

A NEW THEORY ON THE QURAANIC TERM HADD (PL.HUDOOD)

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ABSTRACT

Although this concept already existed that for the notion of punishments the term Hadd (pl.Hudood) is very feebly defined in Islamic Law. But to point out a deficiency in anything is much easier than to tell why this deficiency occurs and how should it be overcome? According to the beliefs of Abrahamic religions, God is the King of this world and it is agreed principle of English as well as Arabic language that words of King always considered correct and pure and always prevail over the words of a layman. In this research on the basis of opinions of Islamic scholars and in the light of the verses of Quraan i.e words of God, it has been proved that existing concept of the term Hadd (pl.Hudood) is not based on the words of King of this world i.e God but on the words of human being and the term Hadd (pl.Hudood) should not be used as any connection with punishments in Islamic Criminal Law because the King of this world didn't reveal the term Hadd (pl.Hudood) in any sense of punishments like whipping, stoning to death and amputation. The next question arises that if this idea is correct then in which sense the King of this world revealed the term Hadd (pl.Hudood) in Quraan? That's why in the next step an attempt has been made as to what could be possible definition of the term Hadd (pl.Hudood) if this term is to be used in Islamic Law and it was found that in the words of King of this world the term Hadd (pl.Hudood) should not be used in Criminal Law but in Civil Law. The derived definition has been termed as Quraanic definition of Hadd (pl.Hudood).

Key words : Hudood, Islamic Punishments, Quraanic Definition, Islamic Criminal Law, Islamic Civil Law, Criminal Law

INTRODUCTION

While codifying Islamic Laws, in Pakistan, it was enacted that "Hadd" means punishment ordained by the Holy Qur'an or Sunnah;[1]Plural of this term is Hudood[2].

Incorporation of Hudood Laws into Pakistan Penal Code and Code of Criminal Procedure was a novel experiment in Pakistan.[3] But the definition of Hadd as adopted in these Laws is not derivatives from the Quraan and Sunnah. Even the definition does not concur with the definitions prescribed by the jurists. The concept and usage of the term Hadd in these laws differ with Quraan where different terms for the idea of punishment are revealed.[4]

There are no two opinions that in few topics of the classical Islamic Jurisprudence, definitions are unsatisfactory and unclear like that of Hadd because Quraan never calls these punishments "Hudood".[5]The term Hadd or Hudood has no reference to punishments even not to any legal injunctions. Quranic verses wherein "Hudood Allah" refers to definite and stated injunctions are the verses where noncompliance is threatened with punishment in the life after death and not in this world[6].

No generalized theoretical definitions of punishment are developed in the Criminal law of Muslim countries even the concept of punishment is insufficiently developed in Islamic Law[7]. The only solution to this situation is to adopt a moderate and more compatible view of Islam through a lively notion of Ijtihad[8]. Islamic penal system, particularly Hudood are under various allegations by western philosophers.[9]

On the basis of the above discussion, we may say that there is a need of some new concepts on Islamic Law and if we discuss these concepts in the sphere of punishments then we may say that the most contentious issue of Islamic Criminal Law i.e. Hudood must be re-visited in the light of Quraanic verses.

For Muslims, Quraan is the verbatim word of God[10]. It is an old Arabic maxim that *Kalaam ul Malook, Malook ul Kalaam*[11] which literally means that the word of the king is the king of words[12]. The same is true for the English language as well where King's English means standard, pure, or correct English speech or usage[13].

As per believers of Abrahamic religions[14] God has created this world[15] and He is the real King of this world[16], so the words He revealed in His Books must also be the king of words and must be standard, pure or correct.

Keeping in view, now, it seems most expedient to analyze that whatever is revealed in the Books of Abrahamic religions how far, when it is tried to be implemented in practical life, is in consonance with the revealed words of the king of this world i.e. Almighty Allah?

This research is an attempt to view the term of Hudood in the context of Holy Quraan which is the main source of Shariah, lays out the main principles[17], primary source of Islamic legislation[18], central theophany of Islam and the basic source and root of all that is authentically Islamic which encompasses from metaphysics to law and ethics and even political thoughts[19]. That's why the focus of the attention of this work is Holy Quraan only in order to present the Quraanic concept of Hudood in general and it's off-track interpretation in particular. Other sources of Islamic Laws such as Sunnah, Ijtihad, and Qayaas have nowhere been referred in this research work.

Since we live in an age where this world has some new concepts of Human Rights those pertain to individual and those were absent before the promulgation of Universal Declaration of Human Rights[20] so to review and analyze the enacted definition of Hadd and to derive a Quraanic definition of Hadd has become inevitable in contemporary times.

