

## **INTERPRETING AND UNDERSTANDING THE COMMAND OF GOD: AUTHORITY OF THE SUNNAH AS A SOURCE OF LAW IN THE CASE OF STONING TO DEATH OF A CONVICTED ADULTERER**

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### **ABSTRACT**

*There is no disagreement among the jurists of all schools of law over the punishment of flogging 100 lashes for zinā as prescribed in the Qur'an for ghayr muḥṣān (unmarried Muslim men and woman convicted of zinā). With regards to al-rajm (stoning to death), the majority of jurists hold that the punishment for a convicted married Muslim is stoning to death. The foundation for this ruling is mostly based on the Sunnah as the Qur'an is silent on the provision of such punishment. Nevertheless, besides this mainstream view of the vast Muslim majority, there are varying opinions advocated by the Mu'tazilites and Khārijites and some contemporary scholars who suggest that the penalty for zinā is confined to flogging 100 lashes, and this penalty is uniform regardless of the criminal's marital background. This paper aims to investigate the efforts made by commentators of al-Qur'an, scholars of hadiths as well as Muslim jurists in the light of the authority of the Sunnah in order to interpret what is intended by the Lawgiver pertaining to the provision of*

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*al-rajm. The method used is an analytical and comparative study on the opponents and the advocates of the punishment.*

**Keywords:** *interpreting the command of God, stoning punishment, the position of Sunnah as a source of law*

## INTRODUCTION

Some contemporary Muslim scholars, anti-hadiths and feminist groups, as advocated by the Mu‘tazilite and Khārijite in the past, hold that the penalty for *zinā* is confined to flogging 100 lashes, and this penalty is uniform regardless of the criminal’s marital background. This view is based on the analysis that the Qur’an has made a provision for a uniform punishment of one hundred lashes but it is totally silent on *rajm* (stoning to death). The provisions in the Qur’an can be taken from the following verses:

الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ  
بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلَيْشَهَدَ  
عَذَابُهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ ﴿٢٤﴾

“The [unmarried] woman or [unmarried] man found guilty of sexual intercourse lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion [i.e., law] of Allah, if you should believe in Allah and the Last Day. And let a group of believers witness their punishment.”

(Sūrah al-Nūr, 24: 2)

وَمَنْ لَّمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مَّا  
مَلَكَتْ أَيْمَانُكُمْ مِّنْ فَتَيَاتِكُمُ الْمُؤْمِنَاتِ وَاللَّهُ أَعْلَمُ بِإِيمَانِكُمْ بَعْضُكُمْ مِّنْ  
بَعْضٍ فَانكِحُوهُنَّ بِإِذْنِ أَهْلِهِنَّ وَآتُوهُنَّ أُجُورَهُنَّ بِالْمَعْرُوفِ مُحْصَنَاتٍ

غَيْرِ مُسْفِحَةٍ وَلَا مُتَّخِذَاتِ أَحْدَانٍ ۚ فَإِذَا أَحْصِنَّ فَإِنَّ أَتَيْنَ بِفِجْشَةٍ  
فَعَلَيْهِنَّ نِصْفُ مَا عَلَى الْمُحْصَنَاتِ مِنَ الْعَذَابِ ۚ ذَلِكَ لِمَنْ خَشِيَ الْعَنَتَ  
مِنْكُمْ ۚ وَأَنْ تَصْبِرُوا خَيْرٌ لَكُمْ ۗ وَاللَّهُ غَفُورٌ رَحِيمٌ ﴿٢٥﴾

*“And whoever among you does not have the means to marry free, believing women, then [you may marry] from those whom your right hands possess of believing slave girls. And Allah is most knowing about your faith. You [believers] are of one another. So marry them with the permission of their people and give them their due compensation [i.e., mahr] according to what is reasonable. [They should be] chaste, neither [of] those who commit unlawful intercourse randomly nor those who take [secret] lovers. But once they are sheltered in marriage, if they should commit adultery, then for them is half the punishment for free [unmarried] women. This [allowance] is for those among you who fears affliction [i.e., sin] but to be patient is better for you. For Allah is Forgiving and Merciful.”*

(Sūrah al-Nisā’, 4: 25)

According to the Kharijites and Mu‘tazilites, the ruling on flogging 100 lashes in these two verses is applicable to unmarried adulterers. The verses also imply that there is no such punishment as stoning to death for adultery provided by the al-Qur’an.

