, will you not then abstain?”*<sup>28</sup>

Prophet Muhammad (sm) once described the offense of drinking alcohol as the “mother of all vices.” Because alcoholic intoxication can lead to the commission of other offenses. Thus every beverage that intoxicates when taken in large quantities is also forbidden to be taken in small quantities, as it still call wine after all, whether it is made of grape juice or berry, honey or anything else. Muhammad (Sm) said *“If a large amount of anything causes intoxication, a small amount of it is prohibited.”*<sup>29</sup> Intoxicants are by all means prohibited. And drinking is impermissible whatever the case may be; it is impermissible to drink for pleasure, as medication or for any other reasons.<sup>30</sup> As for the prohibition of drinking intoxicants as a means of medication, the prophet says, *It is not a remedy it is a malady.*<sup>31</sup> In addition Ibn Mas'ud (Ra) said: *Allah has never made your remedy in prohibited thing.*<sup>32</sup>

The prescribed punishment for alcoholism and intoxication is eighty lashes according to *Hanafi, Maliki and Hambali* schools. The evidence on their opinion is: when Umar was Caliph he consulted the people as regards the prescribed punishment for drinking intoxicants. Thereupon Abdur Rahman Ibn Awf said, the least of the *Hadd* punishment is eighty lashes. Thus Umar executed it as eighty lashes.<sup>33</sup> On the other hand, according to *Shafi'iyi* schools, The prescribed punishment for intoxicant is forty lashes. The evidence on this: Uthman (Ra) ordered Ali (Ra) for flogging Walid Ibn Anas for drinking alcohol. He said to Abdullah Ibn Zafar, get up and whip him. So he whipped him, and Ali counted until he had reached forty, then he said, “Stop then he said the prophet (sm) gave forty lashes, and Abu Bakr gave forty lashes and Umar gave eighty. All are *Sunnah* but this is (forty) dearer to me.”<sup>34</sup>

I prefer to forty than eighty because the prophet (sm) did this, Abu Bakr (Ra) did this. And Umar extended on more forty as *Ta'zir*.<sup>35</sup> So it is called that the prescribed punishment for intoxicant is forty lashes, but *Qadhi* (judge) can extend more forty according to the conditions of necessity as *Ta'zir*. Ibn Taymiyah said about this: *“According to the sunnah and the consensus of Muslim scholars, the prescribed punishment for drinking is forty lashes. Any increase can be decreed by the judge only when necessary, as in the case when people become addicted to alcohol any they are not deterred except through more lashing”*.<sup>36</sup>

### 4. Sareqah (stealing)

***The people who came before you were destroyed because whenever a noble person among them stole, they let him go. But if a low class person stole, they would carry out be punished on him. By the one in whose hand is the soul of Muhammad, if Fatima bint Muhammad was to steal I would cut off her hand.***  
----Al Hadith.<sup>37</sup>

Stealing is the act of taking a property stealthily from its owner or his deputy while the thief is subjected to the laws of Islam and the stolen property has reached the *nisab*, provided that he has taken the stolen property from a repository for safekeeping objects of the kinds. It is also a condition to regard the case as theft, that the owner of the stolen property is protected by Islam and there is no doubt that the offender has no right to take it .<sup>38</sup> The punishment for stealing is stated in the Quran as follows:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا

*“As to the thief, male or female, cut off his or her hands”*<sup>39</sup>

There are certain qualities and conditions that must be fulfilled in the thief. Whenever any of these conditions is not fulfilled, the hand should not be cut off. These conditions are:<sup>40</sup>

- ❖ The act of stealing must be committed stealthily.
- ❖ The stolen property must not be less than the *Nisab*.<sup>41</sup>
- ❖ The stolen property is taken from its repository.
- ❖ There is no doubt on the side of the thief.
- ❖ If someone steals from his father’s property or from his sons property, as each of them has a right in the prosperity of the other. Same case is applied on spouse.
- ❖

### 5. Heraba (highway Robbery)

*“Indeed, the penalty for those who wage against Allah and His Messenger and strive upon earth (to cause) corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land.”--- Al-Quram*<sup>42</sup>

