

Questions and Answers on the Shari'ah

Answers to questions asked by a student conducting research regarding the Shari'ah,
15th January 2000

Question 1 :

What is your view on the assertion that a great number of Islamic Law rules and punishments are outdated and unacceptable within any civilised society today?

Answer 1 :

1. It has to be realised – by those who are capable of doing so (not everybody is) – that since Allah is the Creator of all that exists, including the human situation, it follows that whatever laws He has revealed for humans to obey and judge by are superior to any other form of man-made law. No-one could possibly understand the creation better than its Creator. If man-made law is not in harmony with divine law then it will inevitably result in imbalance and injustice, no matter how sincere and well-intentioned those who formulate it may be. Experience shows that in fact the intentions which result in some man-made laws are often either misguided or else far from honourable – they are at times motivated by greed and expediency, by the desire to control territory or people, or to gain possession of land and wealth.
2. Ironically we live in an age where ignorant people regard divine laws as having been made up by man, while regarding man-made laws as if they are from God. It is clear from the final revelation from God to man, the Qur'an, that the Shari'ah of Islam is the current divine law for those who worship Allah until this world comes to its end. Of course, those who do not worship Allah will never accept this – because that is the nature Allah has given them! Those who reject Islam inevitably talk about themselves when they talk about it. If they describe it as backward and savage, they are in fact describing the reflection of themselves which they see in its mirror.
3. Of the Qur'an, the Prophet Muhammad, may Allah bless him and grant him peace said: "Allah sent down this Qur'an to command and prevent, and as a sunna to be followed and a parable. It contains your history, information about what came before you, news about what will come after you and correct judgement between you. Repetition does not wear it out and its wonders do not end. It is the Truth. It is not a jest. Whoever recites it speaks the truth. Whoever judges by it is just. Whoever argues by it wins. Whoever divides by it is equitable. Whoever acts by it is rewarded. Whoever clings to it is guided to a straight path. Allah will misguide whoever seeks guidance from other than it. Allah will destroy whoever judges by other than it. It is the Wise Remembrance, the Clear Light, the Straight Path, the Firm Rope of Allah and the Useful Healing. It is a protection for the one who clings to it and a rescue for the one who follows it. It is not crooked and so puts things straight. It does not deviate so as to be blamed. Its wonders do not cease. It does not wear out with much repetition." (At-Tirmidhi).
4. Of societies which do not follow the Qur'an, the Prophet Muhammad, may Allah bless him and grant him peace said: "O Muhajirun [those who emigrated from Makkah to Madinah to be with their Prophet], you may be afflicted by five things; God forbid that

you should live to see them. If fornication should become widespread, you should realize that this has never happened without new diseases befalling the people which their forebears never suffered. If people should begin to cheat in weighing out goods, you should realize that this has never happened without drought and famine befalling the people, and their rulers oppressing them. If people should withhold zakat, you should realize that this has never happened without the rain being stopped from falling; and were it not for the animals' sake, it would never rain again. If people should break their covenant with Allah and His Messenger, you should realize that this has never happened without Allah sending an enemy against them to take some of their possessions by force. If the leaders do not govern according to the Book of Allah, you should realize that this has never happened without Allah making them into groups and making them fight one another." (Ibn Majah: Kitab al-Fitan, Hadith 4019).

5. In my view only a community or a society which follows the way of Islam is truly civilised. The nearer a society's customs and practices are to those of Islam – often people and societies embody aspects of Islam without realising it – the more civilised it is. In a civilised society, its members fear their Lord and the Last Day – which means that they tend to be far more law-abiding than those who are unaware that Allah is always present and sees everything, and who accordingly think that if they are not caught or prevented by anyone, then they can do as they please. The more CCTV cameras there are in a society, the less civilised it is, since these indicate control being imposed from without, rather than from within. In a civilised society, where self-control is the result of inner awareness of Allah, and whose members are usually careful if not scrupulous about their actions, it is rare that the hadd punishments need to be imposed, although human nature being what it is, there are inevitably times when Allah's limits have been broken and the hadd punishment is required.
6. It must always be remembered that the effect of imposing the hadd punishment is not only to protect members of society in this world – but also to remove what the consequences would otherwise have been in the next world. In other words, by submitting to the hadd punishment in this world, a person whose action might otherwise have resulted in a place in the Fire is left free to enter the Garden, because the hadd punishment has wiped the slate clean. In Islam justice is not confined to this world – it reaches through into the next.
7. Since the hadd punishments are severe – the very idea of them is gruesome – even the threat of them acts as an effective deterrent. Although the punishment of the next world is far greater, the threat of punishment in this world often appears more real and immediate and is often enough to deter someone who otherwise might have taken a chance of 'getting away with it'. For example, in most Muslim communities, there are very few people who do not have both hands. Theft is rare – as is adultery. In any event, those who long for the Garden and fear the Fire are far more likely to be law-abiding in the first place. It is only in an ignorant and uncivilised society that people are unaware of Allah, unaware of what He has commanded, unaware of what is in the Unseen, and unaware of the coming of the Last Day, followed by life either in the Garden or in the Fire, for ever.
8. It must be remembered that the imposition of the hadd punishments can only properly take place within the context of a community or society of people who accept and