## NO PROVISION IN THE AL-QUR’AN

The Khārijites advocate that married and unmarried offenders of *zinā* receive a similar penalty of flogging 100 lashes based on the above-mentioned verse 2 of *Sūrah al-Nūr*. This Qur’anic verse evidently shows no difference between married and unmarried adulterers. They argue that the evidence in the Sunnah is all in the form of solitary (*aḥād*) hadith, and there is inconsistency and conflict in the contents of these hadiths while the Qur’an renders certainty (*qaṭ’ī al-thubūt*).<sup>1</sup>

All of these hadiths are *aḥād* (hadith narrated by solitary narrator) which does not reach the level of *mutawātir* narrated by the and the mere fact there

<sup>1</sup> Ibn Qudāmah (1405AH). *al-Mughnī*, vol.10, pp. 120-121.

are several of them does not elevate them to the rank of *mutawātir*. Only the *mutawātir* inspires definite conviction and precludes the possibility of lying and doubt in the transmission of hadiths. Since stoning is the most severe punishment, it should therefore be proven by decisive evidence which is either the Qur'an or the *mutawātir* hadith. As a matter of fact, the hadiths on *rajm* fall short of *mutawātir*. Although the *aḥād* hadith can create obligation and *ḥukm* (legal ruling), it cannot override what is proven by decisive evidence.

With regards to the claim that the hadiths are *aḥād* hadiths that do reach the level of *mutawātir*, one can argue that the hadiths on stoning to death such as in the case of Mā'iz<sup>2</sup> and the Ghāmidīyah<sup>3</sup> were reported by most of the companions. It is available in any hadith collection with details of the chain of narrations from different companions who themselves had witnessed the scene. These chains support each other thus proving no possibility of fraud or doubt.

### **Impossibility To Reduce Stoning Punishment By Half**

According to verse 25 of *Sūrah al-Nisā'*, it is permissible to marry a slave woman instead for those who cannot afford to get married to a free woman. The crux of the statement here is the fact that the penalty for a slave wife who commits adultery is half that of a free woman. As such it does not make sense to reduce the punishment by stoning (*al-rajm*) by half. Interestingly, it is unanimously agreed by all Muslim jurists from all sects and all schools of law that the *ḥadd* penalty of *zinā* committed by a married slave woman is 50 lashes, no more than that. The fifty lashes are without any doubt half the amount of 100 lashes. As such, it can be concluded that flogging is confirmed to be the only Qur'anic punishment for all cases of *zinā*.<sup>4</sup>

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<sup>2</sup> The hadith has been reported by al-Bukhārī (1400AH), see *Fath al-Bārī, kitāb al-ḥudūd* (86), *bāb lā yurjam al-majnūn wa al-majnūnah* (22), hadith no. 6815, vol.12, p.123, Muslim (1982), see *Sharḥ Ṣaḥīḥ Muslim li al-Nawawī, kitāb al-ḥudūd, bāb man i'tarafa 'alā nafsihi bi al-zinā*, vol. 11, p. 193, Ibn Mājah, *kitāb al-ḥudūd* (20), *bāb al-rajm* (9), hadith no. 2554, vol. 2, p. 854, see Maṣṣūr 'Alī. *al-Tāj al-Jāmi' li al-Uṣūl*, vol. 3, p. 25.