SCOPE OF THE STUDY, METHODS AND DATA COLLECTION

Since the scope of this research might be immensely vast but this study is limited to the study of Quraan and critical study of laws claimed to be promulgated to bring them in conformity with the injunctions of Islam as set out in Holy Quraan and Sunnah[21]. Additionally, the scope of this study is limited only, to the critical study of the definition of Hadd as enacted in these laws to the extent that whether the enacted definition of Hadd is in consonance with the term of Hadd as revealed in Quraan?

The next attempt has been made to derive a Quraanic definition of Hadd (pl.Hudood). Having looked into the traditional concept of Hudood subsequently a new theory has been put forwarded on the subject of Hudood which is based on Quraan.

This research is a kind of basic research[22] for which mainly data has been collected from Quraan. In addition, a questionnaire was also developed and submitted through personal visits and online submissions of a questionnaire for getting opinions from randomly selected Opinion(*Fatwa*) giving organizations namely Islamic Universities and Islamic research institutions located in Pakistan. Moreover, online submission of questionnaires was also made to Opinion(*Fatwa*) giving organizations of India, Iran, and Egypt.

For the English translation of the verses of Holy Quran, translated version of Quraan published by King Fahad Holy Quraan Printing Complex, revised and edited by The Presidency of Islamic Researches, IFTA, Call And Guidance, was used which is not only a translation but contains a running commentary of every verse.

OBJECTIVES OF RESEARCH

The objectives of the study include the following:

- To examine the existence of the definition of Hadd (pl. Hudood) as adopted in Hudood Laws of Pakistan, in Quran.
- To find out the agreeability of the adopted definition of Hadd with the philosophical thoughts.
- To suggest and derive the Quraanic definition of Hadd in case of the adopted definition of Hadd does not exist in Quraan.
- To examine the existence of the adopted definition of Hadd (pl. Hudood) anywhere in Sunnah.
- To find out the coinage of the definition of "Hadd" first time in Islamic History in the words "hadd means punishment ordained by the Holy Quran or Sunnah"?
- To explore, in Quraan, the reference of the term Hadd (pl.Hudood) with punishments those are mentioned in Hudood Laws of Pakistan?

RESEARCH QUESTIONS

During the course of study, the following major issues were raised;

- Whether the definition of Hadd (pl. Hudood) as adopted in Hudood Laws of Pakistan, exists anywhere in Quran?
- If the adopted definition of Hadd exists in Quraan, then, whether it is agreeable to the philosophical thoughts on the term Hudood?
- If the adopted definition of Hadd does not exist in Quraan, then, whether Quraanic definition of Hadd (pl.Hudood) can be derived?
- Whether the adopted definition of Hadd (pl. Hudood) exists anywhere in Sunnah?
- Who coined the definition of "Hadd" first time in Islamic History in the words "hadd means punishment ordained by the Holy Quran or Sunnah"?
- Whether in Quraan, the term Hadd (pl.Hudood) has any reference with punishments those are mentioned in Hudood Laws of Pakistan?

EXISTING CONCEPT OF HADD

As per an Islamic scholar [23] existing concept of Hadd can be classified into two main categories i.e. philosophical thoughts and enacted definitions. In the case of enacted definitions, this research is limited to the enacted definition of Hadd as promulgated in Hudood Laws of Pakistan.

a) Philosophical thoughts

The most famous book Hidayah based on the Sunni school of thought[24] simply tells that Hudood is the plural of Hadd and in law it expresses the correction appointed and specified by law on account of the right of God. The original design in the institution of Hadd is deterrent that is, warning people from the commission of offensive actions.[25]

In Islam, punishments can be classified in three main categories: Al-Hudood (fixed punishments), Al-Qisas (restitutory), and Al-Taazir (discretionary).[26] In Islamic penal system crimes are divided into three categories namely, crimes those punishments are fixed by

Almighty Allah, crimes those punishments are fixed but Man also has right in their deductions and crimes those punishments are laid upon the government.[27]

Punishments prescribed by God in the Quran or the Hadith are Hudood. Some crimes for which certain punishments are fixed, Quraan attributes them Hudood. For the categorization of an offense to be called as Hadd, it is necessary to establish that its punishment in fixed terms must be determined in the Quran and the Hadith[28].

Crimes against God are the crimes where punishment is clearly ordained in the Quran and Sunnah and they are Hudood Offences[29]. Crimes with a fixed penalty are public crimes or Hudood[30].

Criminal acts are divided into three categories. Hudood offenses are crimes against God specified in the Quraan and the Sunnah.[31]

Hence, from the study it is manifested that the traditional or existing concept of Hadd according to philosophical thoughts is that;

- Hadd or its plural Hudood means punishments.
- These are fixed punishments.
- These punishments are fixed through Quraan.
- In addition, these punishments are fixed through Sunnah (Tradition/Hadith).

