

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Stoning to death in Islâm

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Foreward

By: Mufti Muhammad Saeed Motara

The Islâmic injunction of *Rajm* (stoning to death of an adulterer and adulteress) has been a topic of heated discussion and debate in recent times. The said punishment is entrenched within the Penal Code of Islâm and will continue to remain so until the Day of Qiyaamah *Insha-Allah !*

Recent incidents of *Rajm* judgements in countries like Nigeria sparked off a frenzy in the western media. The spotlight was thrown on this issue and, as usual, the western propaganda machinery boldly and brazenly used Islâm as a punching bag. Western media revelled in unashamedly branding the law of *Rajm* as "barbaric" and labelled it as an "abuse of human rights." Unfortunately, some of our Muslim brethren, especially those who consider themselves as "progressive thinkers" adopted an apologetic stance by becoming bedfellows and "yes-men" of the western media. Subsequently, leaflets were distributed by certain Muslims, declaring the law of *Rajm* as non-existent in Islâm based on the premise that there is no mention of it in the Holy Qur'aan. These arm-chair critics subtly profess to be authorities on Islâmic Law, yet they have no inkling whatsoever of the basic principles governing the implementation of Islâmic Law.

The fact that there is no verse in the Holy Qur'aan directly and explicitly advocating the stoning to death of an adulterer and adulteress does not mean that the law itself is non-existent in the Penal Code of Islâm. The arm-chair critics have either forgotten or

conveniently overlooked the importance of the Hadith and Sunnah in the formulation of Islâmic Law.

The book that you hold in your hand, dear reader, will highlight the existence of the law of *Rajm* and its significance in Islâm, together with proving its implementation beyond any shadow of doubt from various sources of Islâmic Law. The book also debunks the theory that the law of stoning is only found within the ambit of Islâmic Law. It will be a shocking revelation for many to learn that the punishment of stoning to death for adultery is also found in Jewish and Christian Scriptures.

The author, Moulana Abdullah Nana has gone the extra proverbial mile by not only proving the existence of this law in Islâm, but also refuting the hollow and hypocritical arguments of those who choose to lambaste the law of *Rajm* in Islâm.

I have read through the manuscript of the book and found it to be highly informative and enlightening on the topic of *Rajm*. May Allâh Ta'âlâ reward the author in his endeavours and increase him in knowledge and deed. May Allâh Ta'âlâ also cause this book to serve as an eye opener for those apologetic Muslims who unfortunately succumb to the propaganda of western and orientalist writers. Aameen.

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Introduction

The *imân* (faith) of a person is a great wealth which has been granted to him by Allah. It is the sole criterion for success in the hereafter and entry into *jannah* (paradise). *Imân* is only judged at the time of death, making it the most crucial moment in a person's life. Therefore, it is of utmost importance that every Muslim makes an effort to protect his *imân* so that it stays with him until he dies. *Imân* comprises of two parts. The first part is to believe in Allah with all His names and attributes. The second part is to bring faith on everything which Rasûlullah ﷺ was sent with and is established to be a part of Islâm.

Every Muslim must ensure that his/her beliefs are correct if they want their *imân* to be accepted in the hereafter and this point cannot be overemphasized. Ensuring that one has correct beliefs is even more important than refraining from evil deeds. A person who commits major sins such as lying, stealing, etc. with the understanding that his actions are wrong still remains a Muslim. However, a person who rejects an injunction which is undisputedly and absolutely established to be a part of Islâmic law automatically leaves the fold of Islâm and will be a loser in the hereafter. An example of this is the verse of the Qurân which states that Rasûlullah ﷺ is the 'seal of the prophets,'¹ i.e. the final prophet. Any person who either rejects this verse or believes someone else to be a prophet after Rasûlullah ﷺ automatically leaves the fold of Islâm.

¹ Qurân (33:40)

Therefore, a person should examine his beliefs very carefully and exercise extreme caution in expressing his views on Islâmic matters. He should abstain from commenting on any issue based on his emotions and without knowledge. This is indeed a serious matter and a person can very easily lose his *imân* without realizing it. Allah says in this regard, "And do not pursue (i.e. do not assume and do not say) that of which you have no knowledge. Indeed, the hearing, the sight and the heart, - of each of those one will be questioned."²

Rasûlullah ρ has also emphatically commanded us to ponder over the consequences of what we wish to say before decide to say it. He ρ is reported to have said, "He who believes in Allah and the day of judgment should either speak good or remain silent." Similarly, he ρ has also promised us great rewards for controlling our tongues. Sahl bin Sa'd ψ narrates that Rasûlullâh ρ said, "He who gives me the guarantee that he will guard his tongue and private parts (by protecting them from evil), I will give the guarantee of *Jannah* to him."³ Therefore, a person should not express his view on a matter based solely on his emotions but he should give due thought to the matter and consider the consequences of what he is about to say. This is not a matter of just life and death but it is in essence a matter of everlasting success or failure because just one incorrect statement regarding an injunction of Islâm is enough to destroy a person's hereafter.

In recent times, *rajm* (stoning to death) has become a global issue and a subject of great controversy. The

² Qurân (17: 36)

³ Sahîh Bukhâri (6474)

media, politicians, human rights groups and many disbelievers have criticized stoning to death as being barbaric and cruel. Unfortunately, many unwary Muslims have fallen prey to this propaganda and they have also began rejecting stoning to death as being a part of Islâm. Our present situation is an embodiment of the hadith of Rasulullah ﷺ which states, "A person will wake up in the morning as a Muslim and by nightfall he will be a disbeliever. A person will spend the night as a Muslim and will become a disbeliever in the morning."⁴

The objective of writing this book is to prove that stoning to death is established in Islâmic law and also to discuss why this form of punishment is justified. We have also addressed the principal objections which have been raised in this regard. Keeping in mind the major issue at large, we have chosen not to discuss the technicalities of how a person is convicted for adultery, sentenced to death by stoning and the actual procedure thereof. This is an exhaustive topic which requires a separate treatise.

We have begun this book by first discussing the sources of Islâmic law because this is the primary issue upon which this whole discussion is based. Next, we have explained how stoning to death is proven in Islâmic law. Thereafter, we have quoted the Jewish and Christian perspective on stoning to death in the light of their Holy books. This is followed by a cursory overview of the objections raised on the establishment of this penal law. Lastly, we have discussed some of the factors which justify stoning to death. In the appendix, we have quoted some important Arabic passages for the benefit of the scholars of Islâmic law.

⁴ Sahîh Muslim (#313)

We would like to request anyone who is skeptical and has doubts regarding the establishment of stoning to death as a penal law of Islâm to read this book with an open mind and give due thought to the matter, keeping in mind the importance of protecting one's *imân*. Similarly, we also would like to advise the reader to go through the whole book before he/she forms a final opinion on this issue.

May Allah accept this book and use it as a means of guidance for the entire mankind.

Chapter 1 – Sources of Islâmic law

Before we discuss stoning to death, it is important that we first establish what are the sources of Islâmic law through which legal injunctions are derived. The scholars of Islâm agree that there are four primary sources of Islâmic law; the Qurân, *hadith* (saying, action or tacit approval of Rasûlullah ﷺ), *ijma'* (consensus), and *qiyâs* (analogical deduction). A legal ruling which is derived from any of these four sources will become an established part of Islâmic law. We will now briefly discuss each source of Islâmic law and how it is established.

a. Qurân

The Qurân is the word of Allah which was revealed upon the final Prophet, Muhammad ﷺ, and thereafter preserved in book form. It has also reached us through authentic transmission as there are so many people who have narrated the Qurân from generation to generation that it is logically impossible for them to

have concocted it by themselves. After 1400 years the Qurân still remains in its original Arabic form without the smallest change or alteration. The Qurân is an eternal miracle which testifies to the truth of the Prophethood of Muhammad ﷺ and it is a source of guidance for the entire mankind.

The Qurân is a complete guide for a person on how to live his life in the obedience of his Creator and it is also the primary source through which Islâmic law is derived. A Muslim Jurist will first look in the Qurân for a ruling on a particular issue before looking anywhere else. There are about five hundred verses in the Qurân which contain legal injunctions. A wide range of laws are derived from the Qurân, including family law, civil law, penal law, constitutional law, international law, economic law, and other types of laws

b. *Hâdith*

1. The relationship between Qurân and *ahâdith*

It is important to note that Allah has only described these laws in the Qurân in a general sense and He has made His Messenger, Mohammad ﷺ responsible for explaining the laws of the Qurân and applying them to individual cases. Thus, the Qurân does not contain each and every aspect of divine law and nor does it claim to do so. An example of this is the case of the elected officials and lawmakers who enact the legal code of a country in general terms and leave it to the judges to interpret and apply the law to the specific cases. Allah has expressed this point very clearly in the Qurân and has established that the *ahâdith* of Rasûlullah are in fact indirectly part of the Qurân. He says, "Whatever the Messenger has given you, take [it]; and what he has forbidden you, abstain [from

it]."⁵ The commentators of the Qurân state that all the commands which Rasûllullah ρ gave and all the prohibitions which he made are included in this verse. Therefore, anyone who has brought faith on this verse will also necessarily have to bring faith on the *ahâdith* of Rasûlullah ρ.

Allah has also granted Rasûlullah ρ the authority to explain what is lawful and unlawful in Islâmîc law. He says in this regard, "Those who follow the Messenger, the unlettered Prophet, whom they find written [i.e. mentioned] in what they have of the Torah and the Gospel. He enjoins upon them that which is right and forbids them from that which is wrong and makes lawful for them the good and makes unlawful for them the evil."⁶ There are many things which Rasûlullah ρ declared to be unlawful besides those which are mentioned in the Qurân, and it is necessary for us to abstain from them just as we have to abstain from that which is explicitly described as being unlawful in the Qurân. It is impossible for us to come to know of that which Rasûlullah ρ has declared to be unlawful without referring to the *ahâdith* of Rasûlullah ρ. Rejecting the *ahâdith* of Rasûlullah ρ is tantamount to rejecting this statement of Allah and rendering it meaningless.