The crime of *Herabah* includes armed robbery, forcible entry into houses, or business premises with weapons, harassing innocent people with weapon etc. The meant warmongers in the aforementioned noble *Quranic* verse who strive throughout the land causing harm and mischief are the highway men, who harass people in the desert or inhabited areas and seize their properties publicly not stealthily.<sup>43</sup> The following punishments however have been prescribed for the offence of robbery is depending on the nature and seriousness of the robbery committed:<sup>44</sup>

- ❖ If the robber kills and seizes people’s property is to be killed and crucified until his crime is well known.
- ❖ If the robber kills without seizing any property he must be killed without being crucified.
- ❖ If he only robbed, seized property but did not killed his right hand and his left leg are to be cut off at one time.
- ❖ Whoever just terrorizes people on the way and threatens without committing murder or seizing property must be exiled from the land, causing him to be homeless.
- ❖ If some highway men commit murder, the death sentence must be passed on them all. If someone of claim commit murder and others seize the property all of them are to be killed and crucified.

Thus, the punishments the highway robber receives differ according to the degree of enormity of their crimes. In this regard Allah says,

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ جُزَاؤٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ

*“Indeed, the penalty for those who wage against Allah and His Messenger and strive upon earth (to cause) corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land.”*<sup>45</sup>

It is mentioned here that, if the attacked person is killed, he is considered as *shahid* (martyr), based on the *hadith* in which the prophet (sm) says: *“If the property of anyone is being taken away without right and he fights (in defense) and killed, then he is a shahid.”*<sup>46</sup> It is stipulated to execute the prescribed penalty on the highway man that what they have seized be tantamount to the *nisab* of theft.<sup>47</sup>

### 6. Riddah (Apostasy)

*“And whoever of you reverts from his religion and dies while he is a disbeliever - for those, their deeds have become worthless in this world and the hereafter, and those are the companions of the fire, they will abide there eternally.” - Al Quran*<sup>48</sup>

Rejection of Islam is a criminal offence in Islamic penal system and the punishment is death penalty. It is called apostasy. Linguistically, the word “apostasy” in Arabic is derived from *turning back* or *backsliding*, so an apostate is a backslider. According to religious terminology, an apostate is the one

who willingly disbelieves after embracing Islam, whether through utterances, belief, doubt or action.<sup>49</sup> Apostasy also means attacking Islam openly and publicly with treachery and blasphemy, which threatens the social and moral fabric of society. This may precipitate the beginning of internal revolution and dangerous rebellion within the Islamic society.

Apostasy takes place by committing one of the breaches of Islam. Whether seriously, playfully or mockingly. The breaches of Islam by which apostasy takes place they are many. Some of as follows: The most grievous among them is associating others in worship with Allah, such as supplicating the dead, the faithful servant of Allah and righteous people, slaughtering sacrificed animals to their graves, seeking help and support from them. Such act of association is considered to have apostatized. Ibn Taymiyah said about this: *“Whoever makes mediators between Allah and himself, supplicating them, seeking their aid, and pulling his trust in them, has surely disbelieved according to the consensus of Muslim scholars.”*<sup>50</sup>

Furthermore, whoever denies some of Allah's messengers or some of divine books has surely apostatized. The same applies to whoever denies the angels, or the resurrection after death, similarly whoever claims prophet hood. The same also applies to whoever denies the obligation of any of the prescribed five acts of worship mentioned in the following *Hadith*:

بُنِيَ الْإِسْلَامُ عَلَى خَمْسٍ شَهَادَةِ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ وَإِقَامِ الصَّلَاةِ وَإِيتَاءِ الزَّكَاةِ وَالْحَجِّ وَصَوْمِ رَمَضَانَ  
*“Islam is built on five (Principles): Testifying that there is no deity but Allah and that Muhammad is the messenger of Allah, establishing the Prayers dutifully and perfectly, paying the Zakah, performing Hajj (Pilgrimage) and fasting the month of Ramadan.”*<sup>51</sup>

There are many types of apostasy. Rejecting any section of the Quran or alleges that something of the Quran is lost, missing or concealed is indisputably regarded as a disbeliever as well as apostate. In addition this, mocking something related to the prophet Muhammad (sm) is also considered as acts of apostasy.

