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Evaluating the Influence of Doubt (*Shubhah*) in the Implementation of Hudud Penalties

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Abstract

This study examines the contrasting approaches to enforcing *ḥudūd* punishments during the time of the Prophet Muhammad and his companions. While Quranic texts and hadiths advocate for strict application, historical practices often reflect a reluctance to implement such penalties. This research investigates and highlights the critical role of the legal maxim *idrau al-ḥudūd bi-al-shubuhāt* (averting hudud punishments in cases of doubt) in shaping the actions of the Prophet and his companions. The study also critically evaluates the emergence and development of this legal principle during the *Tābi'ūn* period, focusing on the influence of jurists from Kufa. Scholars such as Joseph Schacht and Maribel Fierro have argued that these jurists played a crucial role in formulating the maxim, particularly mitigating punishments for influential individuals. Using a historical-analytical approach, the study draws from primary Islamic legal sources, hadith collections, and juristic texts alongside modern scholarship. The findings demonstrate that the principle of doubt profoundly impacted the application of *ḥudūd* punishments and gained prominence during the *Tābi'ūn* period, primarily due to its strategic use by Kufa jurists to mitigate the severity of penalties in certain instances.

Abstrak

Penelitian ini mengkaji pendekatan yang berbeda dalam penerapan hukuman *ḥudūd* pada masa Nabi Muhammad dan para sahabatnya. Meskipun ayat-ayat Al-Qur'an dan hadits menekankan penerapan ketat hukuman ilahi ini, riwayat alternatif dan praktik para sahabat menunjukkan kecenderungan untuk menghindari penerapan hukuman tersebut kapan pun memungkinkan. Penelitian ini menyelidiki ketegangan ini dan menyoroti peran penting kaidah hukum "*idrau al-ḥudūd bi-al-shubuhāt*" (menghindari hukuman hudud dalam kasus-kasus keraguan) dalam membentuk tindakan Nabi dan para sahabatnya. Studi ini juga secara kritis mengevaluasi kemunculan dan perkembangan kaidah hukum ini selama periode *Tābi'ūn*, dengan fokus pada pengaruh para ahli hukum Kufa. Para sarjana seperti Joseph Schacht dan Maribel Fierro berpendapat bahwa ahli hukum ini memainkan peran penting dalam merumuskan kaidah tersebut, khususnya dalam mengurangi hukuman bagi individu-individu berpengaruh. Dengan menganalisis konteks sejarah dan penerapan kaidah ini, penelitian ini menangani kesenjangan signifikan dalam literatur terkait evolusi prinsip keraguan dalam penerapan *ḥudūd*. Menggunakan pendekatan historis-analitis, penelitian ini menggunakan sumber-sumber hukum Islam primer, koleksi hadits, dan teks-teks yuridis bersama dengan kajian modern. Temuan penelitian menunjukkan bahwa prinsip keraguan sangat mempengaruhi penerapan hukuman *ḥudūd* dan memperoleh ketenaran selama periode *Tābi'ūn*, terutama karena penggunaannya yang strategis oleh para ahli hukum Kufa untuk mengurangi tingkat hukuman dalam beberapa kasus.

Keywords:
Islamic law; *Ḥudūd* punishments; doubt principle; *Idrau al-ḥudūd bi-al-shubuhāt*; Joseph Schacht; Maribel Fierro.

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Introduction

Islam seeks to establish a society of individuals embodying morality and justice. To achieve this objective, Islam emphasizes the importance of bearing witness, even if it involves testifying against one's family members (Quran, 4/135). This moral framework also prioritizes the spiritual realm over the material world. However, this does not imply a complete rejection of worldly matters. Islam acknowledges that one's purpose in life is to gain Allah's approval, with the Hereafter being the ultimate priority (Nīsābūrī, 1991). Islam also emphasizes the importance of not abandoning the world entirely, instead encouraging the pursuit of knowledge and understanding (Quran, 28/77; Quran, 2/201).

A crime is an evident infringement of legal regulations. Therefore, our foremost task is to ascertain the underlying rationale behind our duty to comply with the law (Sadeghi, 2014). According to Muhammad Hamidullah, this rationale may vary depending on the time and country. Previously, in the Western context, obedience to the law was attributed mainly to the "command of the judge." In contrast, nowadays, the prevailing perspective suggests that adherence to the law is essential because it reflects "our command" rather than a judge's (Hamidullah, 2008). Hamidullah offers a unique perspective on Islam, highlighting Allah as the supreme legislator whose laws are grounded in wisdom. In Islam, the formulation of laws revolves around promoting what is right (*ma'rūf*) and prohibiting what is wrong (*munkar*) (Hamidullah, 2008; Katz, 2012). Hamidullah introduces the concepts of the well-known/good and the *munkar*/evil, representing objective realities beyond human comprehension. It is crucial to actively engage in virtuous and praiseworthy actions while abstaining from immoral and reprehensible ones. Allah, the bestower of divine law (*al-Shāri'*), is the ultimate authority in distinguishing between good and evil. While there are variations among sects regarding the concept of *al-ḥusn wa al-qubḥ* (perceived beauty in prohibited actions), it is universally recognized in Islamic jurisprudence that engaging in actions that fall under the *ḥadd* punishments is inherently sinful. Hence, this terminology is employed because the assessment of crimes and corresponding punishments is not based on individual interpretation but rather on the guidance of Islamic law itself. Furthermore, adhering to the legislator's directives regarding good deeds is rewarded, while transgressions invite punishment or sanctions in this life and hereafter. Apart from the temporal consequences, there exists an additional otherworldly sanction. This punishment in the Hereafter is more severe and daunting than anything experienced in the earthly realm, making it exceptionally effective in deterring and reforming individuals.

The concept of the afterlife is prominently featured in Islamic criminal law. This is evident in the practices of the Prophet and the caliphs, particularly concerning *ḥadd* punishments. In Islamic law, unlike other legal systems, the offender, aware that the crime committed is not only a legal transgression but also a sin, earnestly insists on the appropriate punishment, regardless of its severity (Abī Shaybah, 2004; Ḥanbal, 2003). This belief stems from the understanding that the committed crime carries consequences in the afterlife, and the earthly punishment serves as a means of expiation (*kaffārah*) in this world.