Mufti Taqi Usmani says, "Another type of authority given to the Holy Prophet ρ is the authority to interpret and explain the Holy Book. He is the final authority for interpreting the Holy Qurân. The Holy Qurân says, 'And We have sent down unto you (O Muhammad) the Advice (i.e. the Qurân) so that you (O Prophet ρ) may explain clearly to the people what has been sent down

⁵ (59:7)

⁶ (7:157)

to them and so that they may ponder.⁷ It is thus obvious that the explanation entrusted to the Holy Prophet ﷺ was something more than the literal meaning of the Book. It was an explanation of what Allah ﷻ intended, including all the implications involved and the details needed. The Holy Prophet ﷺ received these details through unrecited revelation. Allah says, 'It is not but a revelation revealed.'⁸

To be more specific, I would like to give a concrete example of the explanation of the Holy Book by the Holy Prophet ﷺ. This example will show the drastic amount of that which we lose if we ignore the *Sunnah*⁹ (actions, sayings, established practices of Rasûlullah ﷺ). *Salah* is the well-known way of worship which is undisputedly held as the first pillar of Islam after *imân*. The Holy Qurân has ordered us more than 73 times to observe it. Despite this great number of verses which directly command us to observe *Salah*, there is no verse in the entire Book which explains how to perform and observe it. Some of the components of *Salah*, like *ruku'* (bowing down), *sujûd* (prostration) or *Qiyâm* (standing) are definitely mentioned in the Holy Qurân. But the complete way to perform *Salah* as a composite whole has never been explained (in the Qurân). It is only through the *Sunnah* of Rasûlullah ﷺ that we learn the exact method of performing it. If the *Sunnah* is ignored, all these details on the correct way of

⁷ (16:44)

⁸ (53:3-4)

⁹ There is a slight technical difference between *Sunnah* and *ahâdith*. Dr. Khalid Mahmud says, "The commands and instructions of the Prophet ﷺ when taken in discourse or transmission are called hadith and when the same Prophetic guide is adopted in practice it is generally known as the Sunnah of the Prophet ﷺ." (The Authenticity of Hadith, pg. 104)

observing *Salah* are lost. Furthermore, nobody can bring forth an alternate way to perform *Salah* on the basis of the Holy Qurân only."¹⁰

Rasûlullah's ρ responsibility was also to set a practical example of how to live one's life according to the Qurân. Allah says, "There has certainly been for you in the Messenger of Allah an excellent example to be followed for he whose hope is in Allah and the Last Day and [who] remembers Allah often."¹¹ Allah has also commanded us in numerous places in the Qurân to follow Rasûlullah ρ, and in one verse He has considered obedience to Rasûlullah ρ as obedience to Himself. "He who obeys the Messenger has obeyed Allah."¹² Mufti Taqi says further, "If a person considers all ahâdith to be unauthentic and transmitted to us in an unreliable manner, then he is in effect saying that we cannot carry out the obedience of Rasûlullah ρ. Does it logically make sense that Allah would enjoin us to obey the Messenger ρ, but would not make this obedience practical? The question is whether Allah + would command us to do something which is beyond our ability and means. The answer is an emphatic. 'No!' The Holy Qurân itself says, 'Allah does not charge a soul except [with that which is within] its capacity.'¹³

It cannot be envisaged that Allah will bind all the people to follow something which does not exist or cannot be discovered. The fact that Allah has enjoined upon us to follow the *Sunnah* (way) of Rasûlullah ρ

¹⁰ Authority of the Sunnah (pg. 53-55)

¹¹ (33:21)

¹² (4:80)

¹³ (2:286)

certainly implies that the *Sunnah* is not undiscoverable. If Allah has made it obligatory to follow the *Sunnah*, He has certainly preserved it for us in an authentic form. Allah has given us a promise in the Holy Qurân, 'Indeed We have revealed the reminder (i.e. the Qurân), and surely We will preserve it.'¹⁴ In this verse, Allah + has taken the responsibility of preserving the Holy Qurân. This implies that the Qurân will remain uninterpolated and that it shall always be transferred from one generation to the other in its real and original form, undistorted by any foreign element. The question now is whether this divine protection is restricted only to the words of the Holy Qurân itself or does it extend to its real meanings as well. If the Prophetic explanation is necessary to understand the Qurân correctly, as proved above, then the preservation of the Qurân in words alone cannot serve the purpose unless the Prophetic explanations are also preserved. . . This deductive argument is sufficient to establish that the *Sunnah* of Rasûlullah ρ shall, as a whole, remain available in a reliable manner forever."¹⁵

2. The authentic transmission of *ahâdith*

Allah has granted this *Ummah* (nation) a special method of preserving the sayings of their Prophet ρ and his followers which no other *Ummah* was granted before and the like of which is not found in any other religion, i.e. the chain of narrators. We will not accept a statement which someone attributes to Rasûlullah ρ unless he can provide us with a chain of narrators, i.e. the names of the people of each generation who narrate a *hadith* from one another right up to

¹⁴ (15:9)

¹⁵ The Authority of *Sunnah* (pg. 75-77)

Rasûlullah ﷺ. Through the study of the chain of narrators, we can distinguish between an authentic narration and an unauthentic narration. There is no comparison found in any other religion to the work which has been done in the study of the chain of narrators in Islâm. The abbreviated biographies of over 500,000 narrators of hadith have all been recorded in which their integrity, piety, and strength of memory has been thoroughly scrutinized. If a person thoroughly examines the texts of *ahâdith*, the chains of the narrators, the method of proving their authenticity and the books containing their biographies, he cannot help being deeply convinced that the words and actions of the Holy Prophet ﷺ have been preserved without the smallest change or alteration.

Another reason for accepting the transmission of the *ahâdith* to be authentic is that the Qurân has also reached us through the same blessed link. If *ahâdith* are considered to be unauthentic, then this will mean that the Qurân will also be considered unauthentic. Thus, if we profess to accept the authenticity of the Qurân, then we will necessarily have to accept the authenticity of *ahâdith* as well.

3. The different levels of *ahâdith*

There are various levels of authenticity for a hadith depending on the number of narrators, their integrity and their strength of memory. The highest level of authenticity for a *hadith* is when it reaches the level of *tawâtur*, meaning that the narrators of a hadith in each era are so many that it is logically impossible for all of them to collectively fabricate that *hadith*. Imâm Suyûti has further mentioned two types of *hadith* which have reached the level of *tawâtur*. The first

type is when the words of a hadith by themselves are transmitted through *tawâtur*. The second type is when the common subject matter found in various *ahâdith* reaches the level of *tawâtur*, despite the fact that these *ahâdith* describe various incidents and that the subject matter of each *hadith* differs. He has further given an example for this second type of *tawâtur* in the raising of hands during *duâ'* (supplication). There are over 100 *ahâdith* which mention that Nabi ﷺ raised his hands during *duâ'*. Despite the fact that not one of these narrations by itself has reached the level of *tawâtur*, the common subject matter of the raising of the hands during *duâ'* has reached the level of *tawâtur*.¹⁶ Maulâna Shabbir Ahmad Uthmâni has also discussed this type of *tawâtur*, quoting from the works of Ibn Hâjib and Maulâna Anwar Shah Kashmiri.¹⁷

c. *Ijma'* (Consensus)

Allah + has made it binding on us to follow the way of the believers and has issued a very severe warning for going against their way; "And whoever opposes the Messenger after guidance has been made clear to him and follows other than the way of the believers – We will keep for him what he has chosen (i.e. make him responsible for his choice) and drive him into Hell, and evil it is as a destination."¹⁸ Imâm Ibn Kathîr writes in the commentary of this verse, "After great thought and reflection, Imâm Shafii' relied on this verse to prove that *ijma'* is a proof in Islâmic law and that it is unlawful to oppose it."¹⁹

¹⁶ Tadrîb Ar-Rawî (vol. 2, pg. 106)

¹⁷ Fath Mulhim (vol. 1, pg. 14)

¹⁸ (4:115)

¹⁹ Tafsîr Ibn Kathîr (vol. 1, pg. 502)

There is also another verse wherein Allah says, "And thus We have made you a just nation (i.e. the best nation) that you will be witnesses over the people and the Messenger will be a witness over you."²⁰ Allah has made the people of this *Ummah* witnesses over the people of other *Ummahs* just as He has made the Messenger ρ a witness over them. This nation can only be worthy of this favor when their consensus is recognized as a proof in Islâmic law and their testimony is accepted, just as the Messenger's legal opinion is a proof over them and his testimony is valid because of his being a witness over them.²¹

The consensus which is recognized in Islâmic law is that of the people of knowledge and it is not necessary to have the agreement of the laymen in order to enact the consensus. More specifically, the scholars of Islâmic jurisprudence have made it a condition that a scholar must be a *mujtahid* in order for him to be included in the consensus. Imâm A'lâ Ad-Din Al-Bukhâri has defined a *mujtahid* as a scholar who has knowledge of the Qurân along with its meaning and who knows the different usages of the words mentioned in the Qurân while understanding the context in which this word was used in Islâmic law. For example, he should know whether the word has a general connotation or if the word has more than one meaning, etc. A *mujtahid* must also have knowledge of the chains of narrators of a hadith, e.g. whether there are less than three chains, or if the number of narrators have reached the level of *tawâtur*. He must also have knowledge of the words of *ahâdith* and of the different usages of words in *ahâdith* just as was

²⁰ (2:143)

²¹ Usûl Jassâs (vol. 2, pg. 106)

mentioned above for the words of the Qurân.²² Imâm Subki has further broadened this definition to include the knowledge of *ijma'*, *qiyâs*, abrogation, the Arabic language, and other Islâmic sciences.²³

The law of natural reason also tells us that we prefer the opinion of the majority to individual opinion, and consider the former to have more weight than the latter. If this is the case with the majority opinion, then we should accept the unanimous opinion of the *mujtahids* of this Ummah even more readily. Therefore, it is not correct to reject the consensus of *mujtahids* on the basis that it is equivalent to their personal opinion.

There are various levels of consensus. The highest level is when the *Sahâba* (Companions of Rasûlullah ρ) collectively agreed upon a legal ruling and each one of them explicitly expressed his agreement. This type of consensus is equivalent to a verse of the Qurân in its strength as a proof in Islâmic law. The second level is when some of the *Sahâba* explicitly expressed their opinion on a matter and the rest of the *Sahâba* did not object, indicating their tacit approval. This type of consensus is equivalent to a hadith which has reached the level of *tawâtur*.²⁴

²² *Kashf Al-Asrâr* (vol. 4, pg. 25-27)

²³ *Al-Ibhâj fi Sharh Al-Minhâg* (vol. 3, pg. 254-5)

²⁴ *Usûl As-Shâshy* (pg. 156-157)

d. *Qiyâs* (analogical deduction)

There are many verses of the Qurân and ahâdith which establish *qiyâs* to be a source of Islâmîc law. Allah says, ". . . But if they had referred it back to the Messenger or to those of authority among them, then the ones who [can] draw correct conclusions from it would have known about it."²⁵ Only scholars who meet the criteria of being a *mujtahid* (mentioned above in section c.) have the authority to derive injunctions using *qiyâs*. Hafiz Ad-Din An-Nasfy clearly alluded to this fact in his book on the principles of Islâmîc jurisprudence.²⁶

This source of Islâm law is in effect derived from the first three. "Jurists have derived this new source from the fundamental juridical premise that all laws and injunctions are based upon objectives and interests, and that such objectives and interests are the causes for these laws. Hence, from the rules they deduce their causes. Having done so in reference to any particular problem, they were able to apply the same rule to another problem whenever the cause for both was identical."²⁷

An example of the application of *qiyâs* is in deducing the legal ruling for intoxicating drugs such as cocaine, marijuana, etc. Strong drink has been explicitly declared to be unlawful in the Qurân and ahadîth. The scholars searched for the cause of strong drink being unlawful and determined that the cause is its intoxicating effect. Therefore, they have also declared

²⁵ (4:83)

²⁶For more details on the requirements of *qiyâs*, see *Kashful Asrâr Sharh al-Musannif a'la Al-Manâr* (vol. 1, pg. 300)

²⁷Crime and Punishment (pg. 38)

drugs to be unlawful because of the fact that these drugs also have an intoxicating effect.

e. Summary

Abdullah ibn A'mar narrates that Nabi ﷺ said, "This *Ummah* (nation) will be divided into 73 groups and all of them will enter the hellfire except one." Abdullah asked Rasûlullah ﷺ, "Who is this group?" Rasûlullah ﷺ replied, "That group which treads my path and the path of my *Sahâba* ﷺ."²⁸ In the light of this hadith, scholars have named this distinct group as the '*Ahlus Sunnah Wal Jamâah*', i.e. that group which follows the *sunnah* (way) of Rasûlullah ﷺ and follows his *Sâhaba* ﷺ. We can see around us today that there are many astray groups who call themselves Muslims and it is possible that a person might experience difficulty in identifying this special group that will gain salvation without knowing more about them.