<sup>3</sup> The hadith is narrated by Muslim (1982). *al-Jāmi' al-Ṣaḥīḥ, kitāb al-ḥudūd, bāb man i'tarafa 'alā nafsihi bi al-zinā*, vol.11, p. 200, al-Tirmidhi, *al-Jāmi'*, *kitāb al-ḥudūd, bāb fī al-mar'at allatī amara al-nabi bi rajmihā*, vol. 12, p. 79, and Nasā'i, see *Jāmi' al-Uṣūl*, vol. 3, p. 533.

<sup>4</sup> Al-Zayla'ī (1992). *Naṣb al-Rāyah*, vol. 3, p. 330, Abū Zahrah (1958). *al-'Uqūbah*, p. 103; 'Alī Maṣṣūr (1976). *Niẓām al-Tajrīm*, p. 172; Hashim Kamali (n.d.), *Punishment in Islamic Law*, p. 101.

The majority has responded that the word “*uḥṣinnā*” (أَحْصِنَ) as used in *فَإِذَا أَحْصِنَ فَإِنَّ أَتَيْنَ بِفَاحِشَةٍ فَعَلَيْهِنَّ نِصْفُ مَا عَلَى الْحِصْنَاتِ مِنَ الْعَذَابِ* at the beginning of the verse has the root word that means “marriage”, but in the second occurrence, namely, “*al-Muḥṣanāt*” (المحصنات) in the subsequent portion which comes from the same root word, means “freedom and virginity” instead of marriage. Those who oppose the claim point out that this interpretation is rather a strange assertion as the same word is read with one meaning at the beginning of the verse and with a different meaning at the end of it.<sup>5</sup>

To argue one can say that some opportunists have taken advantage of this verse to standardize the penalty of a convicted adulterer, irrespective of the marital status. It is attributed to ‘Umar ibn al-Khaṭṭāb, Ibn Mas‘ūd, and Ibn ‘Umar that the meaning of *Iḥsān* here is “Islam”. The slave is therefore to be flogged irrespective of the marital status.

Ibn Ashur argues that to interpret *iḥsān* with Islam is less accurate. He quotes the suggestion by al-Qāḍī Ismā‘īl ibn Ishāk that to interpret *iḥsān* with Islam is not accurate because their faith has been mentioned at the beginning of the verse (*min fatayātikum al-mu‘mināt*).

He supports the opinion of al-Zuhri that the penalty for unmarried slaves is prescribed in the Sunnah while the penalty for married slaves is prescribed in the Qur’an.<sup>6</sup> The verse generally complies that a slave should never be punished with *rajm* and for them the only punishment for *zinā* is 50 lashes of flogging. This is the opinion of the majority.

According to Ibn ‘Āshur, verse 2 of *Sūrah al-Nūr* in the Qur’an, includes the married and unmarried. However, the Sunnah has specified the ruling only to the unmarried. This is agreed upon among Muslim jurists apart from the Khawarij.<sup>7</sup>

Abū Thawr has a quite remarkable view on the verse. He states that even if the ruling of *rajm* came after this verse, it still means that the punishment of a slave must be less than that of a free woman. Therefore, the *rajm* is impossible for her since it can never be halved.<sup>8</sup>

<sup>5</sup> ‘Ali Maṣṣūr (1976), *op.cit*, p. 172.

<sup>6</sup> Muhammad al-Ṭāhir Ibn ‘Āshur (1984). *Tafsīr al-Taḥrīr wa al-Tanwīr*, vol. 18, p. 149.

<sup>7</sup> *Ibid*.

<sup>8</sup> *Ibid*, vol. 5, p. 17

## Abrogation

The advocates of this view also argue that the abrogation of words of Qur'anic verse and the continuity of its verdict is a controversial point. Hence, it cannot be of any help to claim that the Qur'an prescribed stoning as a punishment. It is also possible that this punishment was prescribed by the Qur'an, as related, but that it was abrogated afterwards. This is based on the facts that the reported instances of *rajm* actually took place prior to the revelation of the Qur'anic provision (24:2) which prescribes the punishment of flogging. This means that the Qur'anic provision on flogging *ḥadd* in fact abrogated *rajm*.