The firm conviction that the punishment administered or endured purifies the individual and cleanses the moral impurities associated with the crime is why the Companions of the Prophet would confess their wrongdoings and fervently seek punishment, no matter how severe. For instance, voluntarily subjecting oneself to sixty-day consecutive fasting (as a *kaffārah*) for intentionally breaking the Ramadan fast without valid excuse demonstrates the deep-rooted belief in personal purification through self-imposed punishment, irrespective of the certainty of acceptance (Abū Dāwūd, 2001). In the Shāfi'ī *madhhab*, intentional murder requires freeing a believing enslaved person or fasting for two months if that is not possible. If imprisoned, forced fasting lacks sincerity, reducing it to hunger without expiatory value. The plea of individuals, including those engaged in acts like adultery, to be cleansed and absolved

by confessing and seeking retribution is closely tied to the conviction in the Hereafter (Nīsābūrī, 1991). It reflects the profound belief that punishment brings spiritual purification and expunges the moral stain of the committed offense. The companion who committed adultery, Maiz, came to the Prophet and said, "*ṭahhirnī*" (cleanse me), which is a request for purification from the sin's punishment in the hereafter (Nasā'ī, 2001).

This research examines the role of doubt (*shubhah*) in enforcing Hudud punishments, prescribed penalties in Islamic law for crimes like theft, adultery, and apostasy (Tellenbach, 2014). Focusing on the principle *"idrau al-ḥudūd bi-al-shubuhāt"* (averting *ḥudūd* punishments when doubt exists), it investigates its application during the time of the Prophet Muhammad and his companions. While Quranic verses and hadiths emphasize strict enforcement, alternative practices are reluctant to impose punishments in cases of doubt. The study explores whether this principle was applied consistently or strategically during the *Tābi'ūn* period to protect influential individuals, as Joseph Schacht and Maribel Fierro suggested. Using a historical-analytical methodology, it draws on Islamic legal sources, secondary scholarship, and comparative legal cases, with a focus on the role of the Kufa jurists. This research contributes to our understanding of how early Islamic jurisprudence balanced divine justice with human fallibility, highlighting the adaptability of Hudud laws over time.

Precautions in the Application of *Ḥadd* Penalties in the Early Periods

The verses concerning the implementation of *ḥadd* punishments for criminal offenses employ precise and unwavering language. Particularly in the subsequent verse regarding the *ḥadd* punishment for adultery (Ibn Ḥazm, 2001), it admonishes believers, stating, "If you have faith in Allah and the Day of Judgment, do not let compassion sway you in matters about the religion of Allah" (Quran, 24/2). This resolute stance towards implementing punishments is also evident in certain practices of the Prophet and his companions. When intercessors intervened in the case of a woman from the Mahzumiye tribe whose hand was to be severed for theft, they questioned, "Are you interceding in matters concerning Allah's prescribed limits? When the wealthy and powerful steal, he lets them go, yet they are punished for their status when the weak steal." The Prophet further emphasized, "I solemnly swear by Allah that even if it were my daughter, Fatima, I would still have her hand severed in such a circumstance" (Bukhārī, 1422). This incident illustrates the unwavering determination to enforce *ḥudūd* punishments. The Prophet displayed a similar stance when dealing with the case of a man who stole Safwan's garment/cloth while it was left in the mosque.

Despite the stolen clothes being voluntarily offered as a donation by the rightful owner, the Prophet enforced the prescribed punishment upon the apprehended thief brought before him (Mālik, 1992). Other hadiths emphasize the importance of implementing *ḥadd* punishments in addition to these instances. For example, a report from Abu Hurayra states, "applying a *ḥadd* on Earth is more beneficial than forty days of rainfall for a community" (Ibn Mājah, 2002; Nasā'ī, 2001). It is also advised to apply *ḥadd* punishments equally, whether the offender is a relative or a distant individual, so that fear of social backlash does not hinder the practice of Allah's religion (Ḥanbal, 2003). The practices of the Companions also reflect a similar commitment. A notable example is when Ali placed his hand around the neck of a person whose theft had been proven, praying, "O Allah, bear witness" (al-Hindī, 1401). This act serves as a clear demonstration of his determination to execute *ḥadd* punishments.

Nevertheless, the Messenger of Allah occasionally cautiously approached *ḥadd* punishments, employing a more measured rhetoric. He would attempt to dissuade the offender from confessing, aiming to alleviate the severity of the prescribed limits. He emphasized the importance of refraining from implementing *ḥadd* punishments in cases where doubt persists, advising, "minimise the application of *ḥadd* punishments to the utmost extent possible for

Muslims (Bayhaqī, 2003). However, While the narration "*idrau al-ḥudūd bi-al-shubuhāt*" is present in Bayhaqī's Sunan, we can observe that in the Musannaf of Ibn Abī Shaybah, a prominent scholar of the first half of the 3rd century Hijri, there exists a chapter titled *idrau al-ḥudūd bi-al-shubuhāt* where narrations from the Prophet regarding the preference of refraining from applying *ḥadd* punishments in situations of doubt are shared (Abī Shaybah, 1409). A similar circumstance can be found in Ibn Majah's collection of hadith, titled "*Bab al-satr 'alā al-muslimin fi daf'i' al-ḥudūd bi al-shubuhāt*" (Chapter on Concealing the Faults of Muslims and Avoiding *Ḥadd* Punishments in Cases of Doubt). Within this chapter, there is an account where it is stated, "Fight against imposing the *ḥadd* punishments as much as possible. If you can find a way to absolve them, let them go. A leader should err on forgiveness than err in punishment" (Ibn Mājah, 2002).

Furthermore, the statement "break the *ḥadd* as long as you find any way" (Ibn Mājah, 2002) can create an illusion of conflict between this particular hadith and the abovementioned verse. It is important to note that such potential conflicts can arise between verses and hadiths and among various hadiths. There are instances where the Prophet employed multiple approaches to dissuade criminals or suspects from facing *ḥadd* punishments. He attempted to discourage a person who confessed to theft numerous times by stating, "I do not believe you stole it" (Abū Dāwūd, 2009). Additionally, companions like Abu Darda and Ibn Mas'ud tried to coax a captured thief into denying their crime by insisting, "I did not steal." It is said that Ibn Masud made such a suggestion because the thief in question was an unknown person, and she did not know what punishment she would receive for theft (Sarakhsī, 1993). Furthermore, when confronted with a confession of adultery, the Prophet would wait for the accused individual to retract their statement, suggesting possibilities such as kissing, touching, or even mere glances (Dāraquṭnī,2004; Ḥanbal,2003; Abū Dāwūd, 2009). It is also noteworthy that the Prophet would question individuals who confessed to adultery, asking if they were mentally sound or in a state of being married (Bukhārī, 1422), displaying his reluctance to enforce *ḥadd* punishments swiftly.