The scholars have identified the distinguishing characteristics of the *Ahlus Sunnah Wal Jamâah*. One of the salient features of this group is that they accept all four sources of Islâmic law mentioned above. This has been the view of scholars of all four *madhâhib* (schools of thought) throughout the centuries. Many of the deviated sects throughout the history of Islâm went astray because of their rejecting one of these four sources. For example, Ibn Hazm and his followers rejected *qiyâs* as being a proof in Islâmic law. Another deviated group which came up recently is the *Ahle Qurân* sect which only accepts the Qurân as a source of Islâmic law and rejects *ahâdith*. It is obvious that if *hadith* and *qiyâs* were not included as sources of Islâmic law, the Islâmic legal code would fail to

²⁸ Imâm Tirmidhi says that this is a *hasan gharib* hadith (#2640)

address the challenges of latter times. Islâmic law still remains dynamic today because of the fact that *hadith* and *qiyâs* are considered sources of law.

One fundamental basis for differences of opinion amongst various Islâmic sects is in specifying the sources of Islâmic law. A group which rejects any of the sources of Islâmic law will necessarily differ with the *Ahlu Sunnah Wal Jamaâ'h* in all legal injunctions which are derived from that particular source of Islâmic law. For example, a group which rejects *qiyâs* will also reject all the laws which are derived from *qiyâs*. In the same way, the difference of opinion regarding stoning to death also stems from the difference of opinion regarding the sources of Islâmic law. Most of the people who reject stoning to death do not accept the authority of *hadith*. It is not the objective of our book to go into detail in proving each of these sources of Islâmic law and answering the objections which have been raised regarding them. The scholars of Islâm have already written many detailed books on this topic.

Chapter 2- Stoning to death in Islâmic law

Islâmic law has only prescribed the punishment of stoning to death in one case, and that is when a *muhsan* has unlawful sexual relations. A *muhsan* is a free (not a slave), sane and mature man who married a free woman through a marriage which is recognized in Islâmic law and thereafter had vaginal sexual relations with her.²⁹ The punishment of stoning to

²⁹ Please remember this definition as it will be used repeatedly throughout the book.

death will be dismissed if any of these conditions are not found.

According to the majority of scholars, there are two ways to convict a *muhsan* for committing adultery and thereby sentencing him/her to be stoned to death. The first way is that four trustworthy witnesses must give testimony that they saw the accused man and woman having sexual relations and that they saw the penis entering the vagina just as a needle for antimony is placed in its bottle. The second is that a person confesses in front of the Muslim judge that he/she is a *muhsan* that committed adultery and this confession meets all the requirements of Islâmic law in this regard.

Stoning to death has undoubtedly been an established part of Islâmic law from the inception of Islâm right up until today. From the four sources of Islâmic law, it is proven both through *hadith* and *ijma'* (consensus). The proofs which establish stoning to death are of a very high level in Islâmic law, meaning that there are very severe repercussions for rejecting it as a command of Allah. We will now discuss in detail how stoning to death is established in Islâmic law along with the ruling of a person who rejects stoning to death.

a. The subject matter of stoning to death in *ahâdith*

The common subject matter of the various *ahâdith* which make mention of stoning to death has reached the highest level of authenticity. The following is a chart containing the name of each *Sâhabi* ψ who has narrated a *hadith* related to stoning to death, together with a brief summary on the subject matter of the hadith and its reference from the books of *ahâdith*:

Narrator	Summary of the <i>hadith</i>	Reference from the books of <i>hadith</i>
1. Abu Bakr As-Siddiq ψ	The incident of Mâiz ψ	Musnad Ahmad (vol. 1, pg. 8)
2. U'mar ibn Al-Khattâb ψ	Stoning to death by Rasûlullah ρ	Sahih Bukhâri (#6829-30)
3. Uthman ibn A'ffan ψ	The command of stoning a <i>Muhsan</i> to death	Sunan Dârimî (vol. 2, pg. 91), Sunan An-Nasai (#4024)
4. Ali ibn Abi Talib ψ	Stoning to death established by the <i>Sunnah</i> of Rasûlullah ρ	Sahih Bukhâri (#6812), Musnad Ahmad (vol. 1, pg. 121)
5a. Aishah ψ	The ruling for a <i>Muhsan</i> who commits adultery is stoning	Sunan Abi Dâwûd (#4353), Al-Hâkim (vol. 4, pg. 367)
5b.	Incident of the woman from Ghâmid ψ	Al-Asmâ Al-Mubhamah (pg. 361)
6. Abdullah ibn Masud ψ	The command of stoning a <i>Muhsan</i> to death	Sahih Bukhâri (#6878), Sahih Muslim (#4375)
7. Abû Umâmah ibn Sahl ψ	Stoning to death established by the <i>Sunnah</i> of Rasûlullah ρ	Sunan Tirmidhi
7b.	The incident of Mâiz ψ	Musannaf Abdur Razzâq (vol. 7, pg. 321)
8a. Anas ibn Mâlik ψ	Stoning to death by Rasûlullah ρ	Majmau'z Zawâid (vol. 6, pg. 264), Matâlibul âliyah (vol.2, pg. 116)
8b.	Incident of the woman from Ghâmid ψ	Majmau'z Zawâid (vol. 6, pg. 252 / vol. 6, pg. 268)
9a. Jâbir ibn Abdullah ψ	Incident of Mâiz ψ	Sahih Bukhâri (#6816)

9b.	Incident of the two Jews	Sahih Muslim (#4442), Sunan Abi Dâwūd (#4452),
9c.	Incident of the woman from Ghâmid ψ	Al-Hâkim (vol. 4, pg. 364)
9d.	The command of stoning a <i>Muhsan</i> to death	Majmau'z Zawâid (vol. 6, pg. 252)
9e.	Stoning of an unnamed person	Sunan Abi Dâwūd (#4438)
10a. Abdullah ibn Abi Awfâ ψ	Stoning to death by Rasûlullah ρ	Sahih Bukhâri (#6813), Sahih Muslim (#4444),
10b.	Incident of two Jews	Musnad Ahmad (vol.4, pg. 355)
11a. Abu Hurayrah ψ	Incident of Mâiz ψ	Sahih Bukhâri (#6815)
11b.	Incident of servant who fornicated	Sahih Bukhâri (#6827-8)
11c.	Incident of two Jews	Sunan Abi Dâwūd (#4450)
12. Abdullah ibn Umar ψ	Incident of the two Jews	Sahih Bukhâri (#6819)
13a. Abdullah ibn Abbâs ψ	Sermon of U'mar ψ on stoning	Sahih Bukhâri (#6829-30)
13b.	Incident of the two Jews	Al-Hâkim (vol. 4, pg. 365), Musnad Ahmad (vol.1, pg. 261)
14. Zayd ibn Khâlid ψ	Incident of servant who fornicated	Sahih Bukhâri (#6827-8)
15. Ubâdah ibn Sâmit ψ	Stoning a <i>Muhsan</i> to death	Sahih Muslim (#4414)
16a. Jâbir ibn Samurah ψ	Incident of Mâiz ψ	Sahih Muslim (#4424)
16b.	Incident of two Jews	Sunan Tirmidhi (#1437)

17. Abu Saïd Al-Khudry ψ	Incident of Mâiz ψ	Sahih Muslim (#4428), Sunan Abi Dâwūd (#4431)
18a. Imrân ibn Hussayn ψ	Incident of the woman from Ghâmidψ	Sahih Muslim (#4433), Sunan Abi Dâwūd (#4440)
18b.	Stoning to death by Rasûlullah ρ	Musnad Ahmad (vol. 4, pg. 437)
19. Al-Barâ ibn Azib ψ	Incident of the two Jews	Sahih Muslim (#4440), Sunan Abi Dâwūd (#4448)
20a. Buraydah ibn Al-Husayb ψ	Incident of Mâiz and the woman from Ghâmid ψ	Sahih Muslim (#4431)
20b.	Incident of woman from Ghâmid ψ	Sunan Ad-Dârimi (vol. 2, pg. 100), Sunan Abi Dâwūd (#4434, 4442)
21. Nua'ym ibn Hazzâl ψ	Incident of Mâiz ψ	Sunan Abi Dâwūd (#4419)
22. Nasr ibn Dahr Al-Aslamy ψ	Incident of Mâiz ψ	Sunan Dârimi (vol. 2, pg. 98), Musnad Ahmad (vol. 3, pg. 431)
23. Ma'tab ibn A'mr Al-Aslamy ψ	Incident of Mâiz ψ	Tabaqât ibn Sa'd (vol. 4, pg. 239), Al-Isâbah (vol. 6, pg. 122)
24. Abul Fiyil Al-Khazaiy ψ	Incident of Mâiz ψ	Al-Isâbah (vol. 7, pg. 153), Al-Kuna wal Asmâ (pg. 48)
25. Abdullah ibn Jubayr Al-Khazaiy ψ	Incident of Mâiz ψ	Usud Al-Ghâbah (vol. 5, pg. 274)
26. An unknown Sahâbi(on the authority of Abdul Aziz ibn Abdullah Al-Qurashi)	Incident of Mâiz ψ	Majmau'z Zawâid (vol. 6, pg. 267), Musnad Ahmad (vol. 4, pg. 60, 66/ vol. 5, pg. 374, 378)

27a. Sahl ibn Sa'd ψ	Stoning of an unknown person	Sunan Dariqutni (vol. 3, pg. 99, 169)
27b.	Incident of Māiz ψ	Musnad Ahmad (vol. 5, pg. 339)
28a. Abu Dharr Al-Ghifārryψ	Incident of the woman from Ghāmid ψ	Musnad Ahmad (vol. 5, pg. 178)
28b.	Stoning of an unnamed person during a journey	Majmau'z Zawāid (vol. 6, pg. 267)
29. Abu Barzah Al-Aslamy ψ	Incident of Māiz ψ	Musnad Ahmad (vol. 4, pg. 423), Majmau'z Zawāid (vol. 6, pg. 268)
30. Abu Bakrah ψ	Incident of the woman from Ghāmidψ	Sunan Abi Dāwūd (#4443)
31. Khuzaymah ibn Thābit ψ	Incident of woman from Ghāmidψ	Al-Isābah (vol. 2, pg. 112)
32. Khuzaymah ibn Ma'mar Al-Ansāri ψ	Incident of woman from Ghāmidψ	Majmau'z Zawāid (vol. 6, pg. 265)
33. Hazzāl Al-Aslamyψ	Incident of Māiz ψ	Al-Hākim (vol. 4, pg. 363)
34. Al-Jallāj ψ	Stoning of an unknown person	Sunan Abi Dāwūd (#4435), Musnad Ahmad (vol. 3, pg. 479)
35. Salamah ibn Al-Muhabbāq ψ	Stoning a <i>Muhsan</i> to death	Musnad Ahmad (vol. 3, pg. 476)
36. Qabisah ibn Al-Hariyth ψ	Stoning a <i>Muhsan</i> to death	Majmau'z Zawāid (vol. 6, pg. 264)
37. Ammār ibn Yāsir ψ	Stoning a <i>Muhsan</i> to death	Majmau'z Zawāid (vol. 6, pg. 253)
38. Zayd ibn Thābit ψ	Stoning a <i>Muhsan</i> to death	Al-Hākim (vol. 4, pg. 360)

