



9935 - The hadd punishment for theft

the question

the criminal punishment in muslim countrys seem to be different from the sunnah, like chopping a theifs fingers off and leaving his thumb if he stole for the first time(in iran this happens).is this sunnah?

Detailed answer

Praise be to Allah.

Theft is haraam according to the Qur'aan, Sunnah and scholarly consensus (ijmaa'). Allaah has condemned this action and decreed an appropriate punishment for it. The hadd punishment for a thief is to cut off his hand. Allaah says (interpretation of the meaning):

"And (as for) the male thief and the female thief, cut off (from the wrist joint) their (right) hands as a recompense for that which they committed, a punishment by way of example from Allaah. And Allaah is All Powerful, All Wise" [al-Maa'idah 5:38]

The Prophet (peace and blessings of Allaah be upon him) said: "The hand should be cut off for (the theft of) a quarter of a dinar or more." (Narrated by al-Bukhaari, al-Hudood, 6291)

The Prophet (peace and blessings of Allaah be upon him) cursed the thief because he is a corrupt element in society, and if he is left unpunished, his corruption will spread and infect the body of the ummah. He (peace and blessings of Allaah be upon him) said, "May Allaah curse the thief who steals an egg and has his hand cut off, or steals a rope and has his hand cut off." (al-Bukhaari, al-Hudood, 6285).

What indicates that this ruling is definitive is that fact that a Makhzoomi noblewoman stole at the time of the Prophet (peace and blessings of Allaah be upon him), and Usaamah ibn Zayd wanted to intercede for her. The Prophet (peace and blessings of Allaah be upon him) became angry and



said, “Do you intercede concerning one of the hadd punishments set by Allaah? Those who came before you were destroyed because if a rich man among them stole, they would let him off, but if a lowly person stole, they would carry out the punishment on him. By Allaah, if Faatimah bint Muhammad were to steal, I would cut off her hand.” (al-Bukhaari, Ahaadeeth al-Anbiyaa’, 3216)

This is the ruling of Allaah concerning theft, that the hand should be cut off from the wrist joint.

Al-Nawawi said in his commentary on Saheeh Muslim: Al-Shaafa'i, Abu Haneefah, Maalik and the majority (of scholars) said: The hand should be cut off from the wrist, where the hand meets the forearm. Al-Qurtubi said: all the scholars said: The hand should be cut off from the wrist, not as some of the innovators do when they cut off the fingers and leave the thumb.

Because cutting off the hand is a serious matter, cutting off the hand of the thief should not be done for just any case of theft. A combination of conditions must be fulfilled before the hand of a thief is cut off. These conditions are as follows:

The thing should have been taken by stealth; if it was not taken by stealth, then (the hand) should not be cut off, such as when property has been seized by force in front of other people, because in this case the owner of the property could have asked for help to stop the thief.

1-The stolen property should be something of worth, because that which is of no worth has no sanctity, such as musical instruments, wine and pigs.

2-The value of the stolen property should be above a certain limit, which is three Islamic dirhams or a quarter of an Islamic dinar, or their equivalent in other currencies.

3-The stolen property should have been taken from a place where it had been put away, i.e., a place where people usually put their property, such as a cupboard, for example.

4-The theft itself has to be proven, either by the testimony of two qualified witnesses or by the confession of the thief twice.

5-The person from whom the property was stolen has to ask for it back; if he does not, then (the



thief's) hand does not have to be cut off.

If these conditions are fulfilled, then the hand must be cut off. If this ruling was applied in the societies which are content with man-made laws and which have cast aside the sharee'ah of Allaah and replaced it with human laws, this would be the most beneficial treatment for this phenomenon. But the matter is as Allaah says (interpretation of the meaning):

“Do they then seek the judgement of (the days of) Ignorance? And who is better in judgement than Allaah for a people who have firm Faith” [al-Maa'idah 5:50]