

Punishment in the *Shari'ah* Its Educational Implications for the Development of *Akhlāq*

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The title requires some clarification because the discussion and justification of punishment often centre on its negative character. To avoid any complication we wish to say that, from the Islamic perspective, *akhlāq* (moral) development does not rely on punishment alone. In fact, punishment is only a minute variable and is used as a last resort. Nevertheless, the relationship in the title between punishment and *akhlāq* development, shows that punishment could be a device to encourage and propagate morality, and to ensure the good character of individual Muslims by minimizing sinful and criminal tendencies. For example, *hadd*, *qisās* and *ta'zīr* forms of punishment, which are inflicted on the offender are not merely for the sake of letting the criminal suffer but also to educate him and act as a reminder from Allah.

Introduction

Goodness and morality are the basic pillars that maintain the structure of every healthy nation. In this context, the Qur'an provides the ideal way of conduct, which is that man can attain moral perfection by righteous work (*'amal ṣālih*) and being of good character namely, *muttaqī*.¹ Having a good character ensures that an individual behaves properly towards other members of society and this will keep social order, intact. A *hadīth* also describes a crucial point about the preservation of *akhlāq*; it was the foremost purpose for which the

Prophet Muhammad (ﷺ), was sent to the people. The Prophet (ﷺ) said, "I was sent to perfect good character".² So the first educator in Islam is the Prophet Muhammad (ﷺ) who as a Messenger of Allāh illuminated a belief in Allāh, showed good morality and cultivated a meticulous education for *akhlāq* as the fundamental basis for the construction of the Muslim community. This, in fact, is the essence of the Qur'ānic understanding, that all the prophets and messengers of Allāh were human beings who had been chosen by Allāh and were given a message which was passed on to the people. For example the Qur'an says: "Say: I am but a man like yourselves, (but) the inspiration has come to me that your God is One God".³ This Qur'ānic verse exemplifies that the chosen prophets and messengers were physically and morally not different from others except that they had been given the revelation. This was to enable human beings to take after them.

From Islamic point of view, education is comprehensive; involving not only the dissemination of knowledge, but also the development of the character and the instilling of Islamic values in man to educate him as to how to behave in society. In other words, the education which is referred to in the Qur'an and the *Sunnah* with their guidance and instructions is concerned with aspects of moral qualities and condemns all kinds of evil and sinful deeds in order to promote good *akhlāq*. The fact that Islam provides education not only through the formal educational system but also through an

extensive performance of *'ibādah* in daily life may be a means to prevent Muslims from committing sins and crimes, or to eliminate any sort of motive that may lead to crime.

Apart from education, Islam also guides its followers throughout their life through a comprehensive code of law, namely the *Shari'ah*. The *Shari'ah* is a total way of life and a comprehensive code of ethics.⁴ Its function is to provide human beings with a model of behaviour, and also criteria for distinguishing between good and evil, and guide man towards full submission and obedience to the commandments of Allah.⁵ In this respect, Sayyid Hossien Naṣr has explained that the real significance of the *Shari'ah* is to build the basis of stability in human life.⁶ It constitutes the sole blueprint for a good society because it provides the way for everyone to conduct their lives.⁷ According to Mahmud Shaltut, Islam cannot find its way into any heart or mind without the acceptance of its two basic branches: the beliefs and the code of law (*Shari'ah*). He adds that the code of law (*Shari'ah*) provides the regulations that create proper relations between man and Allah, and the result of this is good behaviour.⁸

In fact, punishment in Islam is a component of the *Shari'ah* and has its own nature and features, and so may maintain good values in the same way as other components of the *Shari'ah*. In other words, the advantages of punishment in the *Shari'ah* are that it may be able to deter individuals, and to reform them and develop in them a good character and on a wider level may create and maintain justice, peace and prosperity in society as a whole. The principles of the *Shari'ah* are closely connected with the development of human values and character in society, just as is education in Islam. Hence, we may say that there is a close relationship between education in Islam and punishment in the *Shari'ah*, both of which possess similar objectives complementing each other in order to promote man's *akhlāq* and develop a good society. Nevertheless, misconceptions about punishment according to the *Shari'ah* are very common. Therefore, it is important that it should be carefully explained so that people may have a clear and positive perception of it.