Upon considering the Prophet's distinct attitudes, several evaluations can be drawn. Firstly, it is crucial to differentiate between the burden of proof and the implementation of *ḥadd* punishments. The Prophet exercised great skepticism in evidence, ensuring the accused would benefit from the slightest hint of doubt. This approach was preferred, as it is far better for a judge to abstain from imposing a *ḥadd* punishment when doubts persist rather than erroneously enforcing it. This skepticism holds immense importance in seeking the truth and avoiding incorrect judgments. However, once a *ḥadd* crime has been irrefutably established through confession or credible witnesses, executing the *ḥadd* penalty becomes obligatory. In such cases, where there is no doubt regarding the offense, enforcing the prescribed punishment is deemed necessary. Indeed, the hadith of the Prophet establishes that there can be no concessions or mediation when it comes to the punishment of crimes committed in the presence of a judge. The hadith states, "Establish the *ḥadd* punishment among yourselves, for once a *ḥadd* case is brought before me, its enforcement becomes obligatory" (Abū Dāwūd, 2009). This emphasizes the importance of adhering to the prescribed punishments without compromise or leniency.

We witnessed a similar situation involving Safwan, whose garment/cloth was stolen. When Safwan realized the Prophet had ordered the thief's hand severed, he withdrew from pursuing the case. In response, the Prophet remarked, "O father of Wahb (Safwan), if only you had done this before bringing the matter to me!" (Nasā'ī, 2001). There are the following expressions in different variants of the hadith: "O Messenger of Allah, I do not want this. I donated my dress to him (Ibn Mājah, 2002). Thus, the decision to carry out the punishment of severing the thief's hand was upheld. This hadith clearly illustrates that, for crimes proven and deserving of the *ḥadd* punishment, no alternatives to execution can be considered.

Furthermore, it is crucial to note that the under-application and over-application of *ḥadd* punishments are strictly prohibited, as emphasized in the hadith. The prescribed sentences must be executed as ordained, without deviation or excessive severity. In one of his hadiths, the Prophet conveyed a profound message. Hereafter, he spoke of a scenario where a governor who administered the *ḥadd* punishment with one less lash is brought forward. When questioned about this action, the governor responds, "I did so out of mercy for Your servants." However, he is reminded, "Are you more merciful to My servants than I am?" Consequently, he is commanded to be cast into hell. Similarly, another individual who exceeds the prescribed *ḥadd* punishment by administering an additional lash is brought forth. When asked about his reasoning, he replies, "So that they may abstain from sinning against You."

Nevertheless, it is retorted, "Do you consider your judgment superior to Mine?" Consequently, he is ordered to be cast into hell as well (Zaylaʿī, 1414). This hadith is a powerful reminder of the importance of adhering to the prescribed *ḥadd* punishments without deviation or excess. Secondly, the Messenger of Allah issued judgments/verdicts based on specific circumstances. The hadiths concerning reducing prescribed punishments (*ḥadd*) deal with situations where the offender openly acknowledges and confesses their wrongdoing. In such cases, the criminal's remorseful attitude and sincere repentance, coupled with their voluntary surrender to the Messenger of Allah, requesting punishment, demonstrate the fulfillment of the intended objective without the need for actual, punitive measures. However, it should be noted that this does not imply that punishment is entirely waived in cases of genuine repentance. Despite Maiz's sincere remorse for his adultery and admission of guilt, the Prophet initially declined his plea for forgiveness three times. Eventually, the prescribed punishment (*ḥadd*) was enforced on the fourth occasion, possibly to encourage the exploration of mitigating circumstances that could reduce the severity of the sentence. In this instance, it can be observed that the Messenger of Allah actively sought to minimize the prescribed punishment for the accused, hoping to suppress both the evidence and the crime itself. In other words, if uncertainties impede the conclusive confirmation of the offense during the trial process, the *ḥadd* case is dismissed.

During the Rightly Guided Caliphs (*al-Khulafā' al-Rāshidūn*), punishments were also reduced based on reasonable suspicions arising from various circumstances. For instance, *ḥadd* penalties were modified in cases involving coercion (*ikrāh*), mental incapacity, and a lack of knowledge about the law (ʿUmarī, 2009). In the early period, the emphasis was placed on mitigating the sentence for those who committed crimes and confessed with genuine remorse. Doubt played a crucial role in this regard. In this context, Caliph Omar advocated for the expulsion of those who confessed to crimes that warranted *ḥadd* punishments as long as the crimes had not become public knowledge (Sarakhsī, 1993). He believed that such cases should not be brought to trial. When encountering suspicious situations, he exhibited a proclivity for reducing ḥadd penalties.

In a particular account, it is narrated that Omar was informed about a widow from Yemen who had committed adultery while traveling with a caravan to perform Hajj. He requested that the woman be summoned for questioning. When asked about her circumstances, the woman pleaded, "O commander of the believers, I am an orphan and destitute. Neither my relatives nor the world accepts me." After investigating and verifying the woman's claims, Omar chose to punish her with a hundred lashes instead of stoning her while also providing for her needs from the public treasury (*bayt al-māl*). He instructed the caravan, "You may take this woman with you" (Ṣanʿānī, 1401).

The prudence in implementing *ḥadd* punishments is rooted in several factors. Firstly, Islamic criminal law dictates that crimes deserving *ḥadd* punishment are not pursued or disclosed unless they directly infringe upon the rights of others. This approach safeguards against the unnecessary exposure of individuals' transgressions. In cases like adultery, for

instance, the requirement of four witnesses is a safeguard against the public revelation of the offense, which is considered more harmful than the crime itself.

The Quran warns of the severe consequences for those who seek to spread indecency among believers, both in this life and the Hereafter. The verse "Allah knows, but you do not know" (Quran, 24/19) discourages the disclosure of sins. Every effort is made to prevent crimes or sins from becoming public knowledge, and individuals are explicitly urged not to reveal their wrongdoings. When Maiz approached Abū Bakr to confess his adultery, Abū Bakr asked if he had already informed anyone else about the matter. Maiz responded negatively. Abū Bakr then advised him to seek refuge in Almighty Allah's mercy and repent sincerely. Abū Bakr emphasized that people may be ashamed but cannot bring about change, while Allah can effect change without condemning it (Abī Shaybah, 1409). Hence, Maiz was encouraged to repent to Allah and refrain from divulging his actions to others.

Other hadiths address openly committing crimes and emphasize the importance of not disclosing sins. These hadiths advocate refraining from openly engaging in sinful behavior and spreading knowledge of the sins committed (Sāmirī, 1999). Furthermore, the prohibition against prying into and exposing the crimes, sins, or faults of others should be regarded as preventive measures to avoid publicizing the wrongdoing (Quran 49/12). Essentially, in *ḥadd* crimes, the revelation of the offense is deemed more dangerous than its execution, as it significantly disrupts social harmony and tranquillity.

