

THE OBJECTIVES OF THE PUNISHMENT SYSTEM

The objectives of the punishment system are three-fold:

- To punish those guilty of a crime, thereby acting as kaffara (purification) and reforming them.
- To act as a deterrent for society from committing crime.
- To be a means of retribution for those who are victims of crime.

PRINCIPLES OF THE PUNISHMENT SYSTEM

The Muslim is accountable for every action that he/she has performed and for every crime there exists a punishment that is enforced by the State.

Such a principle is important because it not only protects the society, but taking the punishment for such crimes through a court of Shari‘ah removes its punishment in the afterlife. It acts as a kaffara (purification) and is a means to repent and seek forgiveness. Muslims need to remember that Allah (swt) is all-knowing and will account all our actions. Therefore, it is better to get the punishment in this life and sincerely

repent to Him (swt) than to face the punishment in the afterlife.

Many of the Muslims during the time of Muhammad (saw) confessed to their crimes that were severely punishable in order that they may avoid the retribution for their actions on the Day of Judgement. It is narrated by Abu Daud when referring to a man who confessed to an illegal sexual act, and was ordered to be stoned to death, Muhammad (saw) said, “He is more agreeable than the fragrance of musk in the eyes of Allah.”

The punishment should be prevented as much as possible.

This applies because the severity of the punishment serves the primary role of a deterrent. Any shred of evidence that is doubtful or circumstantial will prevent the punishment. Indeed it is narrated in the Seerah (life) of Muhammad (saw) how he would exert himself to avert the punishment when individuals asked for the punishment to be implemented upon them. It is narrated that Muhammad (saw) said, “To free a criminal mistakenly is better than to punish someone innocent mistakenly.”

‘A’isha (ra) narrated, “Ward off punishments as much as you can. If you find any way out for a Muslim then set him free. If the Imam makes a mistake in granting forgiveness it is better for him than that he

should commit a mistake in imposing punishment.”

In this way, bearing in mind the heavy burden of proof, false conviction or unjustified punishment will be virtually absent in the Islamic judiciary.

Islam sets down punishments to protect and secure six issues for all citizens of the State, whether Muslim or non-Muslim Belief, Honour, Mind, Property, Life and Offspring.

Belief : The Islamic belief is the pillar of the Deen, and like any precious jewel, must be protected. Therefore, anyone who wants to leave Islam after accepting it and being advised, is subject to the penalty of death. The same punishment is applicable to anyone that slanders the belief of Islam.

Concerning the non-Muslims, the meaning of the Qur’anic verse, “**There is no compulsion in religion**” [TMQ 2:256] ensures that non-Muslims cannot be forced to become Muslims, and their right to practice their religion is protected.

Honour: In Islam, women are an honour (‘ird) and must be protected from all harm, slander and degradation. Therefore, Islam protects the dignity of women by punishing those who even backbite against her. Moreover, Islam protects the honour of people by punishing those who spread slander against them. Anyone who is

properly convicted of doing so is punished by eighty lashes.

Mind: The use of alcoholic drinks and any other substances that befog the mind are forbidden in Islam. Accordingly, all the social problems that are the inevitable consequences of such consumption are removed. The punishment for use of such substances is eighty lashes.

Property: Islam protects the wealth of all its citizens by securing a harsh punishment, e.g. cutting the hand of the thief, subject to all the conditions which apply here (like the value of the goods, the place of storage of the goods etc.).

Life: Muhammad (saw) said that, “The blood of a Muslim is worth more than the Ka‘aba and all its surroundings.” The punishment for murder is death, with the right of the family of the deceased to forgive and receive blood money.

Offspring: Islam guarantees recognition of the correct lineage of people and their children, and ensures that no child is wrongfully attributed to anyone other than their own parentage. This is primarily achieved by forbidding and punishing illicit sexual relations

CONCLUSION

The Judicial System and Punishments of the Islamic State were implemented

throughout every period from the time of the Prophet (saw) in Madinah when he established the first Islamic State. It settled the disputes between the people, protected the legitimate rights of the community, and ensured that those in authority gave the citizens of the State their dues in accordance with the Shari‘ah of Islam. All this it did in a superior manner, such that universal acclaim was afforded to the justice and propriety that it conferred upon those who were protected by it.

However, the strength and authority that the judiciary in Islam proffers is not built upon harsh punishments or oppression of the people. Rather, its power lies in the fact that it originates from the Islamic ‘*aqeedah* that is able to answer all the problems that may arise in life, and that its implementation and the obedience to it are considered as *ibadat* (worship). In this way, the history has shown that in only a relatively small number of cases did the judiciary have to resort to punishment of the people.

The mentality of obedience to Allah (swt) and disapproval of crime that the systems of the Islamic State - which are an integrated whole and of which the judicial system is one part - inculcates into the people is enough to ensure that justice and harmony in society prevail, and that crime is a fringe activity.

The Punishment System in Islam