They also argue al-Bukhārī related that Ibn Abī 'Awfā, a companion of the Prophet, was asked if the Prophet had ordered stoning to be carried out before or after the prescription of one hundred lashes in *Sūrah al-Nūr*. Ibn Abī 'Awfā replied that he did not know which it was.

This is the doubt expressed by a companion as to whether the stoning of Mā'iz and al-Ghāmidīyah preceded or succeeded the Qur'anic text in *Sūrah al-Nūr*. *Rajm* as punishment thus is repealed on the basis of the rule that doubts invalidate the *ḥadd*.

All of these assumptions are baseless and there is no evidence to support them. It is hard to imagine that this punishment could have been abrogated without any knowledge of it on the part of any of the companions. Such a supposition might obviously lead to a claim of abrogation of every rule of Islamic law.<sup>9</sup>

As to how doubt was triggered, this can be argued with the execution of the woman of Ghāmidīyah who confessed of committing *zinā* and adamant in asking the Prophet to execute the punishment in this world to purify herself, and the execution of the similar stoning punishment for Mā'iz were witnessed by large number of the companions which reach the level of *Mutawātir*.

The tradition of Ibn Abī 'Awfā does not provide any evidence to support the view of those who denied it. All one finds in this tradition is that Ibn Abī 'Awfā did not know if the Prophet's imposition of the punishment in question was before or after the revelation of the verse in *Sūrah al-Nūr*. This, however, does not mean that the punishment was abrogated especially when one knows that Prophet's companions imposed the same punishment later.<sup>10</sup> Accordingly, one can state that the punishment of stoning to death is prescribed by the Sunnah and not by the Qur'an.

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<sup>9</sup> El-Awa (n.d), *Punishment in Islamic Law*, p. 16.

<sup>10</sup> Ibn Qudāmah (1405AH), *op.cit*, vol. 8, p. 160.

In addition, one can also argue that if he was not sure whether the command of Sunnah took place before or after the revelation of *Sūrah al-Nūr*, this can be refuted with Abu Hurairah's statement that he witnessed the punishment by stoning. This asserts that the event was after revelation because Abu Hurairah became a Muslim in the 7<sup>th</sup> year of Hijrah. According to Ibn 'Āshūr, there is no doubt that the Sunnah confirming *al-rajm* took place after the revelation of *Sūrah al-Nūr*.<sup>11</sup>

### Possibility That Provision Was Borrowed From Judaism

It is possible that the Prophet punished Jews who were guilty of *zinā* with stoning according to their own law. Then, as there was no revelation concerning the offence, he implemented the same punishment on guilty Muslims.

With regards to the argument that this law was borrowed from Judaism, as the source of both laws is God's revelation, it can rightly be expected that many rules in both Islam and Judaism will be similar.

According to Abū Zahrah, *rajm* was initially introduced in the Torah which was applied by the Jews and the Bible did not overrule it. Since the Old Testament was also a proof on the Christians, they too applied it. There is indication that the Jews of Madinah were governed by their own scripture:

وَكَيْفَ تَحْكُمُونَكَ وَعِنْدَهُمُ التَّوْرَةُ فِيهَا حُكْمُ اللَّهِ ثُمَّ يَتَوَلَّوْنَ مِنْ بَعْدِ  
ذَلِكَ وَمَا أَوْلَيْتُكَ بِالْمُؤْمِنِينَ ﴿٤٣﴾

*“But how is it that they come to you for judgement while they have the Torah, in which is the judgement of Allah then they turn away, [even] after that; but those are not [in fact] believers.”*

(Sūrah al-Māidah, 5: 43)

The commentators have stated the occasion of the revelation of this verse as follows: one of the leading Jewish figures who was residing in Madinah had committed *zinā* and the Jewish community was distressed with the prospect of their leader being stoned in accordance with Torah. So they came to the Prophet with the hope of securing a lighter punishment for the accused. The Prophet mentioned the ruling of Torah to them.