From the discussion in the introduction of this paper it is already obvious that this concept is very weak, needs to be revised and a new definition of Hadd/Hudood should be derived on the basis of Quraanic ordainments which may be termed as Quraanic definition of Hadd (pl.Hudood).

b) Enacted definition of Hadd in Pakistan

In Pakistan, four enacted laws are collectively called Hudood Laws[32]

1. Offences against property (Enforcement of Hudood) Ordinance
2. Offence of Zina (Enforcement of Hudood) Ordinance

3. Offence of Qazf (Enforcement of Hadd) Ordinance

4. The Prohibition (Enforcement of Hadd) Order

The term of Hadd as defined in these laws is as under;

"hadd" means punishment ordained by the Holy Quran or Sunnah[33]

What are these punishments? these are whipping, stoning to death and amputation of limbs.[34]

Now it is crystal clear that according to the law of Pakistan above mentioned punishments are;

- Hadd (pl.Hudood)
- These Punishments are ordained in Quraan or
- These Punishments are ordained in Sunnah

As discussed above, this study was limited to the words of the King of this world i.e. Almighty Allah which revealed in Quraan so the above-mentioned point no. 3 was beyond the scope of this study.

c) Data collection from Experts/Scholars

While conducting this research following questionnaire was developed and sent to some seven (7) renowned independent Opinion(*Fatwa*) giving organizations of Pakistan, one renowned independent Opinion(*Fatwa*) giving organizations of India, one renowned independent Opinion(*Fatwa*) giving organizations of Iran and one to renowned independent Opinion(*Fatwa*) giving organizations of Egypt. This was a random selection and in all cases, the questionnaire was sent through the internet. While seeking opinion from Islamic scholars the main problem faced was that in Pakistan it was a persistent requirement from some organizations that questions must be submitted in the Urdu language so for the sake of their convenience the questionnaire was translated in Urdu language and sent for seeking answers.

Questionnaire #1

Most respectfully, I want to bring into your knowledge the definition of "Hadd", adopted in Hudood Laws of Pakistan, which reads as follows;

"Hadd" means punishment ordained by the Holy Quran or Sunnah

I want to seek Fatwa (*Opinion*) on the point that;

- Whether the above mentioned definition of "Hadd" exists anywhere in Holy Qura'n?
- Whether the above mentioned definition of "Hadd" exists anywhere in Sunnah?
- Who coined the above mentioned definition of "Hadd" first time in Islamic History?

The result of the endeavor is that

- Most of the organizations didn't reply.
- Those replied, excused to answer on this topic.
- Even those replied presented the traditional concept of Hadd and not replied point-wise.

The names of such organizations are not being disclosed keeping in view the ethical values of research; however, acknowledgments of these questionnaires are in the possession and can be made available in case any objection is made by the quarter concerned.

Following organizations replied and their opinion is reproduced as under.

1) Jamiah Uloom-ul-Islamiah Banuri Town Karachi

They were sent Questionnaire # 1 through their e-mail link to ask the questions[35]. Having been translated questionnaire in the Urdu language, it was replied in the Urdu language too. The translated version of their reply from Urdu to the English language is as under.

For Question #1&2

This terminological definition of Hadd is not in the words of Quraan and Sunnah because to define the terms is not the subject of Quraan. Quraan and Sunnah state fundamental commands and laws. In the light of the basics of this guidance, jurists describe the terms. Word Hadd has been used in Quraan and Sunnah but to search out its definition there (in Quraan) is incorrect. Keeping in view the sense and meaning, this word has been used in Quraan and Sunnah, Hadd is defined as "Punishment of any crime which is fixed in Quraan and Sunnah, nobody is authorized to increase or decrease it."

Said definition has been derived from a Hadith.

"As narrated by Hazrat Aisha a Makhzooma[36] lady used to borrow articles/things from peoples but wouldn't give back to them. Then Prophet Muhammad (Peace be upon him) ordered to cut off her hand. Inmates of this lady approached Hazrat Usama Bin Zaid for favorable intercession. When Hazrat Zaid interceded for her before Prophet Muhammad (Peace be upon him), he (prophet) became intensely angered and said

أسامة! لا أراك تشفع في حد من حدود الله عز وجل

"O Osama! What I see that you intercede for a favor in one of punishment which is fixed by Allah."

Then Prophet Muhammad (Peace be upon him) addressed in Mosque of Prophet (Masjid-e-Nabvi)

إنما أهلك من كان قبلكم بأنه إذا سرق فيهم الشريف تركوه، وإذا سرق فيهم الضعيف قطعوه، والذي نفسي بيده لو كانت فاطمة بنت محمد لقطع يدها

No doubt! People earlier than you (Christians and Jews) perished merely because when any leader committed theft they would leave him and if any weak man committed theft they would cut off his hand. I swear to Allah who retains my life if Fatimah daughter of Muhammad (Peace be upon him) committed theft (In place of Makhzoomah lady) then I would cut off her hand.