39. Saïd ibn Al-âs ψ	Stoning a <i>Muhsan</i> to death	Al-Hâkim (vol. 4, pg. 360)
40. Ubayy ibn Ka'b ψ	Stoning a <i>Muhsan</i> to death	Sunan Bayhaqi (vol. 8, pg. 211), Al-Hâkim (vol. 4, pg. 359)
41. Al-A'jmâ ψ	Stoning a <i>Muhsan</i> to death	Talkhis Al-Habir (vol. 4, pg. 51)
42. An-Nu'man ibn Bashir ψ	Stoning to death because of adultery with wife's slavegirl	Sunan Abi Dâwûd (#4458)
43. Wâil ibn Hajar ψ	Incident of the woman that was raped	Sunan Tirmidhi (#1454)
44. Abdullah ibn Al-Hârith ibn Al-Jaza ψ	Incident of the two Jews	Majmau'z Zawâid (vol. 6, pg. 271)
45. Abdur Rahmân ibn Awf ψ	Sermon of U'mar ψ	Musnad Ahmad (vol. 1, pg. 29)
46. Abu Wâqid Al-Laythy ψ	Stoning to death by U'mar ψ in the city of Jâbiyah	Sunan Bayhaqi (vol. 8, pg. 215), Al-Muwatta Li Imâm Mâlik (pg. 685)
47. Muâ'dh ibn Jabal ψ	Delaying the stoning of a pregnant woman until childbirth	Ibn Mâjah (#2694), Jamu'l Jawâmi' (vol. 1, pg. 444)
48. Abu Ubaydah ibn Al-Jarrâh ψ	Delaying the stoning of a pregnant woman until childbirth	Ibn Mâjah (#2694), Jamu'l Jawami' (vol. 1, pg. 444)
49. Shaddâd ibn Aws ψ	Delaying the stoning of a pregnant woman until childbirth	Ibn Mâjah (#2694), Jamu'l Jawâmi' (vol. 1, pg. 444)
50. Abdullah ibn Harrâd ψ	Incident of woman from Ghâmidψ	Al-Asmâ Al-Mubhama (pg. 361)

Imâm Ibn Al-Hummam³⁰, Allâmah Alusi³¹, Imâm Suyuti³², Imâm Al-Katâni³³, Imâm Abu Bakr Al-Jassâs³⁴, Imâm Ar-Râfiy³⁵, Imâm Az-Zabîdy³⁶, Imâm Ibn Amir Al-Hajj³⁷ and other eminent scholars have said that the subject matter of the *ahâdith* of stoning a *muhsan* has reached the level of *tawâtur*. 50 *Sahâba* ψ have narrated a hadith which makes mention of stoning to death, and this number of narrators exceeds that of many *ahâdith* which the scholars have considered to have reached the level of *tawatur*. For example, the *hadith*, "The Qurân was revealed in seven modes," was narrated by 27 *Sahâba*, and the *hadith*, "May Allah brighten the face of a person who hears my saying," was narrated by 30 *Sahâba*.³⁸

b. An individual *hadith* on stoning to death

There is also a hadith of stoning to death which by itself has reached the level of *tawâtur*. Rasûlullah ρ said, "The child is for the man in whose wedlock or property the mother is, and a person who commits

³⁰Fathul Qadîr (vol. 5, pg. 13)

³¹Ruhûl Maâni (vol. 18, pg. 78-79)

³²Qatf Al-Azhâr Al-Mutanâthirah fil Akhbâr Al-Mutawâtirah (pg. 223)

³³Nazm Al-Mutanâthir fi Al-hadith Al-Mutâwatir (pg.106)

³⁴Usûl Al-Jassâs (vol. 2, pg. 121)

³⁵Hâfiz ibn Hajar has quoted this statement of Ar-Râfiy and has not mentioned anything contrary to it, meaning that he also agrees with this statement. (Talkhis Al-Habîr - vol. 4, pg. 51)

³⁶Laqt Al-Lâli Al-Mutanâthirah fi Al-Ahâdith Al-Mutawâtirah (pg. 156)

³⁷At-Taqrîr wa At-Tahbîr (vol. 2, pg. 236)

³⁸Tawjih An-Nazr (vol. 1, pg. 138)

unlawful sexual intercourse will be stoned.”³⁹ Al-Muti’yi⁴⁰, Al-Katâni,⁴¹ Suyûti⁴² and Az-Zabîdy⁴³ have all said that this *hadith* has reached the level of *tawatur* because over 20 *Sahâba* have narrated it. Their names are:

1. Abu Hurayrah ψ
2. Aishah ψ
3. Uthmân ibn Affân ψ
4. Ibn A'mar ψ
5. Abu Umâmah ψ
6. Amr ibn Khârijah ψ
7. Ibn Az-Zubayr ψ
8. Ibn Masûd ψ
9. U'mar ibn Al-Khattâb ψ
10. Alî ibn Abî Tâlib ψ
11. Sa'd ibn Abî Waqqâs ψ
12. Ibn U'mar ψ

³⁹ Some people have raised an objection that the word ‘*Al-Hajar*’ in this *hadith* could also mean loss and restriction and it does not necessarily have to refer to stoning. They base their view on the fact that stoning is not always the punishment for every person who commits unlawful sexual intercourse and it is only the punishment of a *muhsan* who commits adultery. However, Rasûlullah ρ has clearly alluded to stoning to death in this *hadith* by using ‘*Al-Hajr*,’ and it is for this very reason that the great scholar of *hadith*, Imâm Bukhâri, included this very *hadith* in the chapter of stoning to death a *muhsan* who commits adultery. We know of the great insight which Imâm Bukhâri possessed in understanding *ahâdith* and we should accept his interpretation of this *hadith* over our own.

⁴⁰ Takmilah Sharh Al-Muhadhab (vol. 16, pg. 400)

⁴¹ Nazm Al-Mutanâthir fi Al-hadith Al-Mutâwatir (pg.105)

⁴² Qatf Al-Azhâr Al-Mutanâthirah fil Akhbâr Al-Mutawâtirah (pg. 219)

⁴³ Laqt Al-Lâli Al-Mutanâthirah fi Al-Ahâdith Al-Mutawâtirah (pg. 202)

13. Al-Barâ ibn Azib ψ
14. Zayd ibn Arqam ψ
15. Ibn Abbâs ψ
16. Ubâdah ibn Sâmit ψ
17. Wathilah ibn Al-Asqa' ψ
18. Muâwiyah ibn Amrψ
19. Anas ibn Mâlik ψ
20. Abdullah ibn Khâdhafah ψ
21. Sawdah bint Zama' ψ
22. Abu Al-Masûd Al-Badry ψ
23. Zaynab bint Al-Jahsh ψ

In conclusion, we can say that both the subject matter of stoning and a specific *hadith* of stoning have reached the level of *tawâtur*.⁴⁴ Anyone who accepts the authority of Rasûlullah ρ will have to acknowledge that stoning to death is definitely established both by the statements of Rasûlullah ρ and by his actions.

c. Consensus on stoning to death

The command to stone a *muhsan* to death is also proven by consensus and many scholars have recorded this consensus in their books. The following is a partial list of these scholars:

1. There are two books which are devoted specifically to citing those rulings of Islâmic law in which there is a consensus of scholars. The first is *Kitabul Ijma'*, written by Ibn Al-Mundhir (died 318 A.H.), a scholar of the 4th century who specialized in the study of the legal verdicts of scholars. He says, "The scholars have all agreed that when a free man

⁴⁴ This chart and some aspects of the discussion on *tawâtur* has been taken from Takmilah Fath Mulhim (vol. 2, pg. 419-422)

- marries a free woman through a marriage recognized in Islâmic law and has vaginal sexual relations with her, then he is a *muhsan* and it becomes binding to stone him to death if he has unlawful sexual relations with a woman."⁴⁵
2. The second book is *Marâtib Al-Ijmâ'* of Ibn Hazm (died 384 A.H.). He says, "The scholars have all agreed on the fact that when a person commits adultery in the manner which we have outlined above and he had married before. . . . , then he will be stoned until he dies."⁴⁶ Allâmah Kawthary says that the only type of consensus which Ibn Hazm recognizes is the consensus of the *Sahâbah*.⁴⁷
 3. Imâm Abu Bakr Jassâs (died 370 A.H.) also reports there being a consensus on stoning.⁴⁸
 4. Imâm Ibn Abdul Barr (died 463 A.H.) says that the vast majority of the scholars of Islâmic jurisprudence and the scholars of *hadith* from the time of the *Sahâba* until today hold the view that a *muhsan* will be stoned to death.⁴⁹
 5. Qâdhi Iyâdh (died 544 A.H.) considers there to be a consensus of the *Ummah* **both in word and practice**.⁵⁰
 6. Imâm Abul Walîd Muhammad bin Ahmed Al-Qurtubi (died 595 A.H.) has recorded a consensus of scholars on stoning.⁵¹
 7. Imâm Ibn Al-Quddâmah (died 620 A.H.) has also cited a consensus on this issue.⁵²

⁴⁵ Kitâbul Ijmâ' (pg. 69)

⁴⁶ Marâtibul Ijmâ' (pg. 129)

⁴⁷ Maqâlâ Al-Kawthariy (pg. 218)

⁴⁸ Usûl Al-Jassâs (vol. 2, pg. 121)

⁴⁹ Istidhkâr (vol. 24, pg. 48)

⁵⁰ Ikmâl Al-Mu'lim (vol. 5, pg. 508)

⁵¹ Bidâyatul Mujtahid Vol 2 pg 325.

8. Imâm Ibn Al-Battâl (died 644 A.H.) quotes stoning as being the consensus of the *Sahâba* and the scholars.⁵³
9. Imâm Nawawi (died 676 A.H.) says that there is a consensus of the *Sahâba* and scholars on stoning to death.⁵⁴
10. Imâm Burhân Ad-Dîn Al-Margînâni (died 593. A.H.) has recorded a consensus of the *Sahâba* ψ on stoning to death a *Muhsan* who commits adultery.⁵⁵
11. Imâm Ibn Al-Humâm (died 681 A.H.) writes in the commentary of this statement of Burhân Ad-Din, "Upon this is the consensus of the *Sahâba* ψ and all the scholars of the past."⁵⁶
12. Imâm Badr Ad-Din Al-A'yni (died 855 A.H.) also writes in the commentary of the same statement, "Abu Bakr and U'mar ψ both stoned to death in the presence of the *Sahâba* and none of them objected. Therefore, this is equivalent to a consensus on this issue."⁵⁷
13. The summary of Muhammad ibn Abdur Rahmân Ad-Dimashqi's view (from the 8th century A.H.) is that if the conditions of being a *muhsan* are found in a person, then he/she will be stoned until they die if they commit adultery.⁵⁸
14. U'mar ψ said, "Rasûlullah ρ stoned to death and we stoned to death after him." Mulla Ali Qâri (died 1014 A.H) writes in the commentary of this hadith

⁵² Al Mughni (vol 9. pg 157)

⁵³ Fath Al-Bâri (vol. 12, pg. 118)

⁵⁴ Sharh An-Nawawi A'la Al-Muslim (vol. 6, pg. 189)

⁵⁵ Al-Hidâyah (vol. 1, pg. 509)

⁵⁶ Fathul Qadîr (vol. 5, pg. 13)

⁵⁷ Al-Binâyah (vol. 8, pg. 335)

⁵⁸ Rahmat Al-Ummat (pg. 284)

that this statement indicates that a consensus was enacted after Rasûlullah ﷺ.⁵⁹

15. Allâmah Mahmûd Alusi (died 1270 A.H.) says that the *Sahâba* ﷺ, the people of the past, the scholars of the Ummah, and the Imâmms of the Muslims have all agreed that a *muhsan* will be stoned to death.⁶⁰

These scholars who narrated a consensus on stoning to death came from different time periods and different *madhabs* (schools of thought). They were great scholars of Islâm and many volumes can be written on their virtues, knowledge, and piety.

