

Chapter – 27

Limits of Punishments

(حدود)

Quran:

إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ
 {Wine (all intoxicants) and gambling and idols and the darts are impure; the works of Shaytan, therefore keep avoiding them so that you may succeed. (05:90)}

الرَّانِيَةُ وَالرَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ

{The adulteress and the adulterer punish each one of them with a hundred lashes. (24:02)}

الرَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالرَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ

{The adulterer shall not marry except an adulteress or a polytheist woman, and none shall marry an adulteress except an adulterer or a polytheist. (24:03)}

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جِزَاءً بِمَا كَسَبَا نَكَالًا مِّنَ اللَّهِ

{And cut off the hands of those men or women who are thieves, a recompense of this deeds; a punishment from Allah. (05:38)}

Hadith:

Narrated Abu Hurairah:

Allah's Apostle said, "When an adulterer commits illegal sexual intercourse, and when somebody drinks an alcoholic drink, and when a thief steals, and when a robber robs and the people look at him, then he is not a believer at the time of doing it." (Sahih Bukhari: 6340)

Narrated Anas bin Malik:

The Prophet beat a drunk with palm-leaf stalks and shoes. And Abu Bakr gave (such a sinner) forty lashes. (Sahih Bukhari: 6341)

Narrated 'Uqba bin Al-Harith:

The son of An-Numan was brought to the Prophet on a charge of drunkenness. So the Prophet ordered all the men present in the house to beat him. So all of them beat him, and I was also one of them who beat him. (Sahih Bukhari: 6342 and 6343)

Narrated Abu Hurairah:

A drunk was brought to the Prophet and he ordered him to be beaten (lashed). Some of us beat him with our hands, and some with their shoes and some with their garments (twisted in the form of a lash). When that drunk had left, a man said, "May Allah disgraces him!" Allah's Prophet said, "Do not help Shaytan against your (Muslim) brother." (Sahih Bukhari: 6345)

Narrated As-Sa'ib bin Yazeed:

During the lifetime of the Prophet, Abu Bakr and the early part of 'Umar's caliphate, we used to strike the drunks with our hands, shoes, and clothes (by twisting it into the shape of lashes). But during the last period of 'Umar's caliphate, he gave forty lashes to the drunks. And when drunks became mischievous and disobedient, he used to scourge them eighty lashes as well. (Sahih Bukhari: 6347)

Narrated Abu Hurairah:

The Prophet said, "Allah curses a man who steals an egg (small thing) and gets his hand cut off, or steals a rope (a bigger thing) and gets his hands cut off." (Sahih Bukhari: 6351)

Narrated 'Aisha:

During the lifetime of the Prophet, the hand of a thief was not cut off except for stealing less or equal to a shield in value. (Sahih Bukhari: 6360to6363)

Narrated Jabir and Abu Hurairah:

A man from Bani Aslam came to Allah's Prophet and said "I have committed illegal sexual intercourse." On that the Prophet turned his face from him to the other side, whereupon the man moved to the side towards which the Prophet had turned his face, and repeated his statement. This way the man repeated his statement four times. So when the man had given testimony four times against himself, the Prophet told him, "Are you insane?" and then asked, "Are you married?". He said "Yes". The Prophet then said (to his companions), "Go and stone him to death. When the stones hit him with their sharp edges, he fled, but we caught him and stoned him till he died. (Sahih Bukhari: 4915 and 4916)

Narrated Zaid bin Khalid:

Two men had a dispute in the presence of Allah's Prophet. One of them said, "O Allah's Prophet! Judge us according to Allah's Laws." The Prophet said, "Speak your problem." He said, "My son was a laborer serving this person and he committed illegal sexual intercourse with his wife. My son was to be stoned to death, but I ransomed him with one-hundred sheep and a slave girl. Allah's Prophet gave the decision that as for your sheep and slave girl, they are to be returned to you. Then he punished his son with one hundred lashes and exiled him for one year. Then he ordered to go to the wife, and if she confessed (the crime), then stone her as well. (Sahih Bukhari: 6206)

Important Aspects of Islamic Doctrine

1. In Islamic state, in order to avoid sins and for the betterment of the society, Sharee'ah has established punishments for the illegal sex, allegation, drinking alcohol, and theft. These are called Limits (حدود) of punishments. These "limits" are imposed by Allah SWT. On the other hand those punishments given by the state on other crimes are called "Penal Laws (تعزير).
2. The important thing is that "Limits" can never be imposed until it is ensured completely that the individuals have certainly committed these sins. If any doubts remains then punishment would not be operative.
3. A normal citizen cannot order for these 'Limits'. These punishments can only be ordered by the Head of the State or a Justice of the Court.

Punishments for Illegal Sex:

- ❖ The event of the illegal sex may evidently be proved when both the individuals give their statements in front of the Judge of the Court, or the pregnancy occurs. Otherwise, four reliable persons should come and submit their true statements. Three witnesses are not enough in this case. Rather, these three statements would be taken as 'Allegation'.
- ❖ When it is proved that the sex has occurred then punishment of "Allah's Limits" is essential. Any intercession is not acceptable.
- ❖ As "Allah's Limits" Head of the State or the Judge of the court are bound to pass orders either for throwing the stones till death or hitting 100 lashes.

Punishments for Allegation:

- Putting allegation on anybody is called “Qazaf”. To accuse the two for the occurrence of illegal sex is a great sin.
- The punishment for the allegation will be established when two persons (men) come forward as witnesses.
- The second condition is that the person who has accused has come forward with his ‘clear words’. The punishment for the allegation will be established when the accuser has used clear words, like, “You are the rapist” “You people have done illegal sex”, etc.
- Eighty (80) lashes will be hit as punishment for the allegation.
- The punishment of the allegation can only be condoned by the effected person and before going to the court. Once it is registered in the court then “right of man” would finish and “Right of Allah” will be implemented.

Punishments for Drinking Alcohol:

- ❖ Everything which can create intoxication is not forbidden. According to a hadith “That thing which creates sufficient intoxication is prohibited, no matter if the quantity is very small”. (Tirmidhi, Daood, and Ibn Majah)
- ❖ When the crude water of grapes starts boiling and foaming initiated then it is called wine (خمر). Taking one sip of wine is liable to be punished. If any other liquor that creates intoxication like wine then punishment has to be given. Intoxication is that condition in which the person loses his expressions with clear words.
- ❖ The Islamic Jurists say that any adult and sensible person knows that wine is forbidden still he drinks then he will definitely be punished; no matter it is one sip.
- ❖ Eighty (80) lashes will be hit as a punishment for the drunken person.

Punishments for Theft:

- Theft is that action through which any body’s good; property or money is taken in a hidden way.
- For proving theft there are two ways. First is that two persons come forward and should say that this particular person is involved in theft. And the second method is the thief should himself confess that I have done this theft. By beating and by force the acceptance for a theft is admissible, because no one can admit for any theft so conveniently.

- The punishment of theft is to cut hand. But it has certain conditions. Those are as follows:
 1. The thief must be adult and sensible.
 2. Things must be on a safe place. For example: locked house, locked shop and locked box or cupboard.
 3. Anything is lying open to all on the road and picked up by somebody will not be considered as theft.
 4. Theft of costly items would be treated as theft. Theft of thing having value of less than 10 Dirham or approximately 30 grams of silver will not be punished by cutting hand.