For question # 3

The definition of Hadd is available in books of Islamic Law (*Fiqah*) and Islamic Jurisprudence (*Usool-e-Fiqah*). Who defined it the first time in history is unclear and neither its effects on it (The definition of Hadd). Hidayah a book of Hanafi Jurisprudence in its chapter Hudood, Volume-2 on page 506 defines Hadd as

الْحَدُّ فِي الشَّرِيعَةِ هُوَ الْعُقُوبَةُ الْمُقَدَّرَةُ حَقًّا لِلَّهِ تَعَالَى

Namely, Hadd in Shariah is the name of fixed punishment which is fixed by Almighty Allah as His own right.

2) Al-Mawrid[37]

When questionnaire #1 was sent to them through their E-Query service [38] it was answered in the following words.

"Hadd literally means limit or boundary. As a technical term in jurisprudence, it refers to the fixed punishments that have been ordained by the Almighty. The Qur'an uses this word in its literal sense. It was used by the jurists as a term in jurisprudence. The Qur'an is not a lexicon that defines words or their usage. Words are used by humans in different forms and in different ways. What is important to understand is that there are crimes whose punishments have been divinely ordained by the Almighty and there are crimes whose punishments have been left by God to the discretion of those in authority. The first type of punishments was referred to by the word 'Hadd/Hudood' by the Muslim jurists and the second type of punishments were called 'Ta'zeer'"

The exegesis of this answer is that Qur'an is not a lexicon that defines words or their usages. Words are used by humans in different forms and in different ways and punishments those are divinely ordained are Hadd/Hudood.

Since the answer was unclear, incomplete and not point-wise so after rephrasing, the following questionnaire was sent.

Questionnaire #2

The definition of Hadd as adopted in Hudood Laws of Pakistan is as follows

"Hadd" means punishment ordained by the Holy Quran or Sunnah

I want to seek Opinion of yours on the point that;

- Whether the above mentioned definition of "Hadd" is in consonance with the term of Hadd as appears in Quraan?
- Whether the above mentioned definition of "Hadd" is in consonance with the term of Hadd as appears in Sunnah?
- Who coined the above mentioned definition of "Hadd" first time in Islamic History?

I again repeat kindly reply Point-Wise for which I shall be very much glad to you.

This questionnaire was not answered.

3) Al-Sayyid Ali Al-Husseini Al-Sistani[39]

Since from the opinions given by Al-Mawrid and Jamiah Uloom-e Islamiah Banuri Town Karachi it was obvious that the definition of Hadd (pl.Hudood) as adopted in Hudood Laws of Pakistan doesn't exist in Quraan i.e. not based on the words of king of this world, so Mr. Sistani was sent the questionnaire #2. He also didn't reply point-wise but opined regarding the definition of Hadd that;

"There is problem in the said definition" but what's the problem he didn't tell.

4) Jamiah Darul Uloom Karachi

They were sent Questionnaire #1 having been translated in the Urdu language which they replied in the Urdu language. Their reply was translated in the English language and hereby reproduced as under.

"For 1/2/3 Hudood is the plural of Hadd. In the dictionary, its meaning is to forbid and in Shariah **punishments, those are determined in Quraan and Hadith are "Hadd"**. So in Shariah except drinking liquor, all Hudood are ordainments of Quraan and the Hadd for drinking liquor is ordained in Sunnah. The definition you described in your question its purpose too, is apparently similar.

In this regard, Mr. Justice Dr.Tanzil ur Rahman portrayed some of its detail in a layman language in the collection of Islamic laws (*Majmuah Qawaneen e Islam*) volume 9 under the title of Islamic Hudood Laws which contains some advantageous information for a common man. Its study will also be fruitful."

5) Jamiah Binnoriah Karachi

They were also sent Questionnaire #1 having been translated in the Urdu language which they replied in the Urdu language. Their reply was translated also in the English language and hereby reproduced as under.

"For question #1: No

For question #2: No

For question #3: To explain any Arabic terminological word and to make understand its nature by telling its literal meaning is called literal definition or identification and to define and identify in a manner as to what is it meant for if it is to be used in society and common usage (*Arf*) e.g (Hadd) is called terminological definition and to describe literal meaning and terminological definition is not the subject of Quraan and Sunnah rather it relates to Arabic grammar or experts having judged the reality and nature of anything to identify it, with specific limits, in a careful manner, define it. So to ask that where its definition exists in Quraan and Sunnah is an improper/wrongful question while Hudood are punishments those are determined in Quraan or Sunnah for the commission of specific crimes and crimes for which punishments are not determined in Quraan and sunnah rather left on the discretion of concerned ruler are called Taaziaat."