Based on the statements of these scholars, we can say that stoning to death is proven through the consensus of the *Sahâba*. This will be categorized in the second level of consensus because of the fact that some *Sahâba* explicitly expressed their agreement and others gave their tacit approval. This type of consensus is also one of the strongest proofs in Islâmic law. Rasûlullah ﷺ himself ordered us to follow the *Sahâba* and emphasized in particular to 'hold on to his *Sunnah* (way) and the *Sunnah* of the rightly-guided caliphs (i.e. Abu Bakr, U'mar, Uthmân, and Ali ﷺ).⁶¹

The consensus of stoning to death was in fact initiated by the rightly-guided caliphs. We have already quoted the authentic narration of U'mar ﷺ in which he said, "Rasûlullah ﷺ gave the command of stoning, and we also stoned after him," and there are also other narrations which prove that the other rightly-guided Caliphs also stoned. Anas ﷺ narrates that Rasûlullah ﷺ

⁵⁹ *Mirqât* (vol. 7, pg. 126)

⁶⁰ *Rûhul Maâni* (vol. 18, pg. 78, 79)

⁶¹ Imâm Tirmidhi says that this is a hasan sahih hadith (#2676)

gave the command to stone to death. Abu Bakr ψ and U'mar ψ also gave the command to stone to death, and their command is also *Sunnah* (equivalent to something adopted in practice by Rasûlullah ρ)."⁶² It is narrated that Uthmân bin Affân ψ stoned a *muhsan* woman.⁶³ Ali ψ stoned a woman on a Friday and said, "I stoned her in accordance to the teachings of Rasûlullah ρ ."⁶⁴ After the rightly-guided caliphs initiated this consensus through their actions, the remaining *Sahâba* followed suit.

We have been very emphatically commanded to love, honour and follow the *Sahâba*. Allah says in the Holy Qurân, 'Believe as the people have believed.'⁶⁵ The 'people' mentioned in this verse refers to the *Sahâba* ψ . The commentators of the Qurân say that this verse is a reference to the high degree of the *imân* of the *Sahâba* ψ . Allah has cited the *imân* of the *Sahâba* ψ as the standard of *imân*. Shah Waliullah says that there are over 100 verses in the Qurân which establish the noble and elevated position of the *Sahâba* ψ . They were the upholders and the defenders of the religion of Allah. History cannot show another group which has sacrificed so much sweat and blood for the glory of Allah's Name as the *Sahâba* ψ . (From Kitâbul Imân)

The *Sahâba* ψ are the criterion of truth. The *Sahâba* ψ were blessed with the honor of being in the company of Rasûlullah and were present as revelation was descending and as Islâmic law was being formed. It was the *Sahâba* who understood the true essence of Islâm and they were the ones who personally studied

⁶² Maja'uz Zawâid (vol. 6, pg. 264)

⁶³ Al-Muwatta li Imâm Mâlik (pg. 686)

⁶⁴ Sahih Bukhari (#6812)

⁶⁵ (2:137)

the nature, habits, intentions and wishes of Rasûllulah ρ more than anyone else from this *Ummah*. A man knows more about his father than anybody else. Naturally, their consensus has preference over all other types of consensus. It is of vital importance that we give preference to the *Sahâba*'s understanding of the Qurân and *ahâdith* over our own and that we accept their word on this issue as the final authority.

d. The ruling on a person who rejects stoning to death

The *ahâdith* of stoning which have reached the level of *tawâtur* and the consensus of scholars are both among the strongest proofs in Islâmic law and they establish without a shadow of doubt that stoning is a part of Islâm. This is why the famous *Sahâbi* and commentator of the Qurân, Ibn Abbâs ψ , says, "Whoever rejects stoning has in fact rejected the Qurân because he has not considered the statement of Allah, 'O People of the Scripture, there has come to you Our Messenger, making clear to you much of what you used to conceal of the Scripture.'⁶⁶ The reason for this is that the command of stoning to death is from that which they used to conceal."⁶⁷ Therefore, this person is in effect rejecting this verse of the Qurân by rejecting the command of stoning to death, which is tantamount to disbelief.

Allâmah Khifâji says, "The Khawârij (a deviated group) are disbelievers because they rejected the stoning to death of a *muhsan*. This is a matter upon which consensus has been enacted and which is without a

⁶⁶ (5:15)

⁶⁷ Al-Hâkim has declared this hadith to be Sahih (Al-Mustadrak - vol. 4, pg. 359)

doubt established in Islâmic law."⁶⁸ Hassân ibn Farrukh says that Umar ibn Abd Al-Aziz asked me, "What do the Azâriqah say regarding stoning to death?" I said to him, "They reject it." He said, "Allahu Akbar (an expression of astonishment). They have disbelieved in Allah and his Messenger ρ."⁶⁹ A person who still has doubts whether stoning to death is established in Islâm should seriously reconsider his position at this juncture.

Chapter 3 – Stoning to death in other religions

The punishment of stoning to death is not a new concept which is unique only to Islâm. Rather, stoning to death has been a part of organized religion for many centuries and it has been prescribed as a punishment in the three major religions of the world, i.e. Judaism, Christianity and Islâm.

An important point to note is that Muslims believe that interpolation has taken place in the Holy books of both the Christians and Jews, making it difficult to determine what was part of the original book revealed to their Prophets. Therefore, Muslims should exercise caution while reading their Holy Books and the layman should suffice on reading the Qurân, the final divinely-revealed book. Rasûlullah ρ even expressed his displeasure over U'mar ψ studying the Torah whereas he was already well-versed in the Qurân and Islâmic law. We should not generalize by declaring all the passages of their Holy books as being true and nor as being false. Our purpose here is to show that stoning to death is mentioned in their Holy books as

⁶⁸ Ikfâr Mulhidîn (pg. 58)

⁶⁹ At-Tanbih Warradd A'lâ Ahl Al-Ahwâ Walbadi'(pg. 185)

punishment for adultery and many other crimes. We will now quote some of these passages.

a. The punishment for adultery in the Bible⁷⁰

Leviticus 20

¹⁰ And the man that committeth adultery with another man's wife, *even he* that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death.

Deuteronomy 22

²⁰ But if this thing be true, *and the tokens of virginity* be not found for the damsel:

²¹ Then they shall bring out the damsel to the door of her father's house, **and the men of her city shall stone her with stones that she die: because she hath wrought folly in Israel, to play the whore in her father's house: so shalt thou put evil away from among you.**

²² If a man be found lying with a woman married to an husband, **then they shall both of them die**, both the man that lay with the woman, and the woman: **so shalt thou put away evil from Israel.**

²³ If a damsel *that* is a virgin be betrothed unto an husband, and a man find her in the city, and lie with her;

²⁴ Then ye shall bring them both out unto the gate of that city, and **ye shall stone them with stones that they die**; the damsel, because she cried not, *being* in the city; and the man, because he hath humbled his

⁷⁰ Note: All bible passages are taken from the King James Standard Version, published in 1981 by The Church of Jesus Christ of Latter-day Saints, Salt Lake City, Utah, USA. The bold text in these passages has been added by the author for emphasis.

neighbour's wife: **so thou shalt put away evil from among you.**

Jews believe in the following chapters of the Old Testament: Genesis, Exodus, Leviticus, Numbers, and Deuteronomy. Christians profess faith in both the Old and New Testament. Therefore, both Jews and Christians believe in these passages mentioned above. These passages show that stoning to death was the punishment for adultery in their original religion.

The following is a passage from the Talmud, which is one of the most important books in Judaism:

GEMARA. ... Stoning is severer than slaying by the sword, since it is the punishment of a blasphemer and an idol worshipper, the greater enormity of whose offence has already been stated. On the contrary, is not death by the sword more severe, since that is the penalty for the inhabitants of a seduced city, the graver character of whose sin is proved by the fact that their property is destroyed? — Now, let us consider: whose crime is greater; that of the seducer or of the seduced? Surely that of the seducer. And it has been taught: **The seducers of a seduced city are executed by stoning.**

Babylonian Talmud, Tractate Sanhedrin 50a —
Soncino 1961 Edition, page 334

b. Stoning to death for other crimes

Deuteronomy 13

⁶ If thy brother, the son of thy mother, or thy son, or thy daughter, or the wife of thy bosom, or thy friend, which *is* as thine own soul, entice thee secretly, saying, Let us go and serve other gods....

¹⁰ **And thou shalt stone him with stones**, that he die; because he hath sought to thrust thee away from the LORD thy God, which brought thee out of the land of Egypt, from the house of bondage.

Deuteronomy 17

² If there be found among you, within any of thy gates which the LORD thy God giveth thee, man or woman, that hath wrought wickedness in the sight of the LORD thy God, in transgressing his covenant;

³ And hath gone and served other gods, and worshipped them, either the sun, or moon, or any of the host of heaven, which I have not commanded;

⁴ And it be told thee, and thou hast heard *of it*, and enquired diligently, and, behold, *it be true*, and the thing certain, *that* such abomination is wrought in Israel:

⁵ Then shalt thou bring forth that man or that woman, which have committed that wicked thing, unto thy gates, *even* that man or that woman, and **shalt stone them with stones**, till they die

Deuteronomy 21

¹⁸ If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother, and *that*, when they have chastened him, will not hearken unto them:

¹⁹ Then shall his father and his mother lay hold on him, and bring him out unto the elders of his city, and unto the gate of his place;

²⁰ And they shall say unto the elders of his city, This our son *is* stubborn and rebellious, he will not obey our voice; *he is* a glutton, and a drunkard.

²¹ **And all the men of his city shall stone him with stones**, that he die: **so shalt thou put evil away from among you; and all Israel shall hear, and fear.**

Leviticus 20

¹ And the LORD spake unto Moses, saying,

² Again, thou shalt say to the children of Israel, Whosoever he be of the children of Israel, or of the strangers that sojourn in Israel, that giveth any of his seed unto Molech; he shall surely be put to death: **the people of the land shall stone him with stones.**

³ And I will set my face against that man, and will cut him off from among his people; because he hath given of his seed unto Molech, to defile my sanctuary, and to profane my holy name.

Leviticus 20

²⁶ And ye shall be holy unto me: for I the LORD *am* holy, and have severed you from *other* people, that ye should be mine.

²⁷ A man also or woman that hath a familiar spirit, or

that is a wizard, shall surely be put to death: **they shall stone them with stones**: their blood *shall be* upon them.

Leviticus 24

¹³ And the LORD spake unto Moses, saying.... ¹⁶ And he that blasphemeth the name of the LORD, he shall surely be put to death, **and all the congregation shall certainly stone him**: as well the stranger, as he that is born in the land, when he blasphemeth the name *of the* LORD, shall be put to death.

Numbers 15

³² And while the children of Israel were in the wilderness, they found a man that gathered sticks upon the sabbath day.
³³ And they that found him gathering sticks brought him unto Moses and Aaron, and unto all the congregation.
³⁴ And they put him in ward, because it was not declared what should be done to him.
³⁵ And the LORD said unto Moses, The man shall be surely put to death: all the congregation shall stone him with stones without the camp.
³⁶ And all the congregation brought him without the camp, and **stoned him with stones**, and he died; as the LORD commanded Moses.