This situation highlights one of the potential reasons behind the Prophet's cautious and hesitant approach towards *ḥadd* punishments. If a crime in society warrants the application of *ḥadd* penalties and is relatively infrequent, implementing the sentence could lead to the exposure of corruption. As evident from the following hadiths, the Messenger of Allah did not even encourage confessing the crime or sin. It is also possible to interpret Omar's statement, "Fire those who confess," as a means of preventing the disclosure of the crime. This is because the revelation of sin can corrupt the hearts of those unaware of such wrongdoing, potentially giving rise to new criminals. The lack of awareness or "ignorance of the law," considered a manifestation of doubt, played a significant role in the limited desirability of *ḥadd* punishments during the time of the Prophet and his companions. This aspect also held importance during the early period of Islam. When individuals were unaware that an act constituted a crime, their lack of knowledge was deemed suspicious, resulting in the absence of penal sanctions for the specific case. Omar, Osman, and Ali refrained from imposing *ḥadd* punishments on an enslaved person or person who lacked awareness that adultery was prohibited (*ḥarām*) (Zahrah, 1966; 'Umarī, 2009). This approach stemmed from the fact that various societies, newly converted to Islam, had limited familiarity with Islamic regulations. However, as time passed and the decrees of Islam became widely known, jurists began to issue the following verdict or fatwa: "If an individual is well-established among the Muslim community and has the means to learn the rules, then ignorance cannot serve as an excuse, and the *ḥadd* penalty is imposed upon them" (Aykul, 2022).

There are varying assessments concerning the suspension and execution of *ḥadd* punishments for different crimes. In particular, there is an emphasis on exercising caution and reducing the burden of proof regarding penalties for adultery and theft. The approach encourages a measured response, allowing for a higher threshold of evidence. Conversely, there is a notable inclination to apply *ḥadd* penalties for false accusations of adultery (*qadḥf*) and violations related to alcohol consumption.

While suspicion is given significant weight in cases of adultery and theft, its impact is relatively lower in instances of false accusations of infidelity and drinking. The sharia lawgiver demonstrates caution in establishing proof for the examples mentioned above of adultery and theft. Consequently, during the period of the Rightly Guided Caliphs (*al-Khulafā' al-Rāshidūn*), many instances occurred where these penalties were not implemented in cases with

suspicion (‘Umarī, 2009). This trend persisted in jurisprudence, rendering these two punishments nearly impracticable due to the stringent conditions and reliance on suspicion. It is worth noting that the rare instances of applying these punishments by the Mamluks and Ottomans may have been influenced by incomplete fulfillment of the material conditions specified in jurisprudential texts and the utilization of suspicion even in situations that may not be deemed suspicious.

However, despite texts in jurisprudence that may raise doubts regarding alcohol-related offenses and false accusations of adultery, there was a consensus that these crimes should not be treated as doubtful, and opinions leaned towards enforcing the respective punishments. Let us consider an example: according to Abū Ḥanīfah and Abū Yūsuf, beverages such as “Halitan, lice, cia, and museles”, are intoxicating drinks crafted from fresh and uncooked dates, dried dates, or grapes, with the condition that it has not been boiled or aged for more than three days, are halal (Zuḥaylī, 1975). Even if consuming them leads to intoxication, the *ḥadd* punishment is not applied if consumed excessively. However, Imam Muhammad believes that if a significant quantity of these beverages is consumed, the ḥadd sentence should be used. This view is also known as the “*muftá bihi*” stance within the school of thought (Ābidīn, 1992; Zuḥaylī, 1975). A similar distinction exists regarding the *ḥadd* punishment for false accusation of adultery (*qadhf*). If the witnesses disagree about the specific date on which the crime was committed—for instance, one witness claims it occurred on Thursday, while another states it happened on Friday—the accused individual is not subjected to the *ḥadd* punishment (Efe, 1985). However, if one witness testifies that the slander occurred on Thursday and another claim occurred on Friday, the *ḥadd* sentence will be applied to the person who made the accusation (Efe, 1985). As evident, even though doubt arises in these particular cases, a specific opinion has been formulated regarding their implementation.

The divergence in interpretation between these two scenarios can be attributed to the gravity of the punishment involved. In the cases of adultery and theft, the execution of the penalty results in an irreversible situation. The significance attached to doubt by scholars is understandable, as the life and physical integrity of an individual whose hand has been amputated cannot be restored. Conversely, *qadhf* (false accusation of adultery) and alcoholic punishments do not result in permanent physical harm or loss of organs. They entail temporary bodily pain that subsides over time (Kāsānī, 1986; Qudūrī, 1997). This temporary nature of pain may have made scholars more flexible regarding the punishments for *qadhf* and alcohol-related offenses.

Furthermore, reducing the threshold for *qadhf* punishment compared to other *ḥadd* sentences is difficult primarily because of its strong association with the rights of enslaved people. While the Ḥanafī school considers Allah one of the preeminent rights within the category of mixed rights for *qadhf*, other sects prioritize the rights of individuals. Consequently, the inclination to apply the *ḥadd* punishment for *qadhf* has been considerably higher, as neglecting the rights of individuals by abolishing a request with another right would be deemed unjust to the rightful owner.

Kāsānī, a Ḥanafī scholar, expresses his perspective on this matter, stating, “While it is relatively easier and even encouraged to reduce *ḥadd* punishments related to Allah’s rights, it proves challenging to lower the *ḥadd* penalty in cases involving the rights of slaves, such as *qadhf*” (Kāsānī, 1986). Nevertheless, despite the comparative ease of implementing these two punishments compared to others, instances of *qadhf* and drink-related *ḥadd* sentences were sporadic (Özlü, 2007), particularly during the Ottoman Empire. Although clear penalties for these crimes exist in the laws, their particular application cannot be claimed. This observation is significant as it highlights the obstacle that punishment has become.

Does doubt play an outsized role in reducing ḥadd punishments?

In the literature of *Qawā'id* (The Legal Maxims of Islamic Law), a fiqh principle emphasizes the importance of tolerance in jurisprudence (Āmidī, 2003; Ramlī, 1984). According to this principle, efforts were often made to mitigate and ḥadd penalties for various reasons. Instead, *ta'zīr* (a category encompassing offenses not explicitly specified with a penalty in the law) was implemented as an alternative punishment. Consequently, *ta'zīr* emerged as a method to ensure that unlawful acts did not go unpunished when ḥadd sentences were neither applicable nor impossible to apply. As demonstrated above, suspicion played a crucial role as the primary factor in reducing and rendering *ḥadd* penalties inapplicable.