<sup>11</sup> Muhammad al-Tāhir Ibn 'Āshūr (1984), *op.cit*, vol. 18, p. 149.

According to Abū Zahrah this case occurred at a time when the Jews lived peacefully in Madinah under Prophet's leadership. The Jews came to seek judgment from the Prophet with a hope that a lighter punishment might be secured; otherwise, the Jews might not come to him. However, the Prophet judged them according to the provision in the Torah. It is noteworthy that most of the Jewish tribes left Madinah after Year 4 of Hijrah.<sup>12</sup> This shows that this event took place at the early years of Hijrah, and most likely the revelation of Stoning came after that period which again negates the possibility of abrogation.

## MAINSTREAM POSITION

To begin with, it is worth mentioning a statement by Imām al-Shāfi'ī in his book *al-Risālah*, while discussing the nature of legal provisions derived from the Qur'an which he termed it as *al-bayān* (perspicuous declaration), he asserts that it is a collective term which includes general principles of law as well as detailed rules among them is one explained by the Prophet but not mentioned in the Qur'an. Allah commanded in the Qur'an that the Prophet is to be obeyed and his rulings to be accepted. Therefore, what is said on the authority of the Prophet, is said on the authority of Allah.<sup>13</sup>

According to the majority of jurists, the legitimacy of stoning to death is based on the saying of the Prophet as well as his practices. In other words, the foundation for this ruling is mostly based on the Sunnah. Among the reported sayings are as follows:

1. On the authority of Abū Hurairah, a Bedouin man came to the Prophet complaining to him about his son who committed *zinā* with his employer's wife. He said: "O Prophet of Allah, in the name of Allah, I want you to pass the judgment from Allah's book. My son committed adultery with his employer's wife, and I was told that the penalty for my son is *al-rajm*. Hence, I want to pre-empt his offence with 100 sheep and a slave. After asking some of your knowledgeable companions they told me that the penalty for my son is 100 floggings and one year of deportation and for the woman is *al-rajm*." The Prophet told him that he judged based on the Book of Allah, "The sheep and slave girl will be returned to you. And your son deserves 100 lashes and one year of

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<sup>12</sup> Muhammad Abū Zahrah (1958), *op.cit*, pp. 74-75.

<sup>13</sup> Muhammad ibn Idris al-Shāfi'ī (n.d.), *al-Risālah*, with English Translation by Khadduri Majid, 2<sup>nd</sup> ed. Cambridge: Islamic Trust Society, p. 76.



deportation.” And about the woman, the Prophet ordered a companion called Unais to investigate the matter, and if she confessed, she was to be stoned to death.<sup>14</sup>

2. On the authority of ‘Ubādah ibn al-Şāmit, the Prophet said: “Take from me, take from me as Allah has revealed to me the penalty for the adulteresses; for the unmarried is 100 lashes and for the married is *al-rajm*.”<sup>15</sup>
3. On the authority of Ibn Mas‘ūd, the Prophet said: “A Muslim should not be killed (his blood is protected) except for three offences: adultery committed by a married person, a murder and apostasy”.<sup>16</sup>
4. The Jumhūr (majority of jurists) also based their position on a report that a Qur’anic verse was revealed prescribing this punishment. “For old married men and women who commit adultery, stone them to death as a deterrent by Allah, and Allah is Most Powerful, Most wise.” The text of this verse is believed to be abrogated but its verdict continued to be applied.<sup>17</sup> There was also a reported occasion of ‘Umar in his sermon. Indeed, Allah sends Muhammad with the truth and reveals a book to him. Among the revealed verses was the verse prescribing *al-rajm*. We used to read and understand them very well, and the Prophet implemented the punishment as we are doing the same. I am afraid that one day some one will say: “We don’t find the verse in the Qur’an and abandon the punishment” Actually such punishment is valid for anybody who commits such a crime - male or female who are married when convicted.”<sup>18</sup>