GEMARA. ... Stoning is severer than burning, since thus the blasphemer and the idol-worshipper are executed. Wherein lies the particular enormity of these offences? — Because they constitute an attack upon the fundamental belief of

Judaism. On the contrary, is not burning more severe, since that is the punishment of a priest's adulterous daughter; and wherein lies the greater enormity of her offence: in that she profanes her father?

Tractate Sanhedrin 49b— Babylonian Talmud,

Soncino 1961 Edition, pages 332-333

c. The view of some modern-day Christians

We will now quote two articles which discuss some Christians' view on stoning to death. These articles establish that according to some Christian theologians, the command for stoning to death for some crimes still remains effective even up till today.

Invitation to a Stoning

Getting cozy with theocrats

By Walter Olson

So when Exodus 21:15-17 prescribes that cursing or striking a parent is to be punished by execution, that's fine with Gary North. "When people curse their parents, it unquestionably is a capital crime," he writes. "The integrity of the family must be maintained by the threat of death." Likewise with blasphemy, dealt with summarily in Leviticus 24:16: "And he that blasphemeth the name of the Lord, he shall surely be put to death, and all the congregation shall certainly stone him."

Reconstructionists provide the most enthusiastic constituency for stoning since the Taliban seized Kabul. "Why stoning?" asks North. "There are many reasons.

First, the implements of execution are available to everyone at virtually no cost." Thrift and ubiquity aside, "executions are community projects—not with spectators who watch a professional executioner do `his' duty, but rather with actual participants." You might even say that like square dances or quilting bees, they represent the kind of hands-on neighborliness so often missed in this impersonal era. "That modern Christians never consider the possibility of the reintroduction of stoning for capital crimes," North continues, "indicates how thoroughly humanistic concepts of punishment have influenced the thinking of Christians." And he may be right about that last point, you know.⁷¹

Stoning Disobedient Children

by Rev. William Einwechter

If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother ... all the men of the city shall stone him with stones, that he die (Dt. 21:18, 21)

Deuteronomy 21:18-21 contains what is, perhaps, the most vilified law of the Old Testament. It is widely believed that this law authorizes the stoning of children who disobey their parents. Accordingly, this law is used to prove how harsh, severe, and unworkable Old Testament law is in "the New Testament age of love and grace." When theologians advocate the use of the case laws as the standard for ethics and civil law today, often one of the first

⁷¹Reason*November 1998

remarks they hear is something like, "So you advocate the stoning of children who disobey their parents." The supposition is that by merely referring to this "harsh" law, they have proven that the theonomic view is absurd and cannot possibly be the standard for Christians today. Detractors of theonomy believe that the mere mention of the law of "stoning children" in Deuteronomy 21:18-21 will silence the theonomist, and prove to all thinking Christians that these "cruel" Old Testament case laws should not govern our lives in this "age of grace."

But as with most attacks on theonomic ethics, this objection to the use of the Old Testament case laws is based on a shallow reading of the law, a misunderstanding of the actual case law requirement,⁷² and an attachment to sentimental impulses as opposed to a commitment to the high ethical provisions of Biblical law.⁷³ When this case law, which applies the moral law of the Fifth Commandment to a specific circumstance, is understood it will prove to be "holy, just, and good," a delight to the heart of God's true people (Rom. 7:12, 22).

⁷² (Note: The following five footnotes were included in the original article as endnotes.) To understand and properly apply the case laws of the Bible requires diligent work. The Lord anticipates this need by repeatedly reminding us of the need to "meditate" in the law of the Lord "day and night" (cf. Ps. 1:2; 119:15, 97-99; Jos. 1:8). The wisdom and justice of God's law is perceived by those who diligently search for it as for hidden treasure (Pr. 2:1-9).

⁷³ By nature, we are bent to reject the standards of a just and holy God for "that which seemeth right in our own eyes."

This law is given in the standard case law formulation of "if . . . then." The genius of the case laws is that they establish justice (or duty) in a specific case so as to enable us to know how to proceed (act righteously) in all such related cases. The particular case at hand involves a "stubborn and rebellious" son who will not heed the admonitions of his parents, nor submit to their discipline (v. 18). It is vital to proper interpretation and application that the precise nature of the case be ascertained.

A Grown Son

First, the person in view is a not a small child but a grown "son." The Hebrew term for "son" (ben) employed here is indefinite. It is sometimes used of children of both sexes (Ex. 21:5) but most often for the male offspring of parents, and that is clearly the sense in this text. Of itself, the word "son" does not give any indication of age. It can refer to a child or a young man (cf. 1 Sam. 4:4; 19:1; 1 Kg. 1:33); age must be determined from the context. In this case, the son in view is not a child, for the sins brought forth in testimony to show his contumacious manner are gluttony and drunkenness (v. 20), hardly the sins of the average 6 or 10 year old! The case also indicates that the parents have tried to restrain their son, but all their efforts have failed (vv. 18, 20); specifying that he is physically beyond their control. Furthermore, the parents bring their son to the magistrates to judge the matter (v. 19); hence, the son would have opportunity to speak on his own behalf. All of this indicates that the "son" in question is no mere child, but, rather, a young man at least in his middle teens or older. As Wright observes, "The law is not talking about

naughty children but about seriously delinquent young adults.⁷⁴

Severe Disobedience

Secondly, the problems associated with this son are severe. This is not the case of a child who has failed to do his chores, spoke back to his parents, or even committed a serious act of disobedience, but of a son of dissolute character who is in full rebellion to the authority of his parents—he holds them and their word in contempt. The text says that the son is "stubborn" and "rebellious" (vv. 18, 20). Both of these descriptive terms are active participles, thus indicating habitual action. The son does not display a stubborn streak now and then, or act rebelliously from time to time, but is continuously stubborn and rebellious. The word "stubborn" refers to one who is obstinate in his resistance to authority. It is used in the Old Testament of a wild, untamed heifer (Hos. 4:16); of an immoral woman who has cast off restraint and indulges in lust (Pr. 7:11); and of Israel as a stubborn people who will not submit to God's authority (Ps. 78:8; Is. 1:23). The word "rebellious" means literally, to strike or lash, and is used of those who contend against authority and refuse to heed their words. The "rebellious" individual lashes out in contempt against those who have authority over him verbally, and perhaps even physically. In light of this, it is important to note that the law of the covenant prescribes death for anyone who strikes his parents (Ex. 21:15) or curses his parents (Ex. 21:17). There is, therefore, reason to suppose that the son in this case law has broken the law of the covenant in one

⁷⁴ Christopher Wright, *Deuteronomy* (Peabody, MA, 1996), 235.

or both of these ways. The parents also describe the character of their son as being a "glutton" and a "drunkard." These sins are put forth as examples of a life lived without restraint.

In the case of such rebellion and riotous living, and after all attempts at discipline and control have failed, the parents are to bring their son before the magistrates for judgment. If the magistrates concur in the parents' estimate of the situation, they are to order the men of the city to stone the rebel with stones so that he dies (vv. 20-21). **The purpose to be served in the execution of the rebellious son is to "put evil away from among you" and that all will "hear and fear" (v. 21).**

The Real Meaning

Therefore, the law of Deuteronomy 21:18-21 is not about stoning disobedient children. The Bible does not instruct parents to use stoning in dealing with the rebellious nature and disobedience of their children, but to use the rod and reproof (Pr. 29:15). Children are to be trained from a young age by consistent and loving discipline so that the foolishness that is bound up in them can be driven out (Pr. 22:15), and they will learn to honor and obey their parents and all those whom God has placed in authority over them. The case law in discussion does not apply to young children during the formative years, but applies, instead, to a grown son (and by extension to a daughter as well) who, for whatever reason, has rebelled against the authority of his parents and will not profit from any of their discipline nor obey their voice in any thing. It is a case of habitual contempt of parental authority characterized by a young

adult living a life without moral restraint who lashes out verbally and/or physically against his mother and father. It is a case where the evil character of the son is apparently set, and there is no reasonable hope of his ever changing.

The kind of rebellion against parental authority described in this case law is called "evil" (v. 21). It is evil because it holds both God and his law (i.e., the command to honor parents) in derision. It is evil because it threatens the very existence of the family, and therefore, of society itself. It is evil because it signals the rejection of all God-ordained authority and leads to civil and ecclesiastical disorder. God considers it such a dangerous evil that it must be extinguished by death at the hands of the civil magistrate.⁷⁵

Inescapable

Death

Those who consider death as a horrible punishment here must realize that in such a case as described in Deuteronomy 21:18-21, "death" is inescapable. Contempt of parental authority, if left unchecked, is the death of the family, law, and order. The question then is: Who or what should die? The rebel, or family and society? Furthermore, the life of a rebel inevitably leads to the grave (sheol; cf. Pr. 30:17); he will die an early death, and probably take others with him. Finally, God himself declares that even if such a rebel against parental authority escapes the judgment of man, his curse is upon that man

⁷⁵The family does not have the power of the sword. Only the state has the authority to execute those who are worthy of death. Therefore, if a state refuses to follow the law of Deuteronomy 21:18-21, parents are left only with the option of covenantal death (i.e., disinheritance by the family and, where applicable, excommunication by the church).

and he shall be cut off (Dt. 27:16; Pr. 30:17). Therefore, the execution of the rebel in view is just, merciful, and preventive. Just, in that the transgressor deserves to die; merciful, in that his quick death prevents the destruction of the family, society, and others; preventive, in that it strikes fear in the heart of other would-be rebels and restrains them from taking a similar ruinous course.

Theonomists must not be embarrassed by the law of Deuteronomy 21:18-21, nor should they be chagrined when others try to use it to discredit the case laws of the Old Testament. Properly understood, it displays the wisdom and mercy of God in restraining wickedness so that the righteous might flourish in peace. It is those who reject this case law that should be embarrassed, for they have cast reproach on God and his law, cast aside the testimony of Christ,⁷⁶ and have substituted their own imaginations (Jer. 7:24) for the blessed word of God.

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⁷⁶ Jesus himself specifically endorsed the death penalty for cursing parents (Ex. 21:17) in Matthew 15:4.

⁷⁷ Chalcedon Report, January 1998

d. Summary

As we have seen above, stoning to death was an established part of Judaism and Christianity, and it used to be a very common punishment that was prescribed for numerous crimes. In comparison to this, Islâm has only prescribed the punishment of stoning to death for adultery. From these passages of the Bible, we can clearly see that the criticism which is being directed towards Muslims for having such a 'cruel' and 'barbaric' punishment like stoning to death in their religion should be directed towards Christianity and Judaism to a greater extent. The only difference is that they have generally discarded their religious law and do not practice upon it, while Muslims try to implement their religious code in all aspects of life.

Chapter 4 – Objections on stoning to death

Objection #1 - Stoning is not mentioned in the Qurân

The claim that the command of stoning to death is not found in the Qurân and therefore is not a part of Islâmic law is incorrect. As we have explained in detail in Chapter 1, the Qurân is not the only source of Islâmic law and the *Ahlu Sunnah Wal Jamâa'h* also accept *hadith*, *ijma'* and *qiyâs* as sources of Islâmic law. Even if we were to assume that stoning to death is not proven through the Qurân, we will still accept it as part of Islâmic law since it is proved both through *hadith* and consensus.