Doubt, resembling various circumstances, can lead to confusion and hesitation. It is often described as appearing authentic despite not being the truth, seeming constant while lacking stability, and causing uncertainty regarding whether something is *ḥalāl* or *ḥarām* due to conflicting evidence and interpretations (Kadouf et al., 2015). Consequently, diverse definitions have been formulated to capture its elusive natüre (Ḍumayrīyah, 2012). Doubt is categorized into different types, each having its own specific considerations. In Hanafi's works, doubt is classified into three divisions: doubt concerning the place (*mahal*), contract, and deed. This classification reveals that Ḥanāfī scholars predominantly employ the principle of reducing *ḥadd* penalties based on suspicion (Ibn Ḥazm, 2001). Consequently, due to this tripartite division, many fatwas addressing the diminishing impact of doubt can be found within Ḥanāfī *fiqh* and fatwa literature.

As the significance of doubt in reducing penalties grows, a considerable risk of rendering many *ḥadd* punishments obsolete arises. When combined with the reluctance of the head of state to implement ḥadd corrections, numerous crimes necessitating such sentences have been attempted to be eradicated through alternative, often burdensome, fines. This peril has been evident since the era of the Abbasids. In his well-known work, "*Kitāb al-Kharāj*," Abū Yūsuf laments the high number of prisoners in jails and advises the Caliph to instruct governors to enforce the punishments prescribed by Islam. Subsequently, Abū Yūsuf expressed his disapproval of certain governors imposing excessive penalties of 200 or 300 lashes, deeming it impermissible. Instead, he advocated for adhering to the prescribed *ḥadd* punishment. He went further to condemn the misguided practice of allowing Muslim prisoners to perish from starvation as a result of their crimes, emphasizing its grave wrongfulness (Ya'qūb, 1982).

*Had you issued an order to uphold and diligently apply the sharia ḥadd punishments, the prison population would have decreased significantly. Those who engage in mischief and wrongdoing would abandon their corrupt behavior due to the fear of facing these punishments. The rise in incarcerated individuals stems from the lack of seriousness in addressing criminal matters. It should be noted that a prison is not akin to a bustling township or village, and therefore, it should only accommodate a few people (*Ya'qūb, 1982*).*

The Hanbali jurist Ibn Taymīyah stands out among those who express similar concerns. In his well-known work "*al-Siyāsah al-Shar'īyah*," he was greatly troubled by the arbitrary reduction of *ḥadd* punishments during his time. He vehemently criticizes the inefficiency of *ḥadd* penalties due to the intervention of intermediaries, bribery, and gifts given to judges. According to him, those who had the authority to enforce *ḥadd* punishments but failed to do so deserved the condemnation of Allah, angels, and all humanity (Ibn Taymīyah, 1418). He viewed such individuals as having traded the verses of Allah for trivial worldly gains. Ibn Qayyim, a student of Ibn Taymīyah, shares a similar concern and anxiety. In this regard, he emphasizes that certain *ḥadd* crimes should not solely rely on testimony and confession but also consider presumptions. He argues that solid suspicion indicating the commission of a

crime should be treated as a presumption of guilt, warranting punishment for the offender (al-Jawzīyah, 2003). Claiming that the release of the criminal in the presence of such a presumption contradicts the principles of "political law," Ibn Qayyim believes that the crime can only be confirmed through testimony or confession. Both Ibn Taymīyah and Ibn Qayyim's viewpoints shed light on the need to address these issues and ensure the effective implementation of *ḥadd* punishments to uphold justice (al-Jawzīyah, 2003).

To illustrate the significance attributed to doubt in the texts of *furū'al- fiqh*, it would be beneficial to provide a few examples. For instance, if a person who commits theft confesses by saying "I took" instead of "I stole," the punishment of amputation is not applied (Efe, 1985; Alhammadi, 2016). In this scenario, the only way to prove the theft is through the perpetrator's confession. The hand cannot be amputated without a confession, rendering the penalty ineffective. Furthermore, to establish the *ḥadd* punishment for theft, certain factors create suspicions, such as disputes arising from the nature of the stolen property being movable or permanent and the concept of "under the thief" or the minimum threshold for theft. These factors contribute to the presence of doubt. An intriguing example that exemplifies this is when the *ḥadd* punishment is imposed on a person who punctures a sack on a camel and steals something from it.

In contrast, the *ḥadd* penalty is reduced if the entire sack and its contents are stolen. Ḥanafī jurists explain this distinction by asserting that the bag was not adequately protected (Aydın, 2014). These examples highlight the intricate considerations and interpretations regarding doubt within *furū' al-fiqh*, underscoring the importance of such analysis in applying *ḥadd* punishments.

The exaggeration of doubt in legal discussions reached such an extent that debates arose on whether the translator's testimony should be accepted, and it was argued that *ḥadd* punishments should not be applied due to the presence of doubt (al-Ḥamawī, 1985). Similarly, even if a person without speech ability confesses their crime in writing or through sign language, or if witnesses testify, *ḥadd* punishments cannot be enforced (Efe, 1985). It is evident that regardless of the *ḥadd* crime committed, a mute individual cannot be subject to *ḥadd* penalties. Moreover, even if three witnesses willingly testify to an act of adultery and one does so reluctantly, neither the adulterer, the adulteress, nor any witnesses can be subjected to *ḥadd* punishments for adultery or *qadhf* (false accusation of cheating) (Efe, 1985; Rabb, 2009). According to Abū Ḥanīfah, the consumption of wine (*khamr*) is the only circumstance that necessitates the application of *ḥadd* punishment for drinking. Using other intoxicating substances is considered a crime that falls under the category of *ta'zīr* rather than *ḥadd*.

Consequently, in a society where various types of intoxicants exist, many substances with similar intoxicating effects to wine are exempt from *ḥadd* penalties. While *furū' fiqh* texts state that the punishment of hand-cutting cannot be imposed for goods taken as loans or bequests that are not returned (Yektar, 2015). It is noteworthy that the Prophet ordered the execution of the hand-cutting punishment for a woman who acquired gold jewelry as a loan but failed to return it later (Nasā'ī, 2001). These examples demonstrate the complex and nuanced discussions surrounding doubt and the application of *ḥadd* punishments in *fiqh*.