d) Data Collection from Quraan

Since only five organizations replied and one clearly opined that there was a problem in the said definition the next step was to collect data from Quraan to find out its meaning in Quraan. When we engross in Quraanic verses in order to get the correct meaning of the term Hudood Ullah (**Limits imposed/ordained/set by Allah**) as revealed by the king of this world i.e Almighty Allah in his revelation namely Quraan, it appeared that the term Hudood revealed 14 times in Quraan[40] and wherever this term appeared in Quraan it is reproduced below;

1- Al-Baqrah verse 187[41]

Permitted to you, on the night of the fasts, is the approach to your wives.... and eat and drink, until the white thread of dawn appear to you distinct from its black thread; then complete your fast till the night appears; but do not associate with your wives while ye are in retreat in the mosques. **Those are limits (set by) Allah:** Approach not night thereto. Thus doth Allah make clear His Signs to men: that they may learn self-restraint.

2- Al-Baqrah verse 229[42]

A divorce is only permissible twice; after that, the parties should either hold together on equitable terms, or separate with kindness. It is not lawful for you, (Men), to take back any of

your gifts (from your wives), except when both parties fear that they would be unable to keep the limits ordained by Allah. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame either of them if she gives something for her freedom. These are the limits ordained by Allah; So do not transgress them If any do transgress the limits ordained by Allah. Such persons wrong (Themselves as well as others).

3- Al-Baqrah verse 230[43]

So if a husband divorces his wife (irrevocably), he cannot, after that, re-marry her until after she has married another husband and he has divorced her. In that case, there is no blame either of them if they re-unite, provided they feel that they can keep **the limits ordained by Allah**. Such are the **limits Ordained by Allah**, Which He makes plain to those who know

4- Al-Talaaq verse 1[44]

O Prophet! When ye do divorce women, divorce them at their prescribed periods..... **those are limits set by Allah**: and any who transgresses **the limits of Allah**, does verily wrong his (own) soul: thou knowest not if perchance Allah will bring about thereafter some new situation.

5- Al-Mujadilah verse 4[45]

And if any has not (the means), he should fast for two months consecutively before they touch each other. But if any is unable to do so, he should feed sixty indigent ones, this, that ye may show your faith in Allah and His Messenger. **Those are limits (set by) Allah**. For those who reject (Him), there is a grievous chastisement.

In the above verse, it is not clear that which thing is being declared as Hudood Ullah because it is connected to verse no. 3 if we read verse no. 3 then the picture will be cleared. So it is written down as under.

Verse-3

But those who pronounce the word Zihar[46] to their wives then wish to go back on the words they uttered (It is ordained that such a one) should free a slave before they touch each other: This are ye admonished to perform: and Allah is well-acquainted with (all) that ye do.

6- Al-Nisa verse 13

Those are limits set by Allah: those who obey Allah and His Messenger will be admitted to Gardens with rivers flowing beneath, to abide therein (forever) and that will be the supreme achievement.

In this verse here too, it is not clear that which thing is being declared as Hudood Ullah because it is connected to verse no. 12 if we read verse no. 12 then the picture will be cleared. So it is written down as under

Verse-12

In what your wives leave, your share is a half, if they leave no child; but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave, their share is a fourth, if ye leave no child; but if ye leave a child, they get an eighth; after payment of legacies and debts. If the man or woman whose inheritance is in question, has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payment of legacies and debts; so that no loss is caused (to anyone). Thus is it ordained by Allah; and Allah is All-knowing, Most Forbearing

7- Al-Taobah verse 112

Those that turn (to Allah) in repentance.....and observe **the limit set by Allah**. So proclaim the glad tidings to the Believers.

8- Al- Nisa verse 14

But those who disobey Allah and His Messenger and transgress **His[47] limits** will be admitted to a Fire, to abide therein: And they shall have a humiliating punishment.

9- Al Taobah verse 97

The Bedouin Arabs are the worst in unbelief and hypocrisy, and most fitted to be in ignorance of the **command[48] which Allah** hath sent down to His Messenger: But Allah is All-knowing, All-Wise.

e) Result

From the verses of Quraan and in the light of opinions of Islamic scholars it is evident that;

- The definition of Hadd (pl.Hudood) as adopted in Hudood Laws of Pakistan exists nowhere in Quraan.
- The adopted definition of Hadd is agreeable to the philosophical thoughts on the term Hudood.
- The definition of Hadd (pl.Hudood) exists nowhere in Sunnah.
- It is unknown that how first time the existing concept of Hadd (pl.Hudood) evolved in Islamic Criminal Law and who defined this term in the sense of punishment?
- Nowhere in Quraan King of this world i.e. Almighty Allah revealed the term Hadd (pl.Hudood) in any reference with punishments like whipping, stoning to death or amputation of limbs.