follow the way of Islam as a whole. For example, the hadd for theft cannot be imposed if the zakat is not being collected and distributed. Furthermore, those who trust in Allah usually trust each other, and those who trust each other are less likely to betray that trust. All the hadd punishments punish one form or another of breach of trust.

9. It has been related by Imam Malik that the Messenger of Allah, may Allah bless him and grant him peace, said, "What about drunkenness, stealing and adultery?" That was before anything had been revealed about them. They said, "Allah and His Messenger know best." He said, "They are excesses and in them is a punishment. And the worst of thieves is the one who steals his prayer." They said, "How does he steal his prayer, Messenger of Allah?" He replied, "He does not do ruku' or sajda properly." (Al-Muwatta, 9:23.75).
10. It follows from the above that none of the Islamic Law rules and punishments are either outdated or unacceptable within any civilised society today. Furthermore, they are not numerous and they are easy to understand. This is because Allah's judgement is true. Man-made law systems, on the other hand, are forever increasing in size and complexity, because after years of experimentation, they still have not got it right. Furthermore, because they permit what Allah has forbidden, and forbid what Allah has permitted, their problems multiply, thereby necessitating even more laws.

Question 2 :

Do you believe that the Shari'ah punishment of amputation of one's hand for the crime of theft is too primitive for modern society or do you believe it is and always shall be eternally applicable? Please provide a detailed opinion.

Answer 2 :

1. It follows from my answer to the Question 1, that amongst Muslims the hadd punishment for theft remains applicable until the end of this world. It is modern society which is too primitive to recognise the wisdom of the Shari'ah. Any society – such as England, for example – in which on average a theft takes place every few seconds, and a rape every few minutes, and an abortion every few minutes, is in my view primitive. In a broader context, any society which through the IMF loaned enough money to Russia to arm the Serbs, whilst simultaneously imposing through the UN an arms embargo on the Bosnian Muslims, so that the former could with impunity rob the latter of not only their possessions and property but also their lives – is primitive.
2. A closer examination of the hadd punishment for theft reveals that it is not a penalty which is applied indiscriminately. It is clear from Al-Muwatta of Imam Malik, for example, (Book 41 on the Hudud), that the hadd is only imposed when goods are stolen whose value is at least a quarter of a dinar – a dinar is at present worth about £40 – and that it is not imposed if the theft is out of necessity, or by chance, openly and in haste. Thus, for example, when there was a widespread famine during the rule of Umar ibn al-Khattab, he did not impose the hadd punishment on those who stole food to keep alive. Anyone in a Muslim society who decides to make theft a profession, however, is likely to incur the hadd punishment. Given the nature of the hadd punishment for theft, it becomes increasingly impossible for a thief to repeat the offence.

Question 3 :

As a lawyer who has practised in a non-Muslim state, do you find this punishment acceptable or non-acceptable? Would you be willing to practise criminal law where the stakes are so high?