There are prescribed punishment imposed on the apostate in this world and in the hereafter. As for his worldly punishment is death penalty, it is stated in the Hadith which prophet Muhammad (sm) says:

مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ

*“If anyone (muslim ) changes his religion , kill him.”*<sup>52</sup>

As regards the prescribed punishment awaiting apostate in hereafter, Quran says about this:

وَمَنْ يَرْتَدِدْ مِنْكُمْ عَنْ دِينِهِ فَيَمُتْ وَهُوَ كَافِرٌ فَأُولَئِكَ حَبِطَتْ أَعْمَالُهُمْ فِي الدُّنْيَا وَالْآخِرَةِ وَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ  
*“And whoever of you reverts from his religion and dies while he is a disbeliever - for those, their deeds have become worthless in this world and the hereafter, and those are the companions of the fire, they will abide there eternally.” - Al Quran*<sup>53</sup>

The convicted apostate is given three days of grace to return to Islam. Islamic scholars will educate him on the enormity of the crime he has committed against his own, his family and community. If the convicted person decides to return to the Islamic community he will be set free either to be killed. This is because when Umar (Ra) was informed that a man had apostatized after his embracement of Islam and had been killed without being asked for repentance; Umar said, “Why have you not imprisoned him for three days, fed him a loaf of bread everyday and asked him to repent? Perhaps he may have repented and reconsidered the commandment of Allah (i.e. Islam) O Allah! I have not witnessed it, and I would not have approved (of killing the man) if I had been informed.”<sup>54</sup>

## Conclusion

One of the main objectives of Islamic *Shariah* is to welfare people. The prescribed punishments in *Shariah* legislated to provide security and maintain natural orders in this world. Through applying these punishments, the disobedient people and outlaws are deterred, the obedient and law-abiding people feel safe, justice is established on earth, and people feel secure with regard to their souls, honors and properties. No matter how it criticized or mocked by so called intellectuals or human rights association; it is only the prescribed punishment provided by Allah and applied by his messenger (sm) can bring peace in this world. Those one eyed humanitarian intellectuals often define this prescribed punishment as a cruel and middle aged barbaric system. In contrast to this are the

societies with the punishments prescribed by Allah on the pretext that such punishments are savage and incompatible with modern civilization. How could those deviating people describe the punishments prescribed by Allah as being savage while in reality they represent divine mercy to all humankind? How could they regard those divine decrees as savage while not regarding the wrongdoing done by criminals as savage, though they, the criminals, horrify safe people, harm the innocent, and disturb social mercy toward such criminals is more unjust and more savage than criminals themselves. When we see, crimes like murder, hijacking, rape, highway robbery is spreading enormously all over the world; the dignity and security of common people is lost. But those human rights defenders are remained silent. Besides, religions are being mocked in the name of freedom of speech. We have not seen any effective initiative from them yet, to control these crimes. Worst part is, sometimes they support and encourage these crimes directly or indirectly. Point to be noted that it is neither killing nor harming people, rather establishing justice is the main goal of these prescribes punishments of Islamic *Shariah*. For example, Adultery its effect on community, stability, it is leads to family conflict, jealousy, illegitimate children and spreading of disease. It is also causes the corruption and distraction of all aspects of human life. If the prescribed punishment of *zina* is being executed in society , country as well as the world we can must preserved ourselves out of danger from this kind of problems and diseases. Similarly, Highway robbery, the prescribe punishments of it even killing and crucifixion, even killing only, even cutting of hand and leg even exiling. It is not cruel, not barbaric, when we look at those who are attacked by those robbers and killed by them. In absence of such kind of strong punishment robbery is increasing in the world day by day. In addition, this death penalty is imposed for offense of robbery only if a victim is killed. This is the justice of Islam and how it secures the safety of the community and the regulation of its interests in order to develop countries, make people feel safe and regulate the means of transportation between different regions so that people may travel securely by night and day. Indeed, humanity would never gain prosperity without applying this wise legislation. For all the worldly systems and its material power have failed to achieve even a little of the aspired security without applying this *shariah* (Islamic law), verily, Almighty Allah, has spoken the truth when saying, `` Then is it the judgment of the (time of) ignorance they desire? But who is better than Allah in judgment for a people who are certain (in faith). *Surah al-Maidah:50*