1. Derivation of Quraanic Definition of Hadd

Since it has been proved that the term Hadd (pl.Hudood) as adopted in Hudood Laws of Pakistan is not in consonance with the term of Hudood as it appears in Quraan i.e this technical term is not based on the words of king of this world and this term has no reference with punishments like whipping, stoning to death or amputation of limbs then the next question arises that what could be the possible definition of Hadd (pl.Hudood) in the light of Quraan if it is intended to be used in Islamic Law?

As it has clearly been opined by Jamiah Binnoria Karachi that enacted definition of Hadd as enacted in Hudood Laws of Pakistan exists neither in Quraan nor in Sunnah and as it has further opined by Jamia uloom-ul-Islamia Banuri Town Karachi that terminological definition of Hadd as enacted in Hudood Laws of Pakistan is not in the words of Quraan and Sunnah and that defining the term is not the subject of Quraan. They are actually jurists who define terms. The same thoughts have been shared by Al-Mawrid that Quraan is not lexicon which defines meanings and that these are human beings who use words in different ways.

So we may deduce in the light of above-sought opinions that whether they are called human beings or technically called jurists, they are actually humans those make definitions. Now let's see how and in what ways definitions are being developed nowadays by humans?

But the question is that what do we actually mean when we use the term definition?

a) Definition of the term "Definition"

A definition is a statement meaning of the term[49] and they can be classified in two large categories intensional definitions and extensional definitions[50]

1- Intensional definition

In an intensional definition a class is defined on the basis of some property for being a member of a specific class.[51]

For example, an intensional definition of the word "bachelor" is an "unmarried man".[52]

2- Extensional definition

In extensional definition, a class is defined by listing the names of the member of a specific class.[53]

For example, if we take the above-mentioned definition of bachelor from an extensional definition perspective then we shall have to say that "an extensional definition of bachelor would be a listing of all the unmarried men in the world"[54].

b- Result

Since it is clear from data collected from Quraan and opinions given by Islamic scholars that;

- There is no intensional type definition of Hadd possible to exist in Quraan.
- In the light of the modern way of defining a term, it is possible that an extensional type definition of term Hadd (pl.Hudood) can be derived.

So now we try to derive an extensional type definition of the term Hudood considering it a class. If we consider it a class then by listing the names of the members of this class we can derive a Quraanic definition of the term Hadd (pl.Hudood). Let's refer back to the Quraanic verses that contain the term Hudood.

On serial no. 1, Al-Baqrah verse 187 describes injunctions regarding Fastings, so here the member name of class Hudood is **Fasting**.

On serial no. 2,3,4, Al-Baqrah verse 229, Al-Baqrah verse 230, Al-Talaaq verse 1 respectively, here are injunctions regarding Divorce, so here the member name of class Hudood is **Divorce**.

On serial no.5, Al-Mujadilah verse 4 connected with verse 3, there are injunctions regarding Zihar, so here the member name of class Hudood is **Zihar**.

On serial no. 6, Al-Nisa verse 13 connected with verse 12, there are injunctions regarding Inheritance, so here the member name of class Hudood is **Inheritance**.

On serial no.7,8,9 there are no specific injunctions regarding any matter but there are messages to observe limits imposed by Almighty Allah, so these verses cannot be members of class Hudood on technical grounds.

In an attempt to derive the Quraanic definition of the term Hadd (pl.Hudood) we find that the names of members of class Hudood are Fasting, Divorce, Zihar and Inheritance. So we may say that an extensional type definition of Hadd (pl.Hudood) may be in the following words;

Hadd (pl.Hudood) means ordainments of Almighty Allah revealed in Quraan regarding Fasting, Divorce, Zihar and Inheritance.

So, in the words of an Islamic scholar, it is discernible from the above-derived definition that as per the prevailing concept of law all over the world, the term Hadd (pl.Hudood) pertains to civil law and not to criminal law[55].

CONCLUSION

Generally, in Islamic Law, the term Hadd (pl.Hudood) is attributed to the punishments but in the light of some research work, it was already comprehended that this was an awry usage of the words of Almighty Allah. And it is agreed principle in language and literature that words of the king always prevail over the layman language. This must be factual for the king of this world too. In addition, there was a continuous voice against the harshness of those punishments since those punishments were being codified in the statutory laws of Islamic states. So, it was thought that first of all it should be analyzed that in which sense the term Hadd (pl.Hudood)