Answer 3 :

1. It follows from my answer to the Question 1, that I accept the Shari'ah in its entirety. What is particularly unpalatable, however, is a system of law other than the Shari'ah which incorporates some aspects of the Shari'ah into it but not others, since this is then neither one thing nor the other. This state of affairs exists to varying degrees in most of the lands which were traditionally Muslim in the past. It is most unsatisfactory and often results in injustice. For example, the most widespread form of theft today is the practice of usury – getting something for nothing – which as regards England was first legalised by King Henry VIII, and which prevails virtually everywhere in the world today. The debt mechanism of usury, combined with a national debt, ensures that the wealth of the Muslim lands is extracted with ease. At the same time, the governments of most Muslim countries no longer collect and distribute the zakat to the people who are poor, often as a result of this debt mechanism of usury – and until they do collect and distribute the zakat they should not impose the hadd punishment for theft on the poor who have been driven by necessity to steal.
2. The Shari'ah can only be established where it is the will of a community's or society's members to be governed in accordance with the Shari'ah. This is not the case in England, which has its own legal system with its own measures for dealing with theft – which in a consumer society with high taxation (necessitated by the economic imperative of having to service the national debt which at present stands at about £3 billion) is bound to be commonplace. Although in my view it is not the best of legal systems, it is certainly not the worst. Certain aspects of it are in harmony with the Shari'ah, and for the time being it is the law of the land. To incorporate the hadd punishment for theft into the English legal system, however, without bringing the rest of the system into harmony with the Shari'ah would be unsatisfactory. It would most probably result in some social unrest, some injustice – and a great reduction in the prison population, resulting in the closing down of prisons rather than the current programme of building more! As it is, at present there are many thieves in prisons, undergoing the mental torture of being imprisoned.
3. Given that one has to live in the real world as a member of society, as a lawyer I tend to practise in those areas of civil law where there is no conflict between the English law and the Shari'ah and in which I hope I can help people. The few criminal cases in which I have been involved have tended to be in the context of exceptional situations – for example a person who was framed, a person who acted under duress, a case of mistaken identity, a person who was mentally ill, a person accused of doing far more than he actually did.
4. It must be appreciated that in our modern primitive society there are dangerous people whose behaviour has to be limited in order to protect the vast majority of the decent law-abiding people in this land, many of whom are close to Islam without realising it. Although I may not always agree with the means which are utilised by the present legal system to deal with the criminal element, as a member of society I am obliged to accept these means as long as they are a part of the law of the land.

5. If the majority of people in the United Kingdom eventually accept Islam, then it may be that that majority will democratically elect to be governed and judged in accordance with the Shari‘ah, while the remaining minority will choose to pay the Jizyah and remain as Dhimmis under the protection of Muslim rule. (Since the Jizyah is only 20 dinars for each adult male per annum – i.e. about £800 – most Dhimmis would be better off, bearing in mind that the national debt would be written off and so there would be no more Income Tax or VAT!)

Question 4 :

The Shari‘ah punishment for theft arguably falls within the definition of ‘torture’ under the 1987 Convention Against Torture. This being the case, what is your view with regards to the ‘universal applicability’ of the Convention? Being a UN Convention it should be universal in its application. If you have limited knowledge on the particulars of the Convention, an opinion based on the ‘universality’ aspect of any UN Convention will be sufficient.

Answer 4 :

1. It follows from my answers to questions 1, 2 and 3, that the hadd punishment for theft can only be imposed within a certain social context and when certain requirements are met. When imposed in this setting, it is clearly not a form of torture, but rather it is a mercy. On the one hand, it helps to protect the members of a Muslim community or society. On the other hand, it enables the person who has committed needless premeditated theft to walk free after receiving the hadd punishment, knowing that there will be no further penalty to pay in the next life. If the person values the hand that remains, the offence is unlikely to be repeated. Any potential thief who is aware that this is the penalty for theft may well decide not to steal.
2. Thus it is clear that the hadd punishment cannot really be considered or assessed accurately in isolation as an abstract principle or idea. It can only be seen for what it is within the particular context in which any particular offence is committed and punished.
3. I am deeply suspicious of UN Conventions – whose proliferation has been paralleled by UN sanctioned breaches of these very same Conventions. For example, when the UN forces first disarmed the Muslim population of Srebrenica and then withdrew, leaving the men to be butchered by the Serbs, was this not betrayal and torture? Is it still not a torture for the widows and children who survived? In my experience, UN Conventions are not applied universally, they are applied very selectively indeed – other than the Convention, that is, which grants UN personnel blanket immunity from prosecution in any legal court. The only common universal principle that appears to have emerged during the last fifty years is that UN Conventions are used to undermine the practice of Islam.