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- <sup>8</sup> .Dr. Ibn Fayzan, *Al-Mulakhkhasul Fiqhi*, vol-2 (Riyadh: Darul Asimah Bookshop, 1423 A.H) pp-528-529.
- <sup>9</sup> *Sahi Fiqhus Sunnah*, vol-4, p-39; *Al-Mulakhkhasul Fiqhi*, vol-2, P-594.
- <sup>10</sup> There are many Hadith in this regard from the prophet (sm.). Such as In *Sahi al-Bukhari*, narrated Abu Hurairah and Zaid bin Khalid (Ra.) said: While we were with the prophet (sm.), a man stood up and said to the prophet : "I beseech you by Allah, that you should judge us according to Allah's Laws." Then the man's opponent, who was wiser than him, got up saying (to Allah's Messenger sm.), "Judge us according to Allah's Laws, and kindly allow me to speak. The prophet (sm.) said "Speak". He said, "My son was a laborer working for this man and he committed an illegal sexual intercourse with his wife, and I gave one hundred sheep and a slave as a ransom for my son's sin. Then I asked a learned man about this case and he informed me that my son should receive one hundred lashes and be exiled for a year, and the man's wife should be stoned to death." The Prophet (sm.) said, "By Him in Whose Hand my soul is, I will judge you according to the Laws of Allah. Your one hundred sheep and the slave are to be returned to you, and your son has to receive one hundred lashes and be exiled for one year. O Unais ! Go to he wife of this man, and if she confesses, then stone her to death." Unais (Ra.) went to her and she confessed. He then stoned her to deth. (Imam

