

**ISLAMIC STUDIES**

**(HU -101)**

**Assignment**

**DE-40 Mechatronics**

**Syndicate – B**

**Title:**

Punishments in Islam, and their place in the Modern World

**Submitted by:**

**Group A:**

1. NC Muhammad Hamza Ali
2. NC Adnan Abid
3. PC Zain Ali
4. PC Mahad-ul-Hassan Kazmi

**Submitted to**:

Lec. Pakeeza Tabassum

**Abstract:**

While Islam is a Religion of Peace that preaches Goodwill and Obedience to God, Who is Most Merciful, there exists a Codex of Justice deals with those who transgress. Such acts range from Theft to Assault and their Punishments act in tandem as a Severe Reprisal. It needs to be understood that these punishments, that seem Archaic by today’s standards, are not poised towards a Sadistic intent to make the Guilty suffer, but to be a method of atonement while also being severe enough to act as a lesson for the others.

In this paper, we will discuss 3 Types of Punishments inscribed in Islamic law with their respective scenarios of application. The Punishments in question being:

1. Cutting of Hands
2. Flogging
3. Stoning

The paper will also discuss their place in the Modern World, in light of countries that are still practicing these Laws, Countries that have made compromise Laws and those that do not employ them at all. The paper will also examine the effects of these Laws in Application using Countries of the present to chart their effectiveness. Lastly the paper will also address misconceptions about these punishments in an attempt to correct them.

A foreword to this paper would be regarding the Court of Allah, He Who Knows Everything and Is The Wisest, Laws given by His Decree are not to be compared at the same level as those ordained by Man.

Laws made by Man do not always come out as Practical or serve Justice to all the afflicted parties of a conflict and Most Importantly are Subject to Change while also highly influenced by the Culture and Geography of a specific Area. Whereas God Claims His Law to be Absolute and Perfect for All Creation irrespective of Geography and Culture.

*“Is Allah not the Most Just of Judges?”[[1]](#footnote-1)*

**INTRODUCTION**

**PUNISHMENT IN ISLAM?**

The Islamic terminology for Punishment is: حدود *ḥudūd* , Which means Boundary, Borderline, Limit literally. However is also used in Law as divine ordinance, divine statute or legal punishment.[[2]](#footnote-2) Hudud is defined as a limit that is not to be crossed, the transgressors face legal punishment sanctioned by the divine statute.

**TYPES OF PUNISHMENT:**

**Cutting of Hands:** This punishment is sanctioned for theft. Stealing of valuables from another is condemned in Islam thus to ensure the transgressor is unable to perform he misdeed again while acting as an example for others, Amputation of the hands is ordained:

*“thief, whether man or woman, cut off the hand of either of them: it is the recompense for what they have earned, and an exemplary punishment from Allah; Allah is All-Powerful, All-Wise.”[[3]](#footnote-3)* **Flogging:**

Flogging is a Punishment employed by Islamic Sharia law. It is prescribed for offences including but not limited to:

* **Fornication:** defined as the unlawful intercourse between unmarried individuals, this also applies to married individuals performing the act with others
* **Consumption of Intoxicants:** Where most intoxicants are mostly in reference to Alcohol but in modern setting, the definition extends well beyond ingestion of mere Alcoholic substance.
* **Slander:** Where a party makes an accusation on another and is proven false in court. This crime is treated as a serious offence as even a false allegation can greatly damage ones reputation in society despite not being at fault.
* **Zina**: It is the violation of the other gender in terms of interaction, this can range from harassment to assault which has a respective punishment that scales with the gravity of the transgression

**Stoning:** In Arabic, stoning is defined as “raim” رجم . It is a method of Capital Punishment where a Group hurls stones at the Guilty Party until the Subject dies. In which no singular individual can be held accountable for the death of the Guilty party.This punishment is condemned on offenders of Zina

**MISCONCEPTIONS ABOUT HUDUD:**

Firstly is the issue regarding the **Cutting of Hands**. The West regards such a practice as Archaic and obsolete in the modern world. For a crime like theft, which is considered petty in the West.

What most critics like to forget is that this punishment is not given so easily and there exist a strict set of rules determine if the guilty party are to be given the punishment of amputation of hands:

1. The value of the stolen property should be above a certain limit, which is three Islamic Dirhams or a quarter of an Islamic Dinar, or their equivalent in other currencies.

This translates roughly into $154 for our Modern Currency.