Numerous factors initially designated for *ḥadd* punishments, primarily due to suspicion, have been set aside and substituted with *ta'zīr* penalties. Given the presence of four significant *madhhab*s, each with its unique interpretations, it is inevitable that numerous doubts will emerge concerning *ḥadd* punishments, resulting in their transformation into *ta'zīr* penalties. For instance, while some *madhhabs* stipulate a *niṣāb* (minimum threshold) of a quarter *dīnār* or three *dirhams* for theft (Rushd, 2004), Hanafis assert it to be one dinar in gold or ten *dirhams* in silver (Kāsānī, 1986; Mawṣilī, 1937). This discrepancy among *madhhabs* gives rise to suspicion and obstructs the implementation of *ḥadd* punishments. Likewise, specific cases, such as marriage without witnesses or *mut'ah* (temporary) marriage, are accepted by some

madhhabs but not others, further contributing to doubt and rendering the enforcement of *ḥadd* penalties impossible. Suyūṭī asserts that *ḥadd* punishments should not be applied in cases such as marriage without the permission of the guardian, marriage without witnesses, temporary (*mut'ah*) marriage, and the consumption of alcoholic drinks for medicinal purposes. This stance is justified because certain jurists deemed these actions permissible, thus exempting them from the prescribed *ḥadd* penalties (Suyūṭī, 1990).

Serakhsi, while discussing the prohibition of drinking *Nabīdh* (a beverage consumed by Prophet Muhammad), concludes that scholars hold differing opinions on applying *ḥadd* punishment in such cases. He states, "Reputable disagreement breeds doubt, and in situations of doubt, *ḥadd* penalties are not imposed" (Sarakhsī, 1993). Zarkashī, in his work titled "*al-Manṣūr,"* argues that inter-sectarian differences (*shubhat al-khilāf*) contribute to the mitigation of *ḥadd* punishments (Zarkashī, 1985). Ibn Nüceym also criticizes the Shafiis for their position on omitting punishments in ambiguous situations like *Qiṣāṣ* (equal retribution) and *ḥadd* conflicts between *madhhabs*, countering Zarkashī's viewpoint. Regarding the Shāfi'ī perspective that substantial doubt is required for dropping *ḥadd* punishments, Ibn Nujaym, a prominent figure among the Hanāfis, expresses his astonishment by stating, "How peculiar it is that the Shāfi'īs assert the need for strong doubt. If, for instance, the guardian of a non-Muslim protected by a Muslim were to kill the Muslim (which aligns with Abū Ḥanīfah's viewpoint), then the guardian should be subject to capital punishment." In addition, Ibn Nujaym highlights the Shāfi'ī stance on applying *ḥadd* punishments to those who consume *nebiz* (a fermented beverage) and emphasizes that Abū Ḥanīfah's differing opinion is disregarded (Nujaym, 1999). These examples underscore the intricate dynamics involving doubts, *madhhabs*, and the application of *ḥadd* punishments within *fiqh*.

It is crucial to exercise great caution when implementing a severe sanction, such as *ḥadd*, as it can lead to irreparable consequences. Imposing *ḥadd* penalties on individuals whose guilt is uncertain jeopardizes the integrity of the legal system and compromises security. Furthermore, we must recognize that the emphasis on doubt stems from the guidance and recommendations of the lawgiver. Therefore, it is reasonable to activate the mechanism of suspicion. Additionally, doubt is not a desirable element but an essential component that must be addressed when it comes to inquiry, investigation, and seeking the truth through reasoning. However, it is necessary to refrain from operating this mechanism that renders *ḥadd* punishments ineffective. Throughout history, numerous cases cannot be categorized as "suspicious," yet *ḥadd* penalties were often reduced through coercion or unfounded interpretations. Consequently, many *ḥadd* offenses have been mitigated through alternative sentences known as *ta'zīr*. While a viewpoint suggests that *ta'zīr* penalties, which are discretionary punishments, should be decreased when the *ḥadd* penalties are reduced as the primary punishments, it is more appropriate to apply this principle selectively to specific crimes rather than implementing it across the entire criminal justice system. Numerous instances exist where the *ḥadd* penalties are waived, and *ta'zīr* penalties are imposed instead. (Māwardī, 1999). A well-established balance between suspicion and punishment must be maintained to address this.

A Misconception Regarding the Effect of Doubt

In their article titled "*idrāu' al-ḥudūd bi-al-shubuhāt*: when lawful violence meets doubt," Maribel Fierro discusses the origins of the narration "*idrāu' al-ḥudūd bi-al-shubuhāt*" (defend the *ḥadd* in doubtful cases) formulated by Joseph Schacht (1967). Fierro aims to support their claim that this narrative was introduced by the people of Kufa later rather than being derived directly from the Prophet. According to Fierro, the people of Kufa circulated the principle of defending *ḥadd* punishments in cases of doubt to prevent the wealthy and robust

from being subjected to such penalties. Notably, the Hanbalīs and the renowned jurist Ibn Hazm reject/weaken the attribution of this narration to the Prophet (Fierro et al., 2007). They argue that the statement "*idrāu' al-ḥudūd bi-al-shubuhāt*" does not appear in early sources but is found in later works like Bayhaqi's Sunan, which dates back to around 458 AH. Fierro further notes that the hadith expressed as "*Idfaʿ al-ḥudūd mā wajadtum lahu madfaʿan*" (dismiss the *ḥadd* punishments if you find any excuse) was considered weak by Ibn Ḥanbal. According to Schacht and Fierro, the transformation of this statement, emphasizing the mitigating effect of doubt, into a prophetic discourse originated with İbrahim an-Nehai in Kufa. The narrative continued through his student, Hammad bin Sulaymān, and eventually reached Abū Ḥanīfah and his students, Zufar and Abū Yūsuf (Fierro et al., 2007; Schacht, 1967).

Even if we assume that the Prophet did not explicitly express this tradition, it does not invalidate the argument that it was circulated to mitigate and *ḥadd* punishments for the wealthy and powerful. Legal maxims, in general, are derived from the Prophet's narrations in terms of their underlying meanings. For instance, the legal maxim "*al-umūr bi maqāṣidihā*" is inspired by the hadith "*innama al-'amāl bi al--niyāt*" (al-Subkī, 1991; Suyūṭī, 1990). It is common for specific examples to be transformed into universal formulations by highlighting their shared purposes. Thus, claiming this versatile formulation was not derived from particular examples is equally unreasonable. In fact, during the time of the Prophet and the Companions' practices, caution was exercised in implementing *ḥadd* punishments until they were brought before the court or the Prophet. However, it was crucial to enforce these punishments once they were presented to the Prophet or the court. Incorporating Prophetic narrations endorsing this approach does not conflict with adapting legal maxims into the existing formulation of "*idrau ' al-ḥudūd bi-al-shubuhāt*."