Punishment and Its Educational Implications

Man should not be judged or punished without being first instructed, educated and given reminders and

warnings. This principle is laid down in the Qur'ānic verse, "... nor would We visit with Our Wrath Until We had sent a Messenger (to give warning)".⁹ This verse clearly indicates that Allah gives His right guidance to people through the chosen messengers with the revelation. For example, the Prophet Muḥammad (ﷺ) brought the teachings of Islam, among them the *Shari'ah* which often instructs about right and wrong, obedience and disobedience, permission and prohibition, to guide and promote the development of *akhlāq* based on these foundations.

The idea of the theoretical basis of punishments in the *Shari'ah* is intended to prevent and forbid evil deeds, to warn against bad conduct and to reform the offenders and these are all among the process of education. According to Muḥammad Tahir-ul-Qadri, "The punishments are, in fact, a means of promoting the moral values and general welfare of human society".¹⁰ This indicates that punishment in the *Shari'ah* has an element of education because of its possible educative influences and moral effects on man. Apart from this, the Qur'ānic verse states, "... and We seized them with Punishment, in order that they Might return (to Us)".¹¹ The key feature of punishment as explained by the Qur'ān generally has the motive of education that may reform someone and remind him to return to Allāh. This implies that punishment may turn someone from doing evil deeds to good moral behaviour and we believe its principles provide a process and atmosphere for moral education.

Islam offers a solution to the problem of crimes through different categories of punishments, which are not only different in quality and justification, but also in the philosophy of their classification. These categories of punishments relate to different types of crimes. The punishments for each of these different types of crimes are *ḥadd* punishment, *qiṣāṣ* (retaliation) and *ta'zīr* (chastisement).

Educational Implications of *Hadd* Punishments

Hadd denotes that man is allowed to live his life in accordance with the rules and limitations of the *Shari'ah*. In this context, the Qur'ān says, "... These are the limits Ordained by Allah, so do not transgress them. If any do transgress the limits ordained by Allah, such persons wrong (themselves as well as others)".¹² The verse

clearly states that there are boundaries between that which Allāh has allowed men liberty of action and those which can not be transgressed and should not be crossed. If someone does so, he commits an evil deed or becomes a wrong-doer. Implicit in this limitation is the law of self-purification, which is achieved through training and guiding man to spend his life in this world in accordance with the commandments of Allāh, to enjoin good and prohibit vice.¹³ Moreover the adjustment of man's freedom and the restrictions of Divine law lead to the high noble quality of *akhlāq*, because the form of prudence, in essence the coordination and controlling of behaviour, leads to self-control and self-discipline which may enable a person to get rid of his bad habits. If this attribute captures a person's mind and heart, it may result in his behaviour becoming good.

As a matter of fact, giving the offender some sort of punishment may educate other individuals by providing them with an example and a warning not to imitate evil deeds. Therefore, the general deterrent effect, which is employed by the Qur'an as *nakalan min Allāh*^{13-a} implies an example from Allāh to others to discourage people from doing evil deeds. For example, Allāh says, "So We made it an example to their own time and to their posterity, and a lesson to those who fear Allāh".¹⁴ Further, the suffering of the offender in such a case serves to deter others from emulating him,¹⁵ and serves to ensure the process of education through example, and it is to maintain the deterrent effect of punishments in the *Shari'ah* that they are inflicted in public. For example, the punishment of cutting off the hands in the case of theft, is an exemplary punishment designed to reform the offender and to give a lesson and serves as a warning to others not to commit such evil deeds. Meanwhile the infliction of punishments which should be carried out openly, in the case of fornication or adultery, is to give *maw'izah* (a lesson and example). According to Muhammad Iqbal Siddiqi, "By inflicting exemplary punishment to a stubborn wrong-doer Islam carries out psychological operation of all those in the society having criminal intentions and trends".¹⁶ This may deter others particularly those who have criminal tendencies or intentions and who are potential offenders.¹⁷ In fact, the *maw'izah* and moral values behind punishment might educate individual members of a community to fear punishment and so choose to avoid evil deeds. The lesson from punishment offers to the community a way of

maintaining the purity of its moral life by its deterrent effect on the minds of those with criminal tendencies which indirectly may reform their inward desires.