Moreover, stoning to death is in actual fact proven through the Qurân. Ibn Abbâs رضي الله عنه narrates that U'mar ibn Al-Khattâb رضي الله عنه said while he was reclining on the pulpit of Rasûlullah صلى الله عليه وسلم, "Definitely, Allah has sent

Muhammad with the truth and revealed to him the Qurân. One of the verses of the Qurân which was revealed is the verse of stoning to death. We have read this verse, memorized it and understood its meaning. Rasûlullah ﷺ gave the command to stone to death and we also did the same after him. I fear that with the passing of time, people will say that we do not find the command of stoning in the book of Allah. This statement of theirs will cause them to go astray and reject a command of Allah. Definitely, the command of stoning is in the book of Allah and it becomes binding on men and women who are *muhsan* and commit adultery when there is either testimony attesting to the fact that they committed adultery, a pregnancy or one of them confesses."⁷⁸ The command of stoning to death is mentioned in the Qurân both directly and indirectly.

The command of stoning to death is proven directly through the Qurân because there used to be a verse which explicitly gave the command to stone to death a *muhsan* who commits adultery. There are many *ahâdith* which prove that this verse used to be a part of the Qurân. Ubayy bin Ka'b ؓ asked the people around him, "How many verses do you count in *Surah Ahzâb* (The 33rd *Surah* of the Qurân)?" They replied, "72 or 73 verses." Ubayy ؓ said to them, "*Surah Ahzâb* used to contain the same number of verses as *Surah Baqarah* (over 280 verses) or more. We used to recite a verse from *Surah Ahzâb*, 'When a *muhsan* male and female commit adultery, then stone them both as a deterrent [punishment] from Allah.'⁷⁹ Allah

⁷⁸ Sahîh Bukhâri (hadîth # 6829-30), Sahih Muslim (#4218)

⁷⁹ An-Nasai and Abdullah ibn Ahmad ibn Hanbal both have narrated this hadith. Hâfiz ibn Hajar has classified this as a hasan hadith (Muwâfaqatu Al-Khubr Al-Khabr - vol. 2, pg. 304).

then abrogated the recitation of this verse from the Qurân and it was not included in the compilation of the Qurân. However, scholars agree that the ruling established by this verse still remains, meaning that stoning to death is proven directly from the Qurân.

Stoning to death is also indirectly mentioned in the Qurân. Authentic *ahâdith* prove that the following verses of the Qurân make a reference to stoning, "But how is it that they [the Jews] come to you for judgment while they have the Torah, in which is the judgment of Allah? Then, they turn away [even after that]; but those are not [in fact] believers. Indeed, we sent down the Torah in which was guidance and light."⁸⁰

The background to this verse is described in a hadith narrated by Jâbir ibn Abdullah رضي الله عنه. A person from the city of Fadak committed adultery. As a result of this, the people of Fadak wrote to some Jews in Madinah asking them to question Muhammad about the matter. They said to them that if Muhammad tells you to lash the perpetrators, then accept what he says. [However], if he tells you to stone them, then do not accept what he says. They then questioned Rasûlullah صلى الله عليه وسلم and he told them, "Bring me the most knowledgeable person from amongst you." The Jews brought a squinted man named Ibn Suriyya and another man to Rasûlullah صلى الله عليه وسلم. He said to both of them, "Are you two the most knowledgeable people from the Jews?" They replied, "Our community has sent us to you for this very reason."

⁸⁰ (5: 43)

Rasûlullah ﷺ then said to them, "Don't you have the Torah which contains the command of Allah?" They replied, "Yes." Rasûlullah ﷺ then said to them, "I adjure you by the oath of that Being Who caused the ocean to part for the children of Isrâil, who made the clouds provide shade for them, who saved them from the people of Pharaoh and who sent down Manna and quails to them, that you tell me what the Torah says with regard to stoning." One of the Jews said to the other, "I have never been asked to take such an oath." Then, both of them said, "We find [that the Torah says that] casting a second glance [at a unlawful woman] is fornication, embracing is fornication and kissing is fornication. When four witnesses bear testimony that they saw a person begin the act of fornication and proceed doing so just as a stick for applying antimony is entered into its bottle, then it becomes binding to stone him to death." Rasûlullah ﷺ then said, "That is correct," and he gave the command that the two Jews be stoned to death. Upon this, the verse, 'So if they come to you [O Muhammad], judge between them. . . ' was revealed."⁸¹ ⁸²

Objection # 2 – The Qurân only stipulates 100 lashes as the punishment for people who commit unlawful sexual intercourse

Allah says, "The woman or man found guilty of sexual intercourse – lash each of them one hundred times."⁸³ Some people say that the Arabic term, '*Zinâ*' which is used in this verse to describe a man and woman who commit unlawful sexual intercourse has a general

⁸¹ Musnad Humaydy (vol. 2, pg. 541-2 / hadith number 1294)

⁸² Takmilah Fath Al-Mulhim (vol. 2, pg. 417-8)

⁸³ (24:2)

meaning which encompasses both *muhsans* and non-*muhsans* and thus there should be no distinction between them. Therefore, they claim that the only punishment for a person who has unlawful sexual relations is 100 lashes, irrespective whether he/she be a *muhsan* or a non-*muhsan*. Furthermore, they try to cast doubt on the authenticity of the *ahâdith* of *Rasûlullah* ﷺ which mention stoning to death based on the fact that they contradict the Qurân and the Qurân's word should be accepted because it is the final authority in Islâmic law.

The claim that the verse of 100 lashes refers to all people who commit unlawful sexual intercourse is incorrect. In reality, this verse only refers to unmarried people who have unlawful sexual relations and this is proven by *Rasûlullah*'s commentary ﷺ of a verse of the Qurân. Allah says, "Those who commit immorality [i.e. unlawful sexual intercourse] of your women –bring against them four [witnesses] from among you. And if they testify, confine them [i.e. the guilty women] to houses until death takes them or Allah ordains for them [another] way."⁸⁴

A hadith of *Rasûlullah* ﷺ which has reached us through authentic transmission has clarified for us the meaning of 'another way' which is mentioned in this verse. *Ubâdah ibn Sâmit* ﷺ narrates that *Rasûlullah* ﷺ said, "Receive [teaching] from me, receive [teaching from me]. Indeed, Allah has ordained a way for those women. When an unmarried male has unlawful sexual relations with an unmarried female, they will be lashed 100 times and banished for one year. If a *muhsan* male commits adultery with a *muhsan* woman, they

⁸⁴ (4:15)

will be lashed 100 times and stoned to death."⁸⁵ In this *hadith*, Rasûlullah ﷺ has clearly differentiated between the punishment of a *muhsan* and non-*muhsan*. Thus, this *hadith* clearly shows that the verse of 100 lashes only refers to unmarried people who have unlawful sexual relations. Hâfiz ibn Hajar has even recorded a consensus of all reputable scholars on the fact that the verse of 100 lashes refers only to non-*muhsans*, i.e. fornicators.⁸⁶

Another proof that the verse of 100 lashes refers only to un-married people who commit sexual intercourse is that there is a consensus of all the *Sahâba* on the fact that a *muhsan* who commits adultery will be stoned to death instead of being lashed, as mentioned above. Also, it is established through the highest levels of authenticity that Rasûlullah ﷺ himself gave the command to stone to death *muhsans* who committed adultery.

The *tafsir* (commentary) of the Qurân is an intricate science and a person has to gain mastery in many different branches of Islâmic knowledge before he becomes qualified to give commentary on the Qurân. It is not enough for a person to just know Arabic or pick up an English translation of the Qurân. Rasûlullah ﷺ issued a very severe warning in this regard. He said, "Whoever commentates on the Qurân based on his opinion should prepare his abode in Hell."⁸⁷ Another narration states, "He who commentates on the Qurân without knowledge should prepare his abode in Hell."⁸⁸ This *hadith* refers to a person who gives a commentary

⁸⁵ Sahih Muslim (#4414)

⁸⁶ Fath Al-Bâri (vol. 12, pg. 157)

⁸⁷ Imâm Tirmidhi says that this is a hasan *hadith* (#2951)

⁸⁸ Tirmidhi (#2950)

which has no basis in Islâmic law and which is not in accordance to the science of *tafsir*. Therefore, those people who have interpreted the verse of 100 lashes as referring to both unmarried people and *muhsans* who commit unlawful sexual intercourse should seriously reconsider their view because this interpretation is in conflict with Rasûlullah's ρ own interpretation and the consensus of the entire *Ummah*.

It is also incorrect to say that this is a situation where the *ahâdith* have contradicted the Qurân and we should take only that which is in the Qurân, i.e. 100 lashes is the punishment for people who commit unlawful sexual intercourse (including *muhsans* according to the proponents of this opinion) because the Qurân is the final authority in Islâmic law. Firstly, as we have mentioned above, stoning is proven through the Qurân. Secondly, the fact of the matter is that there is no contradiction between this verse and the *ahâdith* of Rasûlullah ρ because they both apply to different situations. The verse is correct because it applies to one case (un-married persons) and the *ahâdith* of stoning are also correct because they apply to another (*muhsans*). Therefore, there are no grounds for rejecting stoning to death on the basis that it contradicts the Qurân.

Objection # 3 - The ruling for stoning was abrogated by the verse of 100 lashes

There are some other people who claim that all the incidents of stoning occurred before the verse of *Surah Nûr* which contains the command of 100 lashes for fornicators was revealed, meaning that all the *ahâdith* of stoning have been abrogated by this verse. Their proof is a narration in which Abu Ishâq Ash-Shaybani asked Abdullah ibn Abi Awfâ ψ , "Did Rasûlullah ρ stone to death?" Abdullah ψ replied, "Yes." Then Abu Ishâq asked him, "Was that before *Surah Nûr* (which contains the verse of 100 lashes) was revealed or after?" Abdullah ψ said, "I do not know."⁸⁹ However, this hadith does not prove that the incidents of stoning occurred before the verse of 100 lashes was revealed. All that it establishes is that Abdullah ibn Abi Awfâ ψ did not know when the incidents of stoning occurred.

The strongest proof that the ruling of stoning was not abrogated is that Abu Bakr ψ , U'mar ψ , and the other rightly-guided Caliphs ψ continued to stone to death *muhsans* who committed adultery after the demise of Rasûlullah ρ in the presence of all the *Sahâba* ψ . One of our fundamental beliefs is that Allah was pleased with the *Sahâba* ψ and made them role-models for us to follow. They were also more knowledgeable than us with regards to the injunctions of Islâm and they knew better than us as to which laws were abrogated. However, a person who holds the view that the command for stoning was abrogated is in effect saying that the rightly-guided Caliphs ψ and all the *Sahâba* ψ were in error and that they stoned people to death in violation of Islâmic law.

⁸⁹ Sahih Bukhâri (#6813)

We can say with certainty that all the incidents of stoning or the majority of them occurred after the verse of 100 lashes was revealed. *Surah Nûr* was revealed in response to the accusation which was leveled against Aishah ؓ which took place immediately after the Battle of Banu Mustaliq. The scholars have differed with regard to the date in which this battle took place. Some say it was 3 A.H., others say that it was 5 A.H., and yet others hold the view that it took place in 6 A.H. Musa ibn Uqbah - one of the most knowledgeable scholars regarding wars and battles - says that this battle took place in 5 A.H., shortly before the Battle of *Ahzâb* (confederates). Hâfiz ibn Hajar has also given preference to this view and supported it with many proofs.⁹⁰ Allâmah A'yni has also said this view is correct and that this is also the view of Wâqidy⁹¹, the famous scholar of Islâmic history.