According to Fierro, the hadith "defend the hudud in doubtful cases" was initially circulated to reduce *ḥadd* punishments, particularly for the wealthy and influential members of society. However, Fierro argues that in the Prophet's teachings, the severity of *ḥadd* penalties was not diminished, and there was no inclusion of intermediaries through a prohibition of intercession. Supporting this viewpoint are the narrations found in Ibn Mājah and Tirmidhī. As mentioned earlier, the prophetic discourse of "I would cut off hand even if it were my daughter, Fatima," contradicts the notion of lowering *ḥadd* punishments based on suspicion (Fierro et al., 2007). Fierro thus interprets this narration as a principle developed by Ibrāhīm al-Nakhaʿī to protect the elite class. Intisar Rabb, in general agreement with Fierro's perspective, suggests that this principle, which gained currency as a prophetic discourse during the time of Ibrāhīm al-Nakhaʿī and Zuhrī, served as a means to safeguard the elite from punishment (Rabb, 2010; Rabb, 2015; Azam, 2013). Schacht and Fierro concur that this principle was circulated to protect the societal elite.

However, Schacht and Fierro emphasize a crucial point regarding the arguments presented by Ibrāhīm al-Nakhaʿī and later Kufa scholars about the influence of such a formulation in becoming a prophetic discourse. Their main contention, as highlighted by Fierro, is that the particular narration in question is absent from the early hadith books and canonical collections of the third century but is found in the works of Bayhaqī, who lived in the fifth century. However, it is essential to note that assessing a narration's authenticity or weakness relies on information about the narrators mentioned in the chain of the hadith. This information is available in biographical works that evaluate the narrator's integrity and reliability. Fierro attempts to justify their perspective by referring to Aḥmad ibn Ḥanbal, who allegedly questioned the credibility of the narration with the characterization of "*idrāu' al-ḥudūd māstiṭa'tum*" as weak (Özen, 2006).

Moreover, Fierro argues that Ibrāhīm al-Nakhaʿī propagated this narration as a prophetic discourse. However, it is widely accepted among the scholars of *Ahl al-raʾy* (the

proponents of the use of independent legal reasoning to arrive at legal decisions) and the scholars of hadith that Ibrāhīm al-Nakha'ī was trustworthy. While Fierro asserts that the mentioned hadith did not exist as a narration before Ibrāhīm al-Nakha'ī, they make a temporal error by attributing its absence in the hadith collection to someone who lived approximately four centuries after Ibrāhīm al-Nakha'ī. Furthermore, it is worth noting that the lack of this narration in canonical hadith collections does not automatically render it weak according to classical hadith theory. While the sources of a hadith hold significance in determining its reliability, they do not serve as the sole criteria for assessing its authenticity. It is possible for a narration not included in canonical works to be still deemed authentic. Therefore, the fact that Fierro's arguments do not present the hadith in the early works does not imply that it was formulated by Ibrāhīm al-Nakha'ī or anyone else or was propagated as a prophetic discourse following the Prophet's era.

Secondly, the assertion that this narration was introduced to reduce punishments for the wealthy and powerful under the guise of social elitism or favoritism is rather simplistic. As Fierro acknowledges, the narration mentioned in the footnote supports a different perspective (Abū Dāwūd, 2009). However, in the *furū'al-fiqh* (branch of jurisprudence) and the collections of hadith, the mentioned narration specifically pertains to minor offenses rather than *ḥadd* punishments. According to the interpretation of this narration, serious crimes such as *ḥadd* punishments and significant *ta'zīr* penalties, like homosexuality, cannot be mitigated. In fact, in such cases, the punishment is expected to be more severe compared to others. The crimes being addressed here fall under the category of *ta'zīr*, which are offenses related to the rights of Allah. These punishments aim to bring about reformation even before the actual implementation, sometimes through a mere summons to the court. The purpose of punishment is to rectify and improve, not to destroy. Therefore, if an individual has already undergone correction without being formally punished, there is no need for a separate punishment to be imposed (Aykul, 2022).

It is seen that Fierro's interpretation of reducing *ḥadd* punishments through this newly formulated prophetic discourse is a form of inequality and social elitism. Fierro provides an example illustrating a case between Abū Yūsuf and Harun Rashid. The incident is recounted by Abu Yusuf as follows:

Abū Yūsuf's connection with Harun Rashid stemmed from the following circumstances: Following Abū Ḥanīfah's demise, Abū Yūsuf relocated to Baghdad. At one point, a commander found himself entangled in a predicament concerning an oath and sought a legal expert's opinion. Abu Yusuf was summoned before this commander, and he provided a fatwa stating that there was no violation of the oath. In gratitude, the commander rewarded Abū Yūsuf with money, procured a residence near his own, and maintained a close relationship with him. One day, the commander visited Harun Rashid while in a depressed state. When asked about the cause of his distress, Harun Rashid expressed his concern over a religious matter and requested the presence of a jurist to seek a fatwa. Abu Yusuf was once again summoned and joined the gathering. Abū Yūsuf narrates his experience as follows: While traversing a corridor between buildings, I caught sight of a young man, clearly a member of the dynasty, who appeared confined within his chamber. He gestured subtly, seemingly pleading for my assistance. Naturally, I failed to comprehend his intentions. Upon reaching Harun Rashid, I stood before him and greeted him. He inquired about my name, and I responded, "May Allah rectify the order of the believers; my name is Yakup." Harun Rashid asked: "Should the caliph punish a person caught in adultery with ḥadd?" I replied, "It is unnecessary." Astonished, Harun Rashid prostrated himself and disclosed that he had witnessed some dynasty members in such a compromising situation, and the young man who sought my aid was an adulterer. Harun Rashid proceeded to question the basis of my fatwa.

I replied, "It is rooted in the Prophet's words: 'In cases of doubt, reduce the prescribed penalties.' I concluded that this incident constitutes a suspicion that diminishes the severity of the ḥadd punishment." Harun Rashid inquired, "Can there be any doubt when something is visibly observed?" I answered, "Observing a fact does not demand further verification. Ḥadd punishments are not solely dependent on awareness. True justice cannot be attained merely through an individual's knowledge." Upon hearing this, Harun Rashid prostrated himself again and ordered me to be rewarded generously with wealth and houses. Upon leaving, the young man and his mother gave me a gift (Khallikān, 1978).

