
CRIMINAL LAW AND COURT PROCEEDINGS IN ACCORDANCE WITH SHARIA

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ANNOTATION

This article looks at the criminal and judicial procedures under Sharia law. From the point of view of Islamic law, information and comments are given on the involvement of a person in a crime and what sources can be the source of criminal law.

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The norms of criminal law in Islamic law are not developed in more detail than the norms of civil law. They are characterized by antiquity, obsolescence and relatively undeveloped legal technique.

The concept of a crime in Sharia is based on legal norms that are closely related to religious ideas. In "Hidayat" by Burhaniddin Marghoni, a crime is defined in the language of law as an action against a person or property prohibited by law.

As stated in "Mukhtasar" (a short commentary on the Sharia law), the word "crime" in the dictionary means crime and sin, and in Sharia terminology it means causing harm to the life or body of a person [2].

Medieval Islamic jurists divide all crimes into three groups. The first group was interpreted as crimes that violate the "rights of God" and are not forgiven. This includes primarily the crime of apostasy. The death penalty is provided for this. Crimes against the regime, such as rebellion and resistance to state power, were also severely punished. The crimes of this group, which were deemed to be a serious religious sin, also included theft, alcohol consumption, adultery, and libel on charges of adultery.

The second group of crimes consists of illegal actions that violate the rights of individuals, and not the entire Muslim community. The rules that govern them derive from the customs of the tribal system, including the right to revenge.

For example, those who commit the crimes of premeditated murder or bodily harm are punished on the basis of a billion. However, it can be seen that sources of Sharia, including the Qur'an and hadith, speak of some mitigation of the punishment provided for the crimes included in this group.

For example, instead of additional bloody revenge, there will be a lighter penalty, such as "compensation". • The Qur'an defines murder and infliction of bodily harm as "revenge for the soul, the eye, the eye, the nose, the ear, the ear, the tooth, and the wound" (Surat al-Ma'ida, 45).). It is also commonly said, "Whoever spends it in charity, it is expiation for his sins." The meaning of atonement is ransom, compensation, forgiveness. Therefore, in the Qur'an, it is considered a good deed to accept blood without revenge.

Finally, the crimes that make up the third group are, by their nature, all other types of crimes aimed at criminal aggression against social relations, including non-payment of zakat, causing material damage to individuals (except theft and aggression), non-fulfillment of obligations under agreements, non-payment of compensation for food, under-measurement, under-weighting, extortion, bribery, misappropriation of treasury or orphan's rights, intentional unlawful court decisions, perjury, violation of the rules of conduct in public places, oppression of citizens or subordinates, denial of the most important religious beliefs, looting of state property in various unclean ways, witchcraft and sorcery, rape, homosexuality, intentional waiver of the obligation to pay alimony, etc.

Most of these crimes were not punishable at the time of the establishment of the Arab Caliphate. Therefore, they are not mentioned in the main sources of the Shari'ah. As a result of the development of legal doctrine and the attempts of the ruling classes to strengthen the existing social relations, many that were not previously criminalized; acts, including non-payment of zakat, fasting, infliction of minor bodily harm, insult, hooliganism, fraud and deception, waste of state property, gambling, etc. are considered criminal and punishable by a court. 'Idi. Punishment in such cases depended on the views expressed by the mujtahids and on the discretion of the individual judges.

There are different types of penalties under Islamic criminal law. Of course, it should be noted that outdated methods of punishment, typical of pre-state society, were also used. For example, the Shari'a prescribes revenge, compensation, repression, and other punishments for many crimes. [1]

There are three types of penalties in criminal law, depending on the severity: 1) limit; 2) revenge or compensation and expiation; 3) types of punishment. The lexical meaning of the word "had" is, as shown in Mukhtasar, the edge, the edge, the curtain between two things, the mone. This is understood in the Shari'ah as a punishment prescribed by Allah for criminal acts. Types of punishment include more than 40 lashes, such as 80, 100 lashes, amputation of an arm or leg, stoning, hanging, or beheading.

Since the punishment of hadd is mentioned in the verses of the Qur'an, the scholars of the Shari'ah consider it a severe punishment - the right of Allah. Had types of punishment are mainly defined for adultery, slander, theft, robbery (aggression), alcohol consumption, apostasy, rebellion, and other crimes.

Types of retaliation or compensation (diya) and atonement have been applied to crimes against the life and health of an individual, in particular, murder and infliction of bodily harm. [5]

The punishment of ta'zir could be applied in cases where the punishment of 'hadd' or 'revenge' could not be applied, as well as in the case of crimes punishable by religiously washing away sins. For example, if what was stolen in the theft was less than the amount introduced in the Shari'ah, the hadr was applied, not the hadd. Also, if the robbers are caught while blocking the road, without taking the property and without killing anyone, if they are caught until they repent, or if the thief is caught without taking the thing out of the room, hand uncut. Types of punishment include 3 to 39 lashes, imprisonment, warning, deportation, public humiliation, fines, deprivation of the right to wear a turban, etc. [2]

Thus, the punishments in the Shari'a were characterized by the cruelty and harshness typical of the Middle Ages. The main purpose of the punishment was intimidation. For example, the death penalty was often carried out by hanging in public or by being divided into four sections. Other forms of capital punishment, such as drowning and burying alive, were also used. Body injuries and corporal punishments - cutting fingers, hands and feet, stoning, etc. - have been widely used. Imprisonment is expressed in imprisonment in a house or in one of the rooms of a mosque.

In Islamic criminal law, property penalties (confiscation of property, fines, etc.) and shameful penalties (beard removal, deprivation of the right to wear a turban, public humiliation, etc.), as well as exile and deportation (for petty crimes) also important. [3]

In Muslim law, the procedure for litigation has its own peculiarities. The trial was usually of an indictment nature. The case was often initiated by stakeholders, not on behalf of the state. There was no difference between civil and criminal courts. The cases were decided in a transparent manner, usually in mosques. It was open to all who wished to attend. The parties themselves had to act without the help of defenders. [4]

The trial was conducted mainly orally, initially using written proceedings. From the time of the Abbasid rule, court records on civil cases were drawn up. Confession (confession), testimony of witnesses, oaths, versions were considered as evidence. The case had to be decided at one meeting, and it could not be postponed to the next day. The trial was controversial. There were no set rules for litigation for judges.

Therefore, they took full advantage of the opportunity to see their work freely. Witnesses in the case were 10-year-olds who had not been convicted before, and only sane Muslims were allowed to attend. The testimony of two women was considered equal to the testimony of one man. In the absence of convincing evidence, the defendant or accused was usually required to hold the Qur'an and take a solemn oath before Allah.

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