had been revealed in the words of the king of this world i.e in Quraan. For the sake of convenience, the enacted definition of Hadd as enacted in Hudood Laws of Pakistan was analyzed which contained the same notion that Hadd means punishments which might be in Quraan or Sunnah. For taking experts' opinions on this definition, questionnaires were developed and sent to some research and opinion giving organizations. In most of the cases, questionnaires remained unanswered. It was also found unknown that who coined first time in the history of Islamic law the term Hadd (pl.Hudood) for the idea of punishments. Only five organizations replied in which they simply repeated the theory that Hadd meant punishments and one organization opined that there was a problem in this definition. Afterward, the data or verses from Quraan were collected and it was found that nowhere in Quraan the King of this world revealed the term Hadd (pl.Hudood) with any reference to punishments like whipping, stoning to death and amputation of limbs. So the next question was that if the term Hadd (pl.Hudood) had no reference with punishment then in which sense it appeared in Quraan. While collecting data from Quraan and opinions given by experts it was manifest that there was no intensional type definition of Hadd possible to exist in Quraan so it was attempted to develop a Quraanic definition of Hadd which was technically or logically an extensional type definition. For the purpose, the term Hudood was considered a class and then members of this class were named then it revealed that the term Hadd (pl.Hudood) might be inscribed in the words that **Hadd (pl.Hudood) means ordainments of Almighty Allah revealed in Quraan regarding Fasting, Divorce, Zihar and Inheritance.**

Keeping in view the entity of Almighty Allah i.e King of this world as per the beliefs in Abrahamic religions, it is now suggested that after the findings of this research the ancient concept of Hadd (pl.Hudood) must be given up whether to be used as philosophical perspective or enactments of laws, since it is not based on Quraan but on the thoughts of human beings and if the term Hadd (pl.Hudood) is necessary to be used as technical term in Islamic Law then it should not be connected to punishments or Criminal law but Quraanic injunctions if analyzed in the light of prevalent categories of law then it appears that the term Hadd (pl.Hudood) falls within the category of Civil Law.

REFERENCES

- [1] The Offence of Zina (Enforcement Of Hudood) Ordinance, section 2 (1979), The Prohibition (Enforcement Of Hadd) Order, section 2(1979), Offences against Property (enforcement of Hudood) Ordinance, section 2 (1979)
- [2] Charles Hamilton, The Hedaya or Guide ;A commentary on The Mussulman Laws 1(1989).
- [3] Muhammad Khalid Masud, A Critical Report on Hudood Ordinance 1979 (First Edition May 2007)1 (Feb, 10, 2018, 05:00 PM) available at <http://cii.gov.pk/publications/h.report.pdf>
- [4] id.
- [5] Fazlur Rahman, The Concept Of Hadd In Islamic Law, Islamic Studies.237, 242 & 249 (1965)
- [6] id 237, 238 & 240 (1965)
- [7] Rima Yerenatovna Dzhansarayeva, Marlen Yerlanovich Turgumbayev et.al. The Concept and Signs of Punishment in Islamic Law , Middle-East J. Sci. Res. 734,734 (2014)
- [8] Ghassem Ghassemi, Criminal Punishment in Islamic Societies: Empirical Study of Attitudes to Criminal Sentencing in Iran , Eur J Crim Policy Res.159, 179 (2009)
- [9] Muhammad Irfan & Muhammad Akram Virk , Basic Principles for Implementation of Islamic Punishments , Jihat-ul-Islam. 27, 27 (2015)
- [10] Seyyed Hossein Nasr, The Study Quran:A New Translation And Commentary , 19 (2015)
- [11] It is an oft quoted Arabic maxim from Arabic literature. See lectures of French Scholar Garsin de Tassi in Urdu language. Khutbaat-e-Garsaan de Tassi, Anjuman -e-Taraqqi-e- Urdu 16 (1935). See also the book authored by Abdul Ali bin Rahma Allah al-Hawizi titled as Kalaam ul Maluk , Maluk ul Kalaam,
- [12] As translated on <https://majzooban.org/en/index.php/news-2/6951-on-the-occasion-of-arbaeen-the-hosseini-ashura> sighted on (Jun , 29 , 2018, 06:17PM)

[13] <https://www.merriam-webster.com/dictionary/King's%20English> sighted on (March 2,2018,08:12 PM)

[14] For more detail on Abrahamic religion visit <https://www.britannica.com/topic/philosophy-of-religion>

[15] For Reference from Quraan please refer al-A'raaf, verse 54,Fussilat verse 9-12, For reference from Bible please refer Genesis verse 1

[16] For reference from Quraan please refer Al Hashr verse 23 , Taaha verse 114 , For reference from Bible Psalm Chapter 47 verse 7

[17] Farrukh B.Hakeem et al, Policing Muslim Communities: Comparative International Context, 7 (2012)

[18] It was asked by the online portal of Mr. Al-Sayyid Ali Al-Husseini Al-Sistani available at <https://www.sistani.org/english/send-question/> that is it right to say that Quraan is the primary source of Islamic legislation the answer was affirmative.