Contrary to Maribel Fierro's claim that reducing ḥadd punishments for the elite and wealthy implies harsher penalties for the poor and ordinary individuals, the example of the Ottoman Empire demonstrates the opposite. Notables are subjected to more severe punishments. Additionally, following *furū' al-fiqh*, judges are not allowed to impose *ḥadd* punishments based solely on their knowledge (Jaṣṣāṣ, 2010). In the case at hand, *Abū Yūsuf* becomes aware of the individual's royal lineage only after delivering the fatwa/verdict or judgment. Adultery does not require a person to be a descendant of the dynasty for it to be punishable in cases of doubt; there are various means to establish guilt. Testimonies from witnesses are not mandatory, and it is even preferable that they abstain from testifying.

Fierro presents another example where *ḥadd* punishment for adultery does not apply to societal elites due to social elitism. However, according to Islamic criminal law, infidelity does not fall under the crime category that warrants *ḥadd* punishment (Fierro, 2007). This is exemplified in the account described in the work 'Nevâdirü'l-hülefa.' In this narrative, a young man with an innocent countenance stands before the judge, accused of theft. He openly admits his guilt, leading the judge to lean towards applying the prescribed punishment. Despite thorough questioning, the young man persistently confesses to being a thief, avoiding explanations. Just as the sentence of having his hand severed is about to be carried out, a girl arrives and proclaims that the young man is not a thief but rather the one she has fallen in love with. She reveals that he had thrown stones at her house, pretending to steal fabrics to divert any suspicions from the girl he loves. He had willingly accepted the false accusation of theft to protect the honor of his beloved. Upon hearing this revelation, the judge intervenes and suggests that the girl's father arrange their marriage. Consequently, the girl and the young man are united in matrimony, ending the ordeal (al-Itlidi, 2004; Chibli, 2020).

In this research, which we aim to summarize, the young individual is not noble, as Fierro claimed. Instead, he is a clean-faced and handsome person who is seemingly incapable of being a thief. However, despite his innocence, he confesses to the crime and faces the punishment of having his hand severed. This scenario demonstrates that protecting and exonerating individuals from offenses based on the social hierarchy is not feasible when suspicions arise.

Conclusion

Early Islamic legal thought maintained a nuanced balance between strict implementation of *ḥudūd* punishments and a cautious, merciful approach grounded in avoiding wrongful convictions. While divine justice demanded the enforcement of legal limits, the Prophet Muhammad (PBUH) often prioritized leniency when doubt was present. This duality between legal precision and ethical restraint is not contradictory but rather reflects the holistic nature of Islamic legal philosophy, which seeks to balance justice and mercy. The Prophet's practice serves as a model of thoughtful legal stewardship. He did not approach crime and punishment with rigid severity but instead demonstrated meticulous attention to the context of each case. The role of judges and prosecutors in Islamic law is to emulate this approach,

ensuring that justice is not rushed and that all relevant circumstances, intent, context, and evidence are thoroughly examined. Particularly in cases involving *ḥudūd*, the goal is not the swift infliction of penalties but the attainment of certainty (*yaqīn*) and the upholding of human dignity.

The principle of avoiding punishment in the presence of doubt (*shubhah*) is foundational in Islamic criminal law. It protects individuals from unjust outcomes and prevents the misuse of power. If doubt remains after legal scrutiny, *ḥadd* punishments are either waived or replaced with discretionary measures (*taʿzīr*) or full acquittal. This principle illustrates a justice system deeply concerned with ethical integrity rather than merely punitive measures. The Prophet's practice offers clear examples of this ethos. In situations involving confessions, he would repeatedly question the accused to ensure their statements were voluntary and sincere, allowing for retraction in cases of hesitation or doubt. This caution was not a weakness but a principled stance to prevent false or coerced confessions. His reluctance to impose *ḥudūd* punishments unless certain conditions are met, shows an understanding of both human psychology and the irreversible nature of such penalties.

The Prophet also distinguished between private sins and public crimes. He encouraged individuals to repent privately and discouraged public confession, preserving both social harmony and personal dignity. However, when crimes became publicly known and reached the court, he emphasized the implementation of the prescribed punishment to uphold justice and deter others from committing similar offenses. This distinction reflects the dual purpose of punishment in Islamic law: *specific prevention* (preventing the individual offender) and *general deterrence* (dissuading society at large). In many cases, individuals confessed voluntarily out of spiritual remorse. Recognizing this, the Prophet sometimes exercised leniency, viewing sincere repentance as a sign of moral reform, already fulfilling the law's rehabilitative aim. Punishment in Islam, therefore, is not an end but a means intended to achieve repentance, ethical growth, and societal order.

This framework refutes the claim, advanced by scholars like Maribel Fierro, that the hadith of doubt was fabricated to protect elites. While historical abuses may have occurred, attributing the foundational legal principle of avoiding doubtful punishments to social elitism is unsubstantiated. There is no conclusive evidence that jurists like Ibrāhīm al-Nakhaʿī invented this hadith to shelter the wealthy. Instead, the principle applies universally, embodying Islam's egalitarian legal spirit, which does not discriminate based on class or status. Islamic law primarily aims to safeguard human dignity and ensure equal accountability before the law. The maxim "Defend the limits in doubtful cases" acts as a safeguard against arbitrary justice and overreach. This principle anticipates the modern legal standard of " beyond a reasonable doubt," which also aims to prevent the conviction of the innocent. However, Islamic law's version is distinct in its fusion of legal, moral, and spiritual values. While modern systems focus primarily on procedural fairness, Islamic law insists on justice with a conscience. This ethical depth explains why early Islamic jurisprudence remains resonant. The Prophet's balanced approach, firm against wrongdoing but compassionate and restrained, offers lessons in legal ethics that remain relevant today. It illustrates how legal systems can be both firm and fair and how accountability and mercy can coexist within the framework of justice.

The study also highlights a critical difference between the Islamic principle and its modern counterpart. While contemporary criminal law developed the concept of "benefit of the doubt" through centuries of philosophical and legal evolution, the Islamic principle, established over 1,400 years ago, predates and even anticipates these developments. The universality of the Islamic rule, "defend the limits in doubtful cases," affirms its centrality within the tradition, challenging the notion that it arose from socio-political manipulation. Early Islamic criminal justice reflects a sophisticated understanding of law as both a moral and legal enterprise. Prophet Muhammad's approach reveals a legal philosophy that values truth,

dignity, and repentance as much as order and deterrence. Justice in Islam is not defined by the frequency of punishment but by the careful pursuit of truth, the protection of the innocent, and the transformation of the guilty. These enduring principles make meaningful contributions to contemporary debates on justice, particularly in legal cultures that are still grappling with reconciling fairness with effectiveness.

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