

The Implementation of Hudud Law in Malaysia: (With Reference to Theft and Robbery)

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

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The Most Merciful and the Most Forgiving

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ABSTRACT

This research is carried out in order to propose the implementation of Hudud law for the offences of theft and robbery in Malaysia. In doing so, it will prove that there are loopholes on the current punishments for theft and robbery in the Penal Code (ACT 574). Thereby to fix the loopholes, it is imperative to incorporate Hudud punishments in the Penal Code (ACT 574).

The method used in this research is the qualitative methodology. References are done to books, journals and reliable internet materials. Interviews were also conducted with academicians to get their views in the implementation of Hudud law in Malaysia from the social and legal perspectives. The academicians were Professor Madya Dr. Mohamed Azam Mohamed Adil and Emeritus Professor Datuk Dr. Hj. Shad Saleem Faruqi. A detailed review on statistics of crime rates for every state in Malaysia were also conducted in order to prove that theft and robbery offences are the main contributors for the high statistics crime rates in Malaysia.

The goal for this research is to show the effectiveness of Hudud law in deterring society from committing the offences of theft and robbery. The effectiveness will be proven by comparing the statistics of theft and robbery between Malaysia and Pakistan. This research will also study the procedures that can be followed in order to make the incorporation of Hudud law a reality in Malaysia. Education to the public on the purpose of Hudud law is also important to avoid further misunderstanding.

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CHAPTER ONE: INTRODUCTION

1.0 Introduction:

The legal definition of Hudud is a punishment prescribed by Allah in the revealed text of the Holy Quran or the Sunna (practice of the Prophet), the application of which is in the right of Allah. In literal meaning, Hudud is a set of maximum and in effect mandatory punishment for major categories of crimes. It is commonly understood that Hudud law prescribes fixed punishments between five and seven types of crimes depending on the particular school of thoughts. As according to Abdul Qadir' Audah in his book *al-Tasyri' al-Jina'i' al-Islami*, volume 2, page 345:

Only certain crimes can be categorized as Hudud offences. They will not change overtime as have been determined by Islamic law, by means of the Holy Quran and Sunna.

Following the majority views, the recognized five Hudud offences are:

- (a) *Zina* or sexual intercourse outside marriage. If the person is already married, the punishment is *rajm* (stoning to death), otherwise, it is 100 strokes of caning.
- (b) *Qazf* or a false accusation of *zina*. The punishment for this is 80 strokes of caning.
- (c) *Sariqa* or theft. The punishment is amputations of hands or feet.
- (d) *Haraabah* or highway robbery. For robbery alone, the punishment is the amputations of hands or feet, whereas for robbery with murder incurs the punishment of death.
- (e) *Khamr* or drinking. The offender is served with 80 strokes of caning.

As described above, Hudud punishments are mandatory for these offences when particular circumstances are present. Essentially, the crimes falling within the