[19] Seyyed Hossein Nasr, The Study Quran: A New Translation And Commentary , 19 (2015)

[20] Celebrating Sixty Years of Human Rights available at https://kr.usembassy.gov/wp-content/uploads/sites/75/2017/04/the_universal_declaration_of_human_rights.pdf (March 27,2018,08:12 PM)

[21] See preambles of The Offence of Zina (Enforcement Of Hudood) Ordinance, 1979, The Prohibition (Enforcement Of Hadd) Order, 1979 , Offences Against Property (enforcement of Hudood) Ordinance, 1979, Offence of Qazf (Enforcement of Hadd) Ordinance 1979.

[22] L R Gay et al , Educational Research; Competencies for Analysis and Applications 16 (10th edition 2012)

[23] Liaquat Ali (Personal Communication, Aug 22 2018)

[24] id.

[25] Charles Hamilton , Hidaya or Guide A commentary on the Musalman Laws 1&2 (1989)

[26] Shazia Ramzan et al, Punishment from Islamic Perspectives, FWU Journal of Social Sciences summer.53 , 55 (2015)

[27] Muhammad Irfan & Muhammad Akram Virk , Basic Principles for Implementation of Islamic Punishments , Jihat-ul-Islam. 27, 27 (2015).

[28] Farrukh B.Hakeem et al, Policing Muslim Communities: Comparative International Context13&14 (2012)

[29]Dr. Etim E. Okon, Hudood Punishments In Islamic Criminal Law, European Scientific Journal.227,229 (May 2014)

[30] Mutaz M. Qafisheh, Restorative Justice in the Islamic Penal Law: A Contribution to the Global System. International Journal of Criminal Justice Sciences. 487, 487&491 (Jan-Jun 2012)

[31] Matthew Lippman, Islamic Criminal Law and Procedure: Religious Fundamentalism v. Modern Law, 12 B.C. Int'l & Comp. L. Rev. 29 , 38 (1989)

[32] Muhammad Khalid Masud , A Critical Report on Hudood Ordinance 1979 (First Edition May 2007)12 (Feb, 10, 2018, 05:00 PM) available at <http://cii.gov.pk/publications/h.report.pdf>

[33] See section 2 of The Offence of Zina (Enforcement Of Hudood) Ordinance, 1979. section 2 of The Prohibition (Enforcement Of Hadd) Order, 1979 , section 2 of Offences Against Property (enforcement of Hudood) Ordinance, 1979,

[34] Whipping section 3 of The Prohibition (Enforcement of Hadd) Order 1979 and Section 7 of Offence of Qazf (Enforcement of Hadd) Ordinance 1979 , Stonning to death see section 5 of Offence of Zina (Enforcement of Hudood) Ordinance 1979 , amputation of limbs see section 9 of Offences against property (Enforcement of Hudood) Ordinance 1979

[35] <http://www.banuri.edu.pk/ask-question> sent on Feb 20 at 9:17 PM

[36] Of or relating to a tribe Makhzoom

[37] For more information about this organization please visit <http://www.almawrid.org/index.php/about/view/al-mawrid>.

[38] Available at <http://www.al-mawrid.org/index.php/questions/ask> (Feb 22, 2018, 12:08 PM)

[39] For more information please visit <http://www.sistani.org/english/send-question/> (last seen on March 08, 2018 5:34 AM)

[40] Muhammad Fawad Abdul Baqi. Al Mu'jam al Mufahras li Alfaz il Quran il Kareem 195 (1987).Published by Al Maktabah tul Islamiah , Istanbul , Turkey.

[41] I construe these limits as applying to the whole of the regulations about fasts. Commentary on p58

[42] All other prohibitions and limits prescribed here are in the interests good and honorable life for both sides and in the interests of a clean and honorable social life ,without public or private scandals. Commentary on p.99

[43] id.

[44] For detailed commentary see p.1764-1765

[45] It would seem that this refers to the penalty in the Hereafter for not complying with the small penalty here prescribed commentary on p.1705

[46] Muslim law: an insult proffered by a husband upon his wife which likens the wife to some prohibited female relation of his, and exposes the husband to divorce. Duhaime's Law Dictionary available at <http://www.duhaime.org/LegalDictionary/Z.aspx> (March 10, 2018 5:55 AM)

[47] Allah

[48] Here the original Arabic text is Hudood

[49] Jerome E Bickenbach & Jacqueline M. Davies. Good reasons for better arguments: An introduction to the skills and values of critical thinking. 49 ,(1996)

[50] John Lyons, Semantics, vol. I.158 (1977)

[51] John Lyons, Semantics, vol. I.158 (1977)

[52] Roy T. Cook, A Dictionary of Philosophical Logic.155 (2009).

[53] John Lyons, Semantics, vol. I.158 (1977)

[54] Roy T. Cook, A Dictionary of Philosophical Logic 155 (2009).

[55] Liaquat Ali (Personal Communication, Aug 31 2018)