This narration is supported by Ubai ibn Ka‘b’s statement: “In the beginning *Sūrah al-Aḥzāb* was as long as *Sūrah al-Baqarah*. And among its verses was the verse: “The old man and woman who commits adultery must be stoned to death if convicted”.<sup>19</sup>

<sup>14</sup> The hadith is narrated by most hadith books such as Malik’s *Muwattā’*, Bukhārī’s *al-Şaḥīḥ*, see the book of *al-Sulḥ* (53), *bāb izā ishtolahu ‘alā sulḥin jaurin*, vol. 5, p. 355, Muslim (1982), *op.cit*, vol. 11, p. 204.

<sup>15</sup> *Ibid*, p. 189.

<sup>16</sup> al-Bukhārī (1400AH), *al-Jāmi‘ al-Şaḥīḥ*, vol. 12, p. 209, no. 6878.

<sup>17</sup> *Ibid*, vol. 12, p. 209.

<sup>18</sup> *Ibid*, vol.12, p. 148; Muslim (1982), *al-Jāmi‘ al-Şaḥīḥ*, vol. 11. p. 191; Abū Daud (1990), ‘*Aun al-Ma‘būd, kitāb al-Ḥudūd*, Dār al-Kutub al-‘Ilmiyyah, Beirut, 1<sup>st</sup> edition, vol. 12, p. 64.

<sup>19</sup> *Ibid*.

There are other hadiths confirming his action of implementing the execution by *rajm*. It is observed that there were four cases of stoning to death that took place during the time of the Prophet. First was the case of two Jews convicted of adultery. It is controversial, however, whether the prophet ordered the sentencing based on the Old Testament or Islamic law.<sup>20</sup> But in the other three cases (hadith *al-Asīf*, *Mā'iz*, and a woman of Ghāmidīyyah), it is clear that there was no reason to apply the Jewish law since all the convicts were Muslims.

The penalty of stoning to death is clearly prescribed in Muslim's *al-Ṣaḥīḥ*, and the authors of the Sunan such as Abū Daud, Ibn Mājah, *al-Nasā'ī*, *al-Tirmīdhī*<sup>21</sup>, and Bayhaqī as well as Ahmad in his *Musnad*. All reported that the Prophet received the revelation and then told his companions that it was revealed to him, namely, a married male or female should be given one hundred lashes and then stoned to death, while an unmarried male or female should be given one hundred lashes and then banished for one year. Thus, based on this hadith, Muslim jurists unanimously agreed on implementing the punishment of stoning for the married offender. As such, *al-rajm* is also valid based on the *ijmā'* i.e. consensus of the ummah. The Prophet confirms that the ummah will never agree upon fault.<sup>22</sup>

However, they disagreed on flogging the married culprit and the one year banishment for those who are unmarried.<sup>23</sup> This disagreement was based on the fact that when the Prophet ordered punishment by stoning to be carried out, he did not order flogging to precede it, nor did he order banishment with the flogging except in one case in which banishment s claimed to have been based on public interest.<sup>24</sup> This disagreement, however, does not affect the main point on which there is complete agreement on stoning the married offender.

## CONCLUSION

As far as the provision of stoning the convicted adulterer is concerned, there is no explicit injunction in the Holy Qur'an, but it is contended that such provision is legitimate based on the compelling evidence from the practices of

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<sup>20</sup> Abū Zahrah (1958), *op.cit*, pp. 74-75.

<sup>21</sup> Al-Mubārakfūrī, Abū al-'Ulā Muhammad ibn 'Abd al-Rahmān (n.d.), *Tuhfat al-Aḥwazī bi Sharḥ Jāmi' al-Tirmidhī*, pp. 578-580.