Thus, the most correct view is that *Surah Nûr* was revealed in 5 A.H., and at the very latest in 6 A.H. All the incidents of stoning occurred after this year, and there are many proofs to substantiate this;

1. We know that the first incident of stoning which occurred was that of the two Jews because Abu Hurayrah ؓ is reported to have said, "The first person who Rasûlullah ﷺ stoned was a Jew."⁹² Similarly, Rasûlullah ﷺ also said after stoning these two Jews, "O Allah, I am the first to revive your command [to stone] after they [the Jews] discarded it."⁹³ Ibn Abbâs ؓ said after relating the incident of the two Jews, "Allah had

⁹⁰ Fathul Bâri (vol. 7, pg. 430)

⁹¹ U'mdatul Qâri (vol. 17, pg. 200-1)

⁹² Musannaf Abdur Razzâq (vol. 7, pg. 316)

⁹³ Sahih Muslim (# 4440)

destined and willed that these two Jews commit adultery so Rasûlullah ρ could bring this command of Allah into effect."⁹⁴

Hâfiz ibn Hajar has established that this incident occurred after the conquest of Makkah in 8 A.H. based on the fact that Abdullah ibn Al-Hârith ibn Al-Jaza ψ was present when the incident of the two Jews took place and that he ψ said afterwards, "I was among those people who stoned them both."⁹⁵ Abdullah ibn Al-Hârith ψ only came to Madina as a Muslim with his father after the conquest of Makkah in 8 A.H.

Another proof that the incident of stoning the two Jews occurred after 8 A.H. is that Abu Hurayrah ψ was with Rasûlullah ρ when the Jews came to ask Rasûlullah to judge between them. Abu Hurayrah ψ himself says, "I was sitting in the company of Rasûlullah ρ when a Jew came to him,"⁹⁶ and it is an established fact that Abu Hurayrah ψ accepted Islam in 7 A.H. Therefore, the stoning of these two Jews definitely occurred after 7 A.H.

Yet another indication that the stoning of the two Jews took place after *Surah Nûr* was revealed is that the two adulterers were from the city of Fadak, and the people of Khaybar were the ones who presented this case to Rasûlullah ρ to resolve, as mentioned above. It is obvious that they would only have come to ask Rasûlullah ρ to judge between them after Khaybar came under Muslim rule in 7 A.H. Allâmah A'yni has said that Imâm Bukhâri holds the view that these Jews

⁹⁴ Musnad Ahmad (vol. 1, pg. 261)

⁹⁵ Majmau'z Zawâid (vol. 6, pg. 271)

⁹⁶ Tafsir Ibn Jarir (Surah Mâidah, verse 35)

were *Ahl Ad-Dhimmah*⁹⁷ (People of the Book and other disbelievers who are treated as people of the book, all of whom are granted permission to live in a Muslim state), which proves that Khaybar was in fact under Muslim rule at that time.

The Jews from Khaybar wrote to their relatives in Medina saying, "If Mohammed tells you to lash the perpetrators, then accept what he says. [However], if he tells you to stone them, then do not accept what he says." This proves that 100 lashes already was known as the punishment for fornication in Islâmic law at that time, and the punishment of 100 lashes could only have been derived from the verse of *Surah Nûr* because the punishment for fornication prior to that had been confinement. Therefore, we can clearly see that this incident could only have taken place after *Surah Nûr* was revealed.

Lastly, the verses of *Surah Mâidah* which we had cited above⁹⁸ were revealed in connection to the incident of the two Jews, and *Surah Mâidah* was among the last *Surahs* of the Qurân to be revealed. Hamzah ibn Habîb and Atiyyah ibn Qays ψ report that Rasûlullah ρ said, "*Surah Mâidah* is one of the last parts of the Qurân to be revealed, so consider that which has been described as being lawful therein as lawful and consider that which has been described as being unlawful therein as unlawful."⁹⁹

⁹⁷ U'mdatul Qâri (vol. 24, pg. 16-17)

⁹⁸ "But how is it that they [the Jews] come to you for judgment while they have the Torah, in which is the judgment of Allah? Then, they turn away [even after that]; but those are not [in fact] believers. Indeed, we sent down the Torah in which was guidance and light."
(5: 43)

⁹⁹ Durru Al-Manthûr (vol. 3, pg. 2)

The scholars of *tafsir* have stated that one part of *Surah Mâidah* was revealed in Al-Hudaybiyyah (a place near Makkah), another part was revealed during the conquest of Makkah, and yet another part was revealed during *Hajjatul Wida'* (the hajj which Rasûlullah ﷺ performed shortly before passing away).¹⁰⁰ The earliest which *Surah Mâidah* could have been revealed is during the truce of Al-Hudaybiyyah which took place in 6 A.H. Therefore, the earliest date in which the verses which make a reference to stoning could have been revealed is 6 A.H., and the verse of 100 lashes in *Surah Nûr* was definitely revealed before this because *Surah Nûr* was revealed before the truce of Al-Hudaybiyyah.

Some people have raised an objection that the fact that the two Jews were stoned proves that there were Jews living in Madina at that time, whereas there were no Jews left in Madina after 5 A.H. The tribe of Banu Nadhir was exiled from Madina in 2 A.H. and the tribe of Banu Qurayza was killed in 5 A.H. Therefore, they claim that the incident of the two Jews must have taken place before 5 A.H. and before the revelation of *Surah Nûr*.

However, this reasoning is incorrect. Firstly, all this proves is that the incident of the two Jews took place after the tribe of Banu Qurayza was killed. It does not prove in any way that this incident took place before *Surah Nûr* was revealed because the execution of Banu Qurayza took place immediately after the battle of *Ahzâb* (confederates). We have already mentioned above that according to Musâ ibn Uqbah, *Surah Nûr* was revealed immediately after the battle of Banu Mustaliq and this was before the battle of *Ahzâb*.

¹⁰⁰ Tafsir Qurtubi (vol. 6, pg. 30)

Thus, this does negate the fact that there were Jews living in Madina after the revelation of *Surah Nûr*.

Secondly, the Jews were not completely wiped out from Madina after the execution of the tribe of Banu Qurayza and some Jews still remained in Madina. One proof for this is the hadith of *Sahih Bukhâri* which states that the shield of Rasûlullah ﷺ was being held as a pawn by a Jew at the time of Rasûlullah's ﷺ death.

Allâmah Samhudi - the great historian who wrote the most valuable book on the history of Madina - says that the remaining groups of Jews in Madina were exiled after the tribe of Banu Qurayza was killed. He says further in his book that the remaining Jews were only banished from Madina in 7 A.H. and the house of Al-Midrâs was still in existence up till this time.¹⁰¹ He says in another place that the Jews of the tribe of Banu Ghussah continued to live in the mountain pass of Banu Harâm until U'mar ﷺ made them move to a place near *Masjid Al-Fath*.¹⁰² Once it is established that the stoning of the two Jews was the first incident of stoning and that it took place after 7 A.H., then this means that all the incidents of stoning took place after the verse of 100 lashes in *Surah Nûr* were revealed. Therefore, it is not possible for the command of stoning to be abrogated by the verse of 100 lashes in *Surah Nûr*.

2. There seems to be no authentic narration indicating when Mâiz ﷺ was stoned. However, we have already proven above that the stoning of the two Jews took place before the stoning of Mâiz ﷺ, so the stoning of

¹⁰¹ Wafâ Al-Wafâ (vol. 1, pg. 309-10)

¹⁰² Wafâ Al-Wafâ (vol. 1, pg. 163)

Mâiz ψ must have definitely been after 7 A.H. and after the revelation of *Surah Nûr*.

3. It is proven through authentic narrations that the stoning of the woman from the tribe of Ghâmid took place after the revelation of *Surah Nûr*. There is a hadith in *Sahih Muslim* on the authority of Buraydah ψ who says that Khâlid ibn Walid ψ was among the people who stoned this woman, and Khâlid ψ only came to Madina as a Muslim in 8 A.H. He himself says, "We arrived in Madina [to meet] Rasûlullah ρ in the first day of the month of Safar in 8 A.H."¹⁰³

Many scholars of hadith hold the view that the stoning of the woman of Ghâmid actually took place in 9 A.H.¹⁰⁴

4. There are also many proofs which establish that the incident of the servant committing fornication took place after *Surah Nûr* was revealed. Firstly, the father of this young man said to Rasûlullah ρ , "This son of mine was a servant for this person. He fornicated with the wife of the man for whom he worked, and I paid him 100 goats and a slave as a recompense for what my son had done. I then asked some scholars, and they told me that my son's punishment was to be lashed 100 times and exiled for one year."¹⁰⁵ This clearly shows that the punishment of 100 lashes had already become a part of Islâmic law at that time. This also proves that the verse of 100 lashes had to have been revealed before this incident because the command for 100 lashes could only have been derived

¹⁰³ Tabaqât ibn Sa'd (vol 4, pg. 190)

¹⁰⁴ See *As-Sirah Al-Halbiyah* (vol. 3, pg. 502) and *Awjaz Al-Masâlik* (vol. 6, pg. 13)

¹⁰⁵ *Sahih Bukhâri* (#6827-8)

from the verse of *Surah Nûr*. This verdict issued by some of the *Sahâba* ψ regarding the punishment of this young man is one of the strongest proofs that this incident took place after *Surah Nûr* was revealed.

Secondly, Abu Hurayrah ψ was present at the time this incident took place. Imâm Bukhârî has included a narration in his book in which Abu Hurayrah ψ said, "We were sitting in the company of Rasûlullah ρ when a man stood up. . ." Abu Hurayrah ψ only accepted Islam in 7 A.H., which means that this incident must have occurred after that. Therefore, we can say with certainty that all the incidents of stoning took place after *Surah Nûr* was revealed.

The command of stoning a *muhsan* who commits adultery is not just proven through these incidents of stoning, but there are also many statements regarding stoning which the Prophet ρ made after the verse of 100 lashes was revealed. Rasûlullah ρ said, "The child is for the man in whose wedlock or property the mother is and a person who commits unlawful sexual intercourse will be stoned," during the sermon of *Hajjatul Widâa'* (the farewell *Hajj*) which was long after the revelation of *Surah Nûr*.

The claim that stoning to death has been abrogated has not been narrated from any of the *Sahâba* ψ and it is not possible to establish that a law has been abrogated without citing a proof which is recognized in Islâmic law. Therefore, the view that stoning was abrogated is baseless.¹⁰⁶

¹⁰⁶ This chapter has been adapted from Takmilah Fath Al-Mulhim (vol. 2, pg. 424-429)

Objection #4 - There is discrepancy in the *ahâdith* of stoning

We have already quoted a brief summary of the *ahâdith* which prove that stoning to death is established in Islâm and we have established that the common subject matter mentioned in these *ahâdith*, i.e. a *muhsan* who commits adultery will be stoned to death, has reached the level of *tawâtur*. Due to the fact that there were many incidents of stoning and there were many *Sahâba* who narrated these incidents, there are slight variations found in these *ahâdith*. However, it is not correct to completely reject stoning to death because of these slight variations. These variations are a natural result of one incident or one statement being narrated by many people. This is something which we witness time and again in our daily lives and we accept it without giving it a second thought. For example, if some people witnessed a car accident, then there will be a slight variation in the different accounts of the incident depending on the eyewitness's location and view. However, this variation is only regarding the details of how the accident took place; there is no dispute on the fact that the accident occurred. No one can say that the accident did not take place based on the discrepancy in the different narrations of this incident.

The variation in narrations is not something which is unique only to the *ahâdith* of stoