

CRIME AND PUNISHMENT IN ISLAM (PART 1 OF 5): INTRODUCTION

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Description: A detailed discussion about the regulations Islam has set in regards to dealing with crime in society. Part 1: Introduction and the Islamic approach to combating crime.

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Security  and stability are basic human needs, no less important than food and clothing. Without security and stability, a human being is not able to properly conduct his daily life, let alone come up with new ideas or contribute to the development of a high level of civilization.

Man has been conscious of the need for security since the beginning of his life on Earth, and he has continuously expressed his awareness of this need in many ways. With the formation and evolution of human society, he has expressed this and other needs through the establishment of a state and the formation of laws. This was accomplished in order to ensure general security, settle disputes and conflicts that threaten society, and oppose external threats to its security posed by other nations. The development of these man-made laws did not come to completion except in the last few centuries as the result of a long process of trial and error.

By contrast, the Law of Islam was sent down to Muhammad, may the mercy and blessings of God be upon him, in its complete form as part of His final message to humanity. Islamic Law pays the most careful attention to this matter and provides a complete legal system. It takes into consideration the changing circumstances of society as well as the constancy and permanence of human nature. Consequently, it contains comprehensive principles and general rules suitable for dealing with all the problems and circumstances that life may bring in any time or place. Likewise, it has set down immutable punishments for certain crimes that are not affected by changing conditions and circumstances. In this way, Islamic Law combines between stability, flexibility, and firmness.

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From what angle does Islam approach combating crime? What are the principles that the Islamic penal code is based upon? What are the distinguishing features of this code? What are the measures that it employs to combat crime? What types of punishments exist in Islam? What are the objectives behind their being legislated? These are the questions that will be dealt with in the following pages.

The Islamic Approach to Combating Crime

The ultimate objective of every Islamic legal injunction is to secure the welfare of humanity in this world and the next by establishing a righteous society. This is a society that worships God and flourishes on the Earth, one that wields the forces of nature to build a civilization wherein every human being can live in a climate of peace, justice and security. This is a civilization that allows a person to fulfill his every spiritual, intellectual, and material need and cultivate every aspect of his being. This supreme objective is articulated by the Quran in many places. God says:

"We have sent our Messengers with clear signs and have sent down with them the book and the criterion so that man can establish justice. And we sent down iron of great strength and many benefits for man..." (Quran 57:25)

And He says:

"...God wants ease for you, not hardship..." (Quran 2:185)

And He says:

"God wants to make things clear for you and to guide you to the ways of those before you and to forgive you. God is the All knowing, the Wise. God wants to forgive you and wants those who follow their desires to turn wholeheartedly towards (what is right). God wants to lighten your burdens, and He has created man weak." (Quran 4:26-28)

And He says:

"God commands justice, righteousness, and spending on ones relatives, and prohibits licentiousness, wrongdoing, and injustice..." (Quran 16:90)

Since the Islamic legal injunctions are aimed at achieving human welfare, they can all be referred back to universal principles which are necessary for human welfare to be secured. These universal principles are:

1. The preservation of life.
2. The preservation of religion.
3. The preservation of reason.
4. The preservation of lineage.

5. The preservation of property.

The Islamic penal system is aimed at preserving these five universal necessities. To preserve life, it prescribes the law of retribution. To preserve religion, it prescribes the punishment for apostasy. To preserve reason, it prescribes the punishment for drinking. To preserve lineage, it prescribes the punishment for fornication. To preserve wealth, it prescribes the punishment for theft. To protect all of them, it prescribes the punishment for highway robbery.

It should therefore become clear to us why the crimes for which Islam for which the Law has prescribed fixed punishments are as follows:

1. Transgression against life (murder or assault).
2. Transgression against property (theft).
3. Transgression against lineage (fornication and false accusations of adultery).
4. Transgression against reason (using intoxicants).
5. Transgression against religion (apostasy).
6. Transgression against all of these universal needs (highway robbery).

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