- Bukhari, *Sahihul Bukhari*, book of Hudud, chapter: to confess being guilty of an illegal sexual intercourses, hadith no. 6440)
- <sup>11</sup> Abu Abdullah Ibn Majah, *Sunan Ibn Majah*, book of Hudud, Hadith no. 2553; Hakim An-Naisaburi, *Al-Mustadrak Alas-Sahihayn*, vol-2 (Beirut: Darul Qutub Al-Ilmiyah bookshop, 1990) p-450.
- <sup>12</sup> *Sahi Fiqhus Sunnah*, vol-4, p-38; *Al-Fiqhul Islami wa Adillatuhu*, vol-6, p-38-40.
- <sup>13</sup> Surah An-Nur: 02.
- <sup>14</sup> Imam Muslim, *As-Sahih li Muslim*, vol-3 (Beirut: Darul Ihyah at Tuath Al-Arabi) p-1690.
- <sup>15</sup> *Al-Fiqhul Islami wa Adillatuhu*, vol-6, p-38-39.
- <sup>16</sup> *Sahi Fiqhus Sunnah*, vol-4, p-38.
- <sup>17</sup> Sura An-nur: 25.
- <sup>18</sup> *Al-Mulakhkhasul Fiqhi*, vol-2, p-530.
- <sup>19</sup> *Sahi Fiqhus Sunnah*, vol-4, pp-29-35.
- <sup>20</sup> Sura An-Nur: 23.
- <sup>21</sup> *Al-Mulakhkhasul Fiqhi*, vol-2, p-536.
- <sup>22</sup> Sura An-Nur : 04.
- <sup>23</sup> Ibn Hajar, *Fathul Bari*, vol-12 (Beirut: Darul Marifa bookshop, 1379 A.H) p-18; *Al-Mulakhkhasul Fiqhi*, vol-2, p-537.
- <sup>24</sup> *Bidayatul Mujtahid*, vol-2, p-441; *Al-Fiqhul Islami wa Adillatuhu*, vol-6, pp-78-80; *Sahi Fiqhus Sunnah*, vol-4, pp-56-58.
- <sup>25</sup> *Sunan Ad-dara kutni*, hadith no. 4669.
- <sup>26</sup> *Sahi Muslim*, vol-6, p-100. Hadith no. 5336.
- <sup>27</sup> Imam Bukhari, *Sahi al-Bukhari*, Hadith no. 5266, vol-5 (Beirut: Darul Ibn kathir, 1987) P-2155.
- <sup>28</sup> Sura Al-Maidah : 90-91.
- <sup>29</sup> Abu Daud Sulaiman Ibn Al-Ashas, *Sunau Abi Daud*, vol-3 (Beirut: Darul kitab Al-Arabi bookshop) p-368.
- <sup>30</sup> *Al-Fiqhul Islami wa Adillatuhu*, vol-6, pp-155-156.
- <sup>31</sup> The original text is : *إِنَّهُ لَيْسَ بِذَوَاءٍ وَلَكِنَّهُ دَاءٌ*. *Sahi Muslim*, Hadith no. 5256, vol-6, p-89.
- <sup>32</sup> *Sahihul Bukhari*, book of drinking, vol-5, p-2129.
- <sup>33</sup> *Sahi Fiqhus Sunnah*, vol-4, pp-68-69; *Al-Fiqhul Islami wa Adillatuhu*, vol-6, p-151.
- <sup>34</sup> Sahi Muslim, book of Hudud, hadith no. 4554, vol-5, p-126.
- <sup>35</sup> **Ta`zir**: Ta`zir Punishment is not fixed by Qur`an and Sunnah (that means there are no prescribed punishment) but the punishment is left to the discretion of the Qadhi (Judge), For details: *Sahi Fiqhus Sunnah*, vol-4, p-180; *Al-Fiqhul Islami wa Adillatuhu*, vol-6, p-197.
- <sup>36</sup> *Al-Mulakhkhasul Fiqhi*, vol-2, p-543.
- <sup>37</sup> Imam Nasai, *Sunanu Nasayee*, Hadith no. 4902, vol-4 (Beirut: Darul kutub al Ilmiyah, 1991) p-333.
- <sup>38</sup> *Sahi Fiqhus Sunnah*, vol-4, p-88; *Al-Mulakhkhasul Fiqhi*, vol-2, p-550.
- <sup>39</sup> Sura al-Maidah : 38.
- <sup>40</sup> *Sahi Fiqhus Sunnah*, vol-4, pp-115-125; *Al-Mulakhkhasul Fiqhi*, vol-2, pp-552-553.
- <sup>41</sup> **Nisab**: The minimum value for the stolen goods. In this regard the prophet (sm.) said, “The hand of a thief is not to be cut off for a quarter of a dinar or more.” ( Sahihul Bukhari, Hadith no.6790) During the lifetime of the prophet the value of a quarter of a *dinar*, which was made of gold, used to equal three *dirham* which were made of silver. We have found three major opinions in this regard: 1. Only quarter dinar of gold or equivalent. (According to Shafi School). 2. Quarter dinar of gold or three dirham of silver or if the stolen goods are not dinar of gold, then equivalent of three dirham of silver. (According to Hambali/Maliki). 3. Should not be cut off less than 10 dirham. (According to Hanafi). The first and second opinions are more acceptable than the third according to the statement of the prophet (sm). And In modern age 1/4 dinar of gold= 1.0625 gm. [For details : *Sahi Fiqhus Sunnah*, vol-4, pp-111-113; *Al-Mulakhkhasul Fiqhi*, vol-2, p-552. ]
- <sup>42</sup> Sura Maidah : 33.
- <sup>43</sup> *Al-Mulakhkhasul Fiqhi*, vol-2, p-555.
- <sup>44</sup> *Sahi Fiqhus Sunnah*, vol-4, pp-147-149; *Al-Mulakhkhasul Fiqhi*, vol-2, p-556; *Al-Fiqhul Islami wa Adillatuhu*, vol-6, pp-136-138.
- <sup>45</sup> Sura Maidah : 33.
- <sup>46</sup> *Sunanu Nasayee*, Hadith no.3550, vol-2, p-309.; *Sunan Abu Daud*, Hadith no. 477, vol-5, p-83.
- <sup>47</sup> *Al-Mulakhkhasul Fiqhi*, vol-2, p-555.
- <sup>48</sup> Sura Al-Baqarah : 217.
- <sup>49</sup> *Al-Mulakhkhasul Fiqhi*, vol-2, p-565; *Sahi Fiqhus Sunnah*, vol-4, p-151.
- <sup>50</sup> *Hashiatu ar-Rawd al-Murbi*, vol-7, p-400.
- <sup>51</sup> Sahi al-Bukhari, hadith no.8, vol-1, p-12.
- <sup>52</sup> Sahi al-Bukhari, hadith no.3017, vol-6, p-180.
- <sup>53</sup> Sura Al-Baqarah : 217.
- <sup>54</sup> Imam Malik Ibn Anas, *Muwatta*, vol-2 (Egypt: Darul Ihya-ut-tutath al-arabi bookshop) p-737.