So for an amputation to be applicable, a Theft of atleast $154 must be satisfied first. Such a crime is by no means petty. Including in the West where $150 is roughly ¼ of a Months earning. Having a weeks effort of Work being stolen from you calls for a punishment to be as severe, if not more, than this.

1. If the thief accepts and feel guilty on his action before being caught he/she should not be punished

*“But whoever repents after his wrongdoing and reforms, indeed, Allah will turn to him in forgiveness. Indeed, Allah is Forgiving and Merciful.” [[4]](#footnote-4)*

This is an important point, any criminal who confesses before being caught is exempted from the amputation punishment. This gives room for forgiveness, which in the west would be equivalent of a plea deal, but no court offers a plea deal to a thief.

1. The thief should be sane and an adult, and should have committed the act out of his own choice and free will. With more and more crimes taking place due to mentally ill criminals, this rule exempts a great many cases from Amputation as a person would have a questionable mentality at best to risk Theft while being aware of its grave punishment and especially not during a moment of desperation as elaborated in the next rule.
2. The theft should not have taken place during famines and droughts, when the people are suffering from hunger and possess no means. As most petty thefts stem from desperation of not being able to sustain one self, Amputation is not ordained on the desperate and during trying times of a famine and droughts.

In light of these rules, it makes it increasingly difficult to impose any amputation thus rebuking the accusation of being Cruel when there are little to no cases where the punishment is enacted.

Next we come on to the topic of **Flogging**. This topic in particular has been the subject of much scrutiny from both Muslims and the West alike. With lashing being treated as a barbaric punishment for acts like fornication and slander.

It need not be stressed how much emphasis Islam puts on the protection of the Dignity of every individual. Acts like unlawful Fornication and Slander directly taint ones Dignity, this goes for both sides. The accuser needs to produce **4 witnesses**, crimes like Murder require only 1 so why does something like this need 4? It is no small thing to accuse someone of violating the dignity of another. Which is why the counter punishment is also in place which states:

*"And those who launch a charge against chaste women and produce not four witnesses (to support their allegation) flog them with eighty stripes: and reject their evidence ever after: for such men are wicked transgressors"[[5]](#footnote-5)*

So even the one who would dare bring an accusation would be mindful of the consequences as well as the one who dares attempting the misdeed.

On the subject of consuming Alcohol. The West believes that the punishment is far too cruel for such a menial deed. Cultures which have Alcohol as an integral part would have difficulty understanding the perspective of Islam. God Gave man faculty over its actions, consumption of Intoxicants like Alcohol leave man in a Stupor where he is unable to make mindful decisions thus depriving man that which is essential to their existence.

Furthermore, it is not possible for someone to feel accountable for actions they do under the influence. The displeasure of the Prophet pbuh is highlighted against this act:

*“The Prophet beat a drunk with palm-leaf stalks and shoes. And Abu Bakr gave (such a sinner) forty lashes.”[[6]](#footnote-6)*

The Holy Prophet (pbuh), is a personality who forgave His most Bitter enemies, those who made attempts on His Life. He was the most selfless and kind person in the History of Mankind. For such a character to resort to Violence involving beating with palm leaf stalks and shoes shows that consumption of Alcohol is not something to be taken likely. There clearly must be something mortally dangerous in Alcohol, which forced Man’s greatest well-wisher to stoop down to violence. Let there be no confusion in how grave alcohol consumption is as a sin.

Lastly is the case against Stoning, The West condemns it in consensus as a Blatant attack on Human Rights. They also make it the focal point of portraying Islam as a Barbaric and Violent Religion of a Bygone Era. To answer this, Stoning isn’t even ordained by the Quran. The proper punishment for Zina is ordained to be 100 lashes, 80 for the accuser if proven false.

**WESTERN CRITISCIM ON HUDUD**

The West Claims their Justice Model is fairer and more just than the barbaric drivel conjured by Arabic Tribesmen. Rather than arguing over their points and accusations, it is wiser to simply bring in Facts and Figures into play:

Robbery:

The Highest Robberies per 100,000 people as per 2015 paint the American Continent to be the most dangerous with 1,051 in Cape Verde at the Top. France at 163 on the 12th Position along with Portugal (149) and Spain (140). This even stretches to Sweden at 87 with 19th Position.

Germany, that claims itself to be the biggest protector of Human Rights, stands at 55 robberies for every 100,000 on 31st Position.

All of the following boast their superior Law structure.

However, when compared to Saudi Arabia: A Muslim Country that has implemented, and actively enforces the Punishment of Amputation, the West falls flat. Saudi Arabia sits with the lowest Robberies in the World at 0 Robberies for every 100,000 people.