<sup>22</sup> Muhammad al-Tāhir Ibn 'Āshūr (1984), *op.cit*, vol. 18, p. 149.

<sup>23</sup> Ibn Ḥazm (1408AH), *al-Muḥallā*, vol. 11, p. 183.

<sup>24</sup> Ibn Qudāmah (1405AH), *op.cit*, vol. 8, p. 166; Al-Kamāl Ibn al-Humām (1316H), *Fath al-Qādir*, vol. 6, p. 135.

the Prophet, as it was understood and upheld by the earlier Muslim generations and the majority of Muslim jurists from different schools of law. It is always submitted that the Sunnah comes after the Qur'an as a primary source of the law. There are verses of the Qur'an stating and confirming the Sunnah as a valid and legitimate authoritative source of law, among others:

وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا ۚ وَاتَّقُوا اللَّهَ ۖ إِنَّ اللَّهَ

شَدِيدُ الْعِقَابِ ﴿٧﴾

*“And whatever the Messenger has given you – take; and what he has forbidden you – refrain. And fear Allah; indeed, Allah is severe in penalty.”*

(Sūrah al-Ḥasyr, 59: 7)

وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ وَلَعَلَّهُمْ يَتَفَكَّرُونَ ﴿٤٤﴾

*“[We sent them] with clear proofs and written ordinances. And We revealed to you the message [i.e., the Qur'an] that you may make clear to the people what was sent down to them and that they might give thought.”*

(Sūrah al-Naḥl, 16: 44)

وَمَا يَنْطِقُ عَنِ الْهَوَىٰ ﴿٣﴾ ۖ إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ ﴿٤﴾

*“Nor does he speak from [his own] inclination. It is not but a revelation revealed.”*

(Sūrah al-Najm, 53: 3-4)

In this light, the Sunnah in general is an authoritative source of law, but in order to become authoritative and binding the selected hadiths must be scrutinized to verify that the required criteria of authenticity and *qaṭ'ī al-dalālah* or decisiveness are met in their meaning and injunction. Another important point is the spirit and objective of the hadiths must always be observed in the implementation of the ruling. The hadiths on the execution of *al-rajm* show how the Prophet tried to avoid such a severe penalty. He clearly said to the companions who reported a case of adultery, “If you conceal the offence, it is better”. And to whom the penalty took place after they voluntarily confessed, he gave them a chance to leave and to change their mind from making a confession. In the case of the lady from Ghāmidīyyah, he did not act

promptly to execute her. On the other hand, for the first offence, he gave her chance to go home till she gave birth and for the second time he allowed her to go home to feed child. It was only after the third time that the execution took place because she was still adamant.

These hadiths on *al-rajm* imply that the execution by stoning should be avoided by whatever means by requiring such strict requirements for proving the offence to the extent that it is almost impossible to convict. Throughout history there was no conviction of *zina* based on the testimony of four religiously reliable and accountable male eyewitnesses who collectively provide the details of the offence. The convictions during the time of the Prophet were based on individual confessions. This does not however deny the need to maintain the provision of *al-rajm* as it is clearly and decisively commanded in the authentic hadiths. As such, Muslim authorities should uphold the provision of the severe punishment of stoning to death to deter the crime of illegal intercourse and to fight related crimes and evil such as infanticides, sexual related diseases and other social problems.

It should always be stressed that it is not the purpose of the *Shariah* law to stone people to death nor to cut one's hand, but its main purpose is to stop these crimes. An Islamic government should make all efforts to solve socio-economic problems. Means of marriage must be assured besides educating people with moral and religious values. Implementing the criminal law alone will be of little value if the indecent free mix of culture, unmonitored entertainment and all sorts of evil are depicted by the media, lack of widespread religious and moral awareness and ignorance about the teaching of Islam.

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