Question 5 :

Do you think that the UN’s Conventions derive from a conglomeration of the views of the majority of UN states or just that of a select few? Please elaborate on your opinion, e.g. by stating whether you think it is right or wrong for the system to operate as you perceive it to, or whether you think it operates as it does due to practicality, etc.

Answer 5:

1. Many books could – and have – been written on this subject. Suffice it to say that it is clear from the history of the UN, that it was the continuation of The League of Nations. The principal act of The League of Nations was to grant the British the Mandate to govern Palestine (which had been occupied under the cover of World War I) until there were sufficient Jews there (principally turkic Ashkenazi from Europe, not semitic Sephardic from the Middle East) to create the state of Israel, in accordance with the Balfour Declaration. The principal act of of the United Nations was to recognise the state of Israel (which had been armed under the cover of World War II) after it had declared UDI. At that point in time the members of the UN were relatively few. When the members of the UN subsequently increased, a large majority of them passed a Resolution (3379 (XXX) 10 November 1975) that Zionism – including ‘the racist regime in occupied Palestine’ – is a form of racism and racial discrimination. After sustained pressure at the highest levels for many years, the UN eventually formally revoked this Resolution, thereby restoring and reaffirming the original status quo which had been originally established by a handful of the most powerful states.
2. Given this early background, it is not surprising that UN Conventions are rarely successfully invoked as regards the prevention of the torture and murder of Muslims, especially in Palestine and Lebanon, but also more recently in the Balkans and the Caucasus. To give another example, although the Gulf War was principally the means to secure control of the Middle Eastern oil fields – while simultaneously plunging the once oil-rich Middle Eastern countries into debt by making them pay for the war – it was also used as an arena in which to try out the latest high-tec weaponry, including heavy-metal radio-active tipped bullets. As a result of this radio-activity being absorbed into the food chain, many pregnant women in Iraq are now aborting before full term is reached, while many children are being born deformed and disease-ridden. Is this not torture? What UN Convention prevented or alleviated this suffering? Are the UN sanctions currently imposed on Iraq helping?
3. The UN today is the visible manifestation of the ‘world government’ of the new world order which, since it governs principally by means of the debt mechanism of usury (not international treaty and convention), is clearly opposed to the prophetic teachings which all prohibit usury, the last of these being that of Islam. Thus the ‘international community’ is in fact not the international community, but rather the select power nexus which controls the international community in the name of the United Nations and NATO.
4. To assess this state of affairs as being ‘right’ or ‘wrong’ is to miss the point. Creation is set up in opposites. Sometimes one opposite predominates, sometimes its opposite predominates. Thus one thing is certain: Nothing lasts. The present new world order will be succeeded by the next world order. The Khalifate of the Muslims existed, then it was destroyed, then it will exist again, as promised by the Prophet Muhammad, may Allah bless him and grant him peace.

Question 6:

Do you believe Islam can contribute to the development on Human Rights laws internationally? In your answer, please make reference to the Shari‘ah rulings on justice and other related areas.

Answer 6:

1. It is clear from my answers to Questions 4 and 5, that Islam has a great contribution to make. Wherever it is established, justice and mercy are established. It is far more complete and all-embracing than the international Human Rights laws which are only applied selectively and not for the benefit of Muslims. For example, in Turkey women are persecuted if they choose to wear a hijab, and men if they grow a beard. They are barred from the universities and from government employment. Any appeal to Human Rights laws is ignored, both in Turkey and in Strasbourg. If Muslims protest publicly they are thrown in prison. This is torture – permitted by UN Convention.
2. I look forward to the next world order, when people can live in accordance with the Shari‘ah without being persecuted and even slaughtered because they are Muslims.
3. As Allah says in the Qur’an:
‘And if you do judge,
judge between them justly.
Allah loves the just.’ (Qur’an 5.42)

Question 7:

Do you believe that Shari‘ah punishments such as amputation amount to torture? Please state why you think it falls internally or externally of this.

Answer 7:

As already stated in my answer to Question 4, if all the conditions which require the application of the hadd punishment are satisfied, then when it is applied, it is a mercy for all concerned. If it is imposed in circumstances in which it should not have been imposed, then it is the opposite. Perhaps the greatest torture of all will be that of those who rejected the Shari‘ah in this world and who discover that they have ended up in the Fire in the next.