This is only one such Law in action. Critics might be quick to claim that it is the Oppressive nature of the Government or that the Censorship hides the fact there are any robberies. Instead of dissuading such accusations, we can raise more facts as we have no shortage

Cases of Immoral Forced Fornication:

With the punishment for Violation of Women being levied a prison sentence in the west, in contrast to Islamic countries that have implemented the Shariah Law of Flogging: The statistics are clear in this regard:

The highest rate of Violation of Women in 2008 is 88.3 per 100,000 population in Lesotho, 59.0 for Sweden and the USA at 29.8. These numbers are shockingly high for a nation that implements **fair and just** laws.

Whereas Islamic nations like Syria, Yemen and Saudi Arabia stand at 0.8, 0.7 and 0.1 for every 100,000 people respectively. This is chiefly because in Syria and Yemen the penalty is levied at Lashing and Stoning of the Individuals in Public. This severity of punishment ensures that most offenders are discouraged from attempting the act, bearing in mind its extreme consequences.

**COMPARISON OF ISLAMIC AND WESTERN METHODS**

 The West employs a Prison system to house its criminals and give them penal sentences in confinement because of their crimes. This is in stark contrast to Islam’s quick and just punishments which do not involve holding anyone prisoner or tarnishing years of life.

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| **Prison System** | **Islamic Hudud** |
| Cost of Confinement with no productivity generated results in a loss for the State | Allows Prisoners of War to Teach Muslim Children to earn their Freedom |
| Incubates Criminal Minds by creating Connections and acclimating convicts to Crimes | Public Punishments make an example out of the Guilty party so the Society as a whole is less inclined to attempt the act |
| Targets a Single person, thus sowing seeds for resentment against their community | Offers a way to repent and pay recompense for ones actions while ensuring there will be no repeat offenders |
|  |  |

The flaws of the Prison system can be seen in contrast to the Islamic Hudud’s

Those who cry cruelty can decide between losing ones hands but ensuring nobody else commits a robbery, or imprisoning a petty thief who might comeback as a hardened criminal who will make sure he won’t get caught next time.

Islam does not focus only solely punishing the individual but considers the interests of the Society. The punishments are harsh so they aren’t required to be executed often.

This is highlighted by the Tradition of the 4th Caliph of Islam who was brought the issue of increased alcohol consumption, the 4th Caliph reasoned that under influence of Alcohol people slander thus the penalty of lashes was raised from only 100 lashes for alcohol to an additional 80 lashes for slander. He also increased the magnitude of Punishment that repeat offenders will be beheaded if they are caught drinking for the 4th Time. [[7]](#footnote-7)This discouraged many from consuming alcohol as nobody could be sure they would not slander under the influence. This led to a better and healthy society.

**DO ISLAMIC PUNISHMENTS HAVE A PLACE IN THE MODERN WORLD?**

With Islamic punishments exhibiting success in rebuking offenders, it arguable from a logical standpoint that they certainly do have a place in the modern world. However, why does the West still insist on using Imprisonment and other penal systems despite their sparingly ineffective?

With cases of perjury, lying under oath, becoming increasingly common in the West (especially in the USA that has seen an increase in such cases)[[8]](#footnote-8) one has to consider the place of reliable and truthful testimonials in Islam.

To this, the Quran has stated:

*“O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is ever, with that you do, Acquainted.”[[9]](#footnote-9)*

With the crime of perjury being relevant to the Islamic Punishment of Flogging for Slander: Whereby anyone that accuses another of Zina, fails to produce 4 witnesses will be themselves charged for Slander and lashed 80 times.

*"And those who launch a charge against chaste women and produce not four witnesses (to support their allegation) flog them with eighty stripes: and reject their evidence ever after: for such men are wicked transgressors"[[10]](#footnote-10)*

The same can be considered of a guilty party that refuses to speak up in light of sufficient evidence would be subject to prosecution.

This shows that Islam already has a system in place to deal with Perjury, but need the punishments involved in Islam need to be as Brutal as they are described?

Several Muslim nations have attempted to adapt the Islamic Laws to better frame them in the Modern world. One such example being Pakistan

The Punishment for Alcohol Punishment in Pakistan is not levied at 100 lashes and so forth. The Pakistani Law states:

*Whoever attempts to commit an offence punishable under this Order or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished, in the case of an offence punishable under Article 8, with rigorous imprisonment for a term which may extend to two years, and in other cases with imprisonment for a term which may extend to one-half of the longest term provided for that offence, or with such whipping or fine as is provided for the offence, or with any two of ,or all, the punishment.[[11]](#footnote-11)*

In Summary, Pakistan has employed a maximum of 30 lashes with Imprisonment up to 2 years. Compared to the traditional Islamic Punishment of 100 lashes this is an example of how Pakistan adapted Islamic Laws into the Modern World.

Any slight on its effectiveness can be abated by the fact that Pakistan ranks 191 in the world for Alcohol Consumption with 0.1 litres per capita on persons of age 15+

In comparison Saudi Arabia, where the traditional punishment of 100 lashes is employed, stands at 0.2 litres capita, which is double of Pakistan. Yemen also does the same but stands at 0.3 litres per capita which is triple of Pakistan.[[12]](#footnote-12)

This shows that there is not only potential but legitimate effectiveness if Islamic Law is adapted into Modern use. Islamic Law is said to be the best of all Laws, yet Hazrat Umar still amended Laws during his Khilafat:

*"Anas bin Malik reported that a person who had drink wine was brought to Allah's Apostle (may peace be upon him). He gave him forty stripes with two lashes. Abu Bakr also did that, but when Umar (assumed the responsibilities) of the Caliphate, he consulted people and Abd al-Rahman said: The mildest punishment (for drinking) is eighty (stripes) and 'Umar their prescribed this punishment"[[13]](#footnote-13)*

Thus, Islamic Law certainly does have a place in the Modern world however, a great many of laws would need amendment. For instance, stoning which the Prophet sanctioned existed at a time when the best possible method for Capital punishment en masse was Stoning. In the modern world, the west in particular, Firing squads, and Poisoning and Electric Chair executions are employed for Capital Punishments. This can modernize the concept to turn the ire of the Westerners away while also fulfilling the Islamic purpose of a Punishment severe to prevent repeat offenders and act as an example for society.

**CONCLUSION:**

Islamic Law is not as Barbaric, Archaic and Obsolete as the West suggests. In fact, the Islamic Application of Law stands to be more effective than the contemporary Western Judicial System. However, it cannot be denied that some of the practices do appear to be barbaric, but that is only for the neutral observer that cannot discern its true purpose.

If the purpose of each Punishment is to ensure the Guilty are given a way of atoning for their crime and to make an example of the offender such that society benefits in a way that there will be no more repeat offenders then rather than employing Stoning and Lashing, a more modernized approach could be adopted.

The Quran itself supports such attempts at moderation:

*“And it is thus that We appointed you to be the community of the middle way so that you might be witness to you”[[14]](#footnote-14)*

However, it need not be mistaken as an excuse to overturn the motive behind any existing punishments that have prescribed exactly for that purpose.

For instance, the Punishment for Murder is a Death Sentence or, if the affected party agrees, Blood money. No Modernized reform should subvert this punishment. The method of delivery can be evolved to match but the purpose should remain consistent.

Therefore, The Accusations of the West to Dub Islam as Barbaric or Obsolete are unfounded. Rather it is more accurate to say that Islamic Law should be appraised for a Modern Interpretation rather than stubbornly endorsing the Punishment Delivery of 1,500 years ago.

1. Surah At-Tin 95:8 [↑](#footnote-ref-1)
2. Hans Wehr Dictionary of Arabic [↑](#footnote-ref-2)
3. Surah Al-Maidah 5:38 [↑](#footnote-ref-3)
4. Surah Al- Maidah 5:39 [↑](#footnote-ref-4)
5. Surah Al Nur 24:4 [↑](#footnote-ref-5)
6. Sahih Bukhari Volume 8 Book 81 Page 764 [↑](#footnote-ref-6)
7. Qaza and Teha ; p-162 [↑](#footnote-ref-7)
8. https://www.justice.gov/jm/criminal-resource-manual-1761-perjury-cases-sentencing-issues [↑](#footnote-ref-8)
9. Surah An-Nisa 4:135 [↑](#footnote-ref-9)
10. Surah Al Nur 24:4 [↑](#footnote-ref-10)
11. http://www.pakistani.org/pakistan/legislation/zia\_po\_1979/po4\_1979.html [↑](#footnote-ref-11)
12. WHO Global Status report on Alcohol and Health 2014 [↑](#footnote-ref-12)
13. SAHIH MUSLIM BOOK 17 CHAPTER 8 PAGE 4226 [↑](#footnote-ref-13)
14. Surah Al-Baqrah 2:143 [↑](#footnote-ref-14)