There is another crucial point to be grasped from the *hadd* punishment of *qadhaf* (slandering) which has to do with the *akhlāq* development. The Muslim is encouraged to respect and honour other individuals. He/she is prohibited from defaming, slandering or mocking someone or using sarcasm. A person who attacks the honour of another individual without any proof is liable to be punished by *hadd* punishment, particularly in the case of *qadhaf*. The existence of this punishment may inculcate a sense of good conduct in the mind of a man by teaching him not to seek the faults of other people. Moreover, it can promote goodness and righteousness among people because the infliction of *qadhaf* punishment requires the validity of a witness to be based on the *akhlāq* of a person. One important condition for someone to be a witness must be 'adl and righteousness in the context of obedience to the commandments of Allāh, and to uphold the dignity of trustworthiness.¹⁸ The standard of good *akhlāq*, which is required for the ordering of punishments, suggests that Islam in fact encourages every individual to be of good conduct and to respect the honour of other people.

Educational Implications of *Qisās*

The *qisas* punishment also has a crucial role in *akhlāq* development. Generally, the end result of murder or killing is the instinctive desire for revenge or retaliation against the criminal by the victim (in case of injury) or his relatives (in case of murder).¹⁹ If this reaction is not controlled it may lead to negative effects such as enmity between the two parties, and lead to fighting with each other, which causes more violence. According to Muhammad Tahir-ul-Qadri, "If these crimes are not redressed, they lead to an almost unending chain of tension and conflict, murders and counter-murders between the parties".²⁰ In this context, the law of *qisās* particularly in the case of murder may prevent or remove people's desire for revenge because the main feature of *qisās* is that of treating an offender equally.²¹ The Qur'an stresses the equality of retaliation, "We ordained therein for them: Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal".²² Therefore, when the

desire for revenge is justly satisfied through this Qur'ānic explanation, the need for violent action may disappear.

Moreover, *qisās* punishment serves to prevent everyone from committing crime by reminding them of the severity of the punishment which may be imposed on the criminal. The Qur'ān states "O ye who believe! The Law of Equality is prescribed to you in cases of murder ...".²³ The warning from the Qur'ānic verse on the *qisās* punishment actually may lead a person who intends to kill his fellows to think that he will be killed in return if he commits murder. This may prevent him because of the possibility of punishment and fear of it, and the resulting complications for him and his family. "By making possible offenders frightened of the severity of the punishment, the punishments can save people from ignorance, guide them in the right course avoiding deviation from truth, prevent them from committing disobedience and encourage them towards obedience".²⁴ Thus one may take self-preserving steps, such as not to become involved in any sort of offence, thus leading to cultivate good behaviour. As long as he confines his life and activities within this atmosphere, it possibly may discourage him from doing evil deeds or bad conduct.

Psychologically, in order to ensure a sense of satisfaction, Islam gives the victim or the victim's relatives the right and authority to forego the enforcement of the punishment if they want to do this when the judge pronounces the offence of the offender. Muhammad Haroon has noted, "By leaving the decision to the relatives Islam allows public opinion to directly influence the sentence, and reflect any revulsion, either at a death sentence, or at letting a peculiarly horrible murderer live".²⁵ The decision, which is left to the relatives, is after the processes of the court so that it may not affect the administration of justice. Further, other alternatives also are given to the victim or victim's relatives, such as to accept *diyat* (blood money). The practice of *diyat*, which is an amount of money to be paid by the offender or his family to the victim or the victim's family, may lessen the desire for retaliation and build up a good relationship between the offender and his victim or his victim's relatives. Moreover, the offender may behave more prudently in the future.

The final alternative which is offered by the *qisās* punishment is made clear when the verse of the Qur'ān teaches a victim and his relatives to convert bad natural desires, such as revenge, ill-conduct, into good *akhlāq*

by way of forgiveness. Allah says, "... But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude".²⁶ In other words, the victim or his relatives are encouraged to forgive the offender and remove any idea of revenge, which may make a good impression on the offender. Actually, forgiveness by the victim or his relatives may make the offender realise the goodness of others and perhaps lead him to behave better in society.

In this context, many Qur'ānic verses guide every Muslim to be forgiving, even towards his enemy, and Allah praises those who restrain their revenge. Certainly, such a person, will have his reward with Allah. Allah says, "The recompense for an injury is an injury equal thereto (in degree): but if a person forgives and makes reconciliation, his reward is due from Allah ...".²⁷ This verse actually draws attention to two different situations (retaliation and forgiveness); however, it establishes the fact that Islam prefers that every Muslim shall be patient and should resort to forgiveness rather than retaliation. The scope of this Qur'ānic verse also lays emphasis on the idea that Islam educates a Muslim to seek Allah's pleasure and His reward is better than revenge, although he has been hurt by the offender. According to Abdul Rahman I. Doi, "Muslims are thus taught to be forbearant (*ṣābirīn*), but they are equally asked to prevent repetition of crimes by taking steps and applying both physical and moral means. The best moral means is to turn hatred into friendship by forgiveness and love, ...".²⁸

These indicate that the key idea of these positions or situations support the idea that this punishment will develop the character, through the elimination of the natural desire for revenge on the part of a victim or victim's relatives, and cultivate a good relationship between two hostile parties. At the same time, we can grasp the crucial point that Islam is able to educate people to the extent that they can forgive the offender who has done great harm to them. In addition, this grant of pardon or forgiveness indicates that punishments in the *Shari'ah* are not really intended to seek out an offender and punish him but to inculcate good behaviour and reform him to be a better member of his community.

Educational Implications of *Ta'zīr*

Meanwhile the *ta'zīr* punishment is applied in order

to settle cases or transgressions which are not covered by the *ḥadd* punishment or *qisas*. For example, if a thief is left unpunished by *ḥadd* punishment because certain conditions are not met (minimum value in theft or petty theft) he is still unsafe for society, so, for the sake of the safety for society his case might call for *ta'zīr*. This is because the nature of *ta'zīr* is more to reform and correct the character of the offender and ensure his rehabilitation in society. It may also prevent the recurrence of the crime. Abdurrahman al-Jazari has noted that the *ta'zīr* is the *ta'dīb* on the basis that the *qāḍī's* discretion for the offender prevents him from returning to carrying out unlawful deeds.²⁹ In other words, *ta'zīr* ought to be inflicted so that the criminal does not become a habitual offender.³⁰ Therefore, the application of this punishment relies on the degree and nature of the offences committed. This may guarantee that crimes will not be committed, society will be safe and peaceful, the criminal hopefully can be reformed. This may lead the criminal to cultivate self-discipline and self-reform. In this connection, the nature of *ta'zīr punishments* can be introduced in the school environment in order to guide student behaviour. It is useful to look at the procedures and flexibility of punishment in the *Shari'ah*. From the Islamic point of view, the teacher is allowed to discipline his students for certain offences by an appropriate form of punishment with the permission of the student's parents or guardian, for this does not contradict Islamic teaching.

From the foregoing, we can see that punishment in the *Shari'ah* aims to mould individual Muslims and oblige them to obey the commandments of Allāh, concerning love, fear and hope of His reward as a *muttaqī* (pious) person, as the Qur'ān says, "In the Law of Equality there is (saving of) Life to you, O ye men of understanding; That ye may Restrain yourselves".³¹ The punishment may remind a person of the severe consequences of his offences and also develop the fear of certain punishment in the Hellfire. Moreover, it educates Muslims about the limitations set up by Allāh to deter them from evil actions. This awareness leads a Muslim to be a person of *taqwā*. At the same time, it aims to preserve harmony and tranquillity in society. As far as the significance of punishment in the *Shari'ah* is concerned, we find that it is a means to promote virtues and to reform the behaviour of offenders. However, implementation must rely on other fundamentals of Islamic teaching, and it is false to say

that punishment alone can create virtuous behaviour or attain good *akhlāq*. This means that punishment has the role of educating offenders and others through the processes of warning, deterrence and reforming.

Counteracting the Criticism of Punishment in the *Shari'ah*

THE SCOPE OF THE *SHARI'AH*

Generally, criticism about the application of punishment in the *Shari'ah* is caused by a failure to understand the atmosphere of the *Shari'ah* which is concerned with a whole system of life. According to Muhammad Haroon, "The Western critics of Islam never portray Islamic punishments, for example, as part of such a living system. Rather Islamic punishments are shown as scattered, isolated, dissected parts, selected so as to appear absurd".³² The decline from the genuine system of the *Shari'ah* as laid down in the Qur'ān and the *Sunnah* in most Islamic countries across the world has led to an unclear image of punishment in the *Shari'ah* and its beautiful system. The lack of clarity concerning the genuine system of the *Shari'ah* has created some confusion in the minds of some Muslims and particularly non-Muslims. Muhammad Tahir-ul-Qadri has noted, "These objections are raised in complete illiteracy and ignorance of the system and the philosophy of Islamic punishments".³³ This is because sometimes people do not merely fail to understand the *Shari'ah* system but also the teaching of Islam as a way of life. In this context, a proper information and understanding especially through Islamic education is necessary, which may create the desired positive impact on the individual and the society. In addition, every attempt to re-implement the genuine *Shari'ah* law and to re-establish the prescribed punishments in the *Shari'ah* has been condemned and prohibited by some leaders of Islamic countries as not being suitable in modern times. Rather, the negative image of punishments is widely portrayed, such as the cutting off the hand, the death penalty and so on that may give misleading information to either Muslims or non-Muslims. This means that the issue of punishment in the *Shari'ah* is not widely understood by the people, except its negative view. So, in this context, the nature of punishment in the *Shari'ah* and its philosophy and significance have to be clarified and explained by every Muslim properly.

Obviously, the imposition of punishment in the *Shari'ah* is governed by strict rules and procedures in order to make sure that the punishment is inflicted only on the guilty person. It is never imposed immediately without considering the rules and procedures. However, punishment in the *Shari'ah* has been criticised as being inefficient and unpractical.³⁴ In response to this argument, we have to refer to the key features of punishment in the *Shari'ah* which is not to search for offences in people but to develop a person's *akhlāq* through moral means. For example, one of the advantages of this is to allow the offender time to reform through the concept of *tawbah* and declare his intention not to repeat his bad behaviour and to turn permanently from his evil course and behave correctly in the future. Moreover the offender may adjust his attitude to take into account that other individuals are human beings like himself who are worthy of consideration. This sensitivity to the feeling of love for others is a mark of respect for social relationships.

SOCIAL INTEREST

The criticism of punishment in the *Shari'ah*³⁵ often focuses on an individual aspect such as chopping off the hand of a thief. When an offender's hand is chopped off the legal punishment is blamed as barbarous. This is because of the idea that this man's rights have been violated. However, Islam looks at the matter from the collective view such as the need to maintain security, peace and prosperity, and the stability of society and its members. Islam considers that all the members of society are a body, where if anything happens to one of its members then the rest of the society is also affected. This beautiful construction of society has been highlighted by the Prophet's (ﷺ) tradition. He said, "The similitude of believers having mutual love, affection, fellow-feeling is like the whole body; when a limb of it aches, the whole body aches, because of sleeplessness and fever".³⁶ The prescribed punishments in the *Shari'ah* are firmly pronounced, and serve to discourage all sorts of destructive acts which affect the rights of people, in particular relating to life, property and honour in society. Indeed, crime is a disease, which has a destructive effect on society. Therefore, punishment in the *Shari'ah* is the remedy which may control the disease, as well as directing wrong-doers towards righteous values. However, before

punishment in the *Shari'ah* takes place in society, it is the duty of the Islamic community, particularly of the ruler, to watch over the practice of what is good, and prohibit evil.³⁷ This is because the social environment and the socio-economic system may have an effect on the existence of criminal behaviour among the members of society. Someone who is in a critical situation, particularly in the socio-economic aspects of his life, may be unable to maintain his moral values, and that eventually may affect his conduct. If the state or society fails to provide the basic requirements and preserve justice, it may compel someone to commit crimes because of these deficiencies, and then the criminals cannot be blamed. According to the *Shari'ah*, they may not even be prescribed punishment in Islam because the fault is in the hands of the rulers.

CRIMINAL'S IMPACT

Punishment in the *Shari'ah*, also, has been looked down upon as having an approach which has been regarded as being inhuman and degraded. The reason for this is that these sorts of punishment seem to be severe and cause pain to the offender. However, we should realise that the criminal is obviously more evil and barbarous to the victims and individuals in society. The experience of crime can be terrifying to individual members of society, causing fear of murder, physical assault, theft of property and valuables, and so on. For example, when he kills someone, a murderer will deprive the victim's dependents, the rapist will damage the rest of his victim's life, the robber will make people fearful in their daily lives and so on. According to Muhammad Tahir-ul-Qadri, "... theft is the crime that may damage the emotional and mental equilibrium of a person as well as induce in him a maximum feeling of insecurity".³⁸ Therefore, crime will have economic, psychological and emotional costs, beside the financial costs of operating the process of the judicial system. Moreover, fear of crime tends to limit people's activities to 'safe' areas at 'safe' times.³⁹ These are among the harmful effects of crime, if criminals are not punished, and if they know that leniency will be shown as a consequence of their acts. We believe that every society abhors criminal activity and does everything possible to relieve the strains, and to prevent the root causes of crime. So if someone attacks the idea that punishment

can deter crime, reform offenders, and ensure a just and peaceful society then he might welcome or satisfy the suffering and injury caused by criminals to others.

MAN-MADE LAW

Nowadays the law systems in the Muslim world after Colonization have almost been adapted to accord with the Western law concepts or the man-made law. In most cases the Colonial masters, after great struggle agreed to allow only family laws with Westernized interpretations. For this reason in spite of the "Shari'ah law" that was introduced in some Muslim countries generally it deviated from the genuine Shari'ah law as prescribed in Islam. The crucial question here is how far those law systems are able to suit the needs of justice as revealed in the Divine law. This is because the nature, principles, ideologies and philosophies of the Western law (like the Roman Law or Common Law) and the man-made law and the new version of the "Shari'ah law" differ from the Islamic law, which is the genuine one. The reality which affects the Muslim world today is the problems accruing from the confrontation between these two systems. In some cases a new version of the "Shari'ah law" is also being used and implemented into the Muslim social life. However, such laws face a great challenge in preserving justice, because it can be challenged and argued that can be done by appealing the case in the High Courts based on technical arguments and loop holes of the procedures or the "outsider-interruption" or corruption. Sometimes, some of the cases seem to be of double-standard and fail to provide justice. Somehow, in the implementation of legal punishment of the "Shari'ah in society, there are no differences in the economic, political or social status between rulers and the common people or men and women or rich and poor and so on. However, no one is immune from legal punishment in the Shari'ah if she/he is proven guilty with evidence or with fair confession. Even the rulers of state are also not above the law like a Western monarch.* In general, these views express the idea that punishment in the Shari'ah aims to develop an individual through awareness of severe punishment which she/he could receive for her/his offences, whether in this world or in the Hereafter, which

*In Islam the kings or *sultans* were also subject to the Shari'ah – Ed.

can deter her/him from committing criminal acts. However, if she/he has committed any crime, the system aims at reformatory and corrective action, which can draw her/him back to the right way and obedience to Allah.

Conclusion

The general assumption is that punishment in the Shari'ah is negative in character because it inflicts pain. However, our justification of punishment has focused on the context of moral means to achieve a balance of values between good individual behaviour and an ordered society. Therefore, we are right to conclude that punishment in the Shari'ah has a number of penological advantages. In the light of the wisdom behind the infliction of punishment in the Shari'ah, we find that its element of education may cause the offender to adjust his bad behaviour and show responsibility in his everyday life, and allow people to live a good and useful life by deterring and reforming (possible and actual) offenders.

In addition, good character or conduct flourishes when individuals and people maintain and promote correct moral behaviour and action through the justice system served by punishments in the Shari'ah, which secures an ordered society. This shows that the education and inner dimension of punishment in the Shari'ah is a means of cultivating and developing good character. To sum up, we believe that the effectiveness of its consequences require and rely upon the other principles of Islamic teaching where they should complement each other as an incentive to promote *akhlāq*. Without relying on these principles and teachings, the punishments according to the Shari'ah might lead to injustice.

Notes and References

1. See: the Qur'ān, II:2, 21, 63, 179, 183, 197, 237, V:2, 8, VI:153, VII:65, X:31.
2. Mālik Ibn Anas, *Al-Muwatta'*, translated by Aisha Abdurrahman Bewley, ch. 47, no. 8, Granada, Madinah Press Granada, 1989, p. 382.
3. The Qur'ān XVIII:110, see also: VI:8-9, XVII:93-94; XLI:6.
4. For further explanation see: Abdur Rahman I. Doi, *Shari'ah The Islamic Law*, London, Ta Ha Publishers, 1984, pp. 2-6, Muhammad Muslehuddin, *Philosophy of Islamic Law and Orientalists; A Comparative Study of*

- Islamic Legal System*, Lahore, Islamic Publication Ltd., 1982, pp. 94-97.
5. Abdur Rahman I Doi, *Shari'ah the Islamic Law*, p. 2.
 6. Sayyid Hossein Nasr, *Islamic Life and Thought*, London, George Allen and Unwin, 1981, p. 29, see also his: *Ideals and Realities of Islam*, London, George Allen and Unwin, 1966, pp. 93-118.
 7. David Waines, *An Introduction to Islam*, Cambridge, Cambridge University Press, 1995, p. 63.
 8. Mahmud Shaltut, "Islamic Belief and Code of law" in Kenneth W. Morgan (ed.), *Islam the Straight Path*, New York, Ronald Press Company, 1958, p. 88.
 9. The Qur'ān XVII:15.
 10. Muhammad Tahir-ul-Qadri, *Islamic Penal System and Its Philosophy*, Lahore, Minhaj-ul-Quran Publications, 1998, p. 488.
 11. The Qur'ān XLIII:48.
 12. *Ibid.*, II:229.
 13. *Ibid.*, III:104, 110, XXXI:17.
 - 13a. *Ibid.*, V:38.
 14. *Ibid.*, II:66, see also: V:38.
 15. Ali Akram Khan Sherwani, *Impact of Islamic Penal Laws on Traditional Arab Society*, New Delhi, M D Publications, 1993, p. 42.
 16. Muhammad Iqbal Siddiqi, *The Penal Law of Islam*, Lahore, Kazi Publications, 1985, p. 23.
 17. Muhammad Tahir-ul-Qadri, *op. cit.*, p. 494, see also: Mohamed S. El-Awa, *Punishment in Islamic Law*, Indianapolis, American Trust Publication, 1981, p. 18, Muhammad Qutb, *Islam The Misunderstood Religion*, Kuwait, Ministry of Awqaf and Islamic Affairs, 1964, p. 137.
 18. Anwarullah, *Islamic Law of Evidence*, Islamabad, Shari'ah Academy, 1994, pp. 6-21.
 19. For further discussion on retaliation by victim see: Joanna Shapland, Jon Willmore and Peter Duff, *Victims in the Criminal Justice*, Hants, Gower Publishing Company Limited, 1985, pp. 30-53.
 20. Muhammad Tahir-ul-Qadri, *op. cit.*, p. 494, see also: Muhammad Iqbal Siddiqi, *op. cit.*, pp. 151-152.
 21. For further explanation see: Imran Ahsan Khan Nyazee, *General Principles of Criminal Law (Islamic and Western)*, Islamabad, Advanced Legal Studies Institute, 1998, p. 49-51.
 22. The Qur'ān V:45.
 23. *Ibid.*, II:178.
 24. Hashim Mehat, *Malaysian Law and Islamic Law on Sentencing*, Kuala Lumpur, International Law Book Services, 1991, p. 33.
 25. Muhammad Haroon, *Punishment in Islam*, Lahore, Vision Islamic Publications, 1993, p. 27.
 26. The Qur'ān II:178.
 27. *Ibid.*, XLII:40, 43, see also: VII:199.
 28. Abdur Rahman I. Doi, *Shari'ah: The Islamic Law*, p. 223.
 29. Abdurrahman al-Jaziri, *Kitab al-Fiqh 'Ala al-Madhahib al-Arba'a*, Labnon, Dar al-Kutub al-'Ilmiyyah, 1990, p. 349.
 30. *The Hedaya*, translated by Charles Hamilton, New Delhi, Kitab Bhavan, 1994, p. 203.
 31. The Qur'ān II:179.
 32. Muhammad Haroon, *Islam and Punishment*, p. 10.
 33. Muhammad Tahir-ul-Qadri, *op. cit.*, p. 508.
 34. See: N.J Coulson, *A History of Islamic Law*, Edinburgh, Edinburgh University Press, 1964, pp. 127, 224-225, J. Schacht, *Introduction to Islamic Law*, Oxford, Clarendon Press, 1964, p. 30, Matthew Lippan, Sean Mc Conville and Mordechai, *Islamic Criminal Law*, New York, Praeger, 1988, p. 97.
 35. See: Robert Roberts, *The Social Law of the Qur'an*, London, Curzon Press, 1990, p. 92, William Montgomery Watt, *Islam Fundamentalism and Modernity*, London, Routledge, 1988, pp. 19-20, Norman Anderson, *Islam in the Modern World: A Christian Perspective*, Leicester, Apollos, 1990, p. 112, *Amnesty International Report 1985*, pp. 336, 342, 355, 1988, p. 77.
 36. Recorded by Muslim, *Sahih*, translated by Abdul Hamid Siddiqi, vol. 4A, no. 2586, Lahore, Sh. Muhammad Ashraf, 1990, p. 182.
 37. It is constructed on the basis of virtues (*ma'rūfāt*) and to clean it of vices (*munkarāt*) to which the individual and social behaviour should conform. For further explanation of these matters see: Ahmad Ibrahim, *Islamic Law in Malaya*, Singapore, Malaysian Sociological Research Institute Ltd, 1965, p. 7, Abul A'la Maududi, *Islamic Law and Constitution*, Lahore, Islamic Publications (Pvt) Ltd, 1990), pp. 24-27, Muhammad Asad, *The Principles of State and Government in Islam*, California, University of California Press, 1961, pp. 2-4, Sayyid Matlub Husayn, *Evolution of Social Institutions in Islam During First Century of Hijrah*, Lahore, Islamic Book Foundation, 1986, pp. 128-145.
 38. Muhammad Tahir-ul-Qadri, *op. cit.*, p. 512.
 39. George F. Cole and Christopher E. Smith, *The American System of Criminal Justice*, 8th ed., Belmont, Wadsworth Publishing Company, 1998, pp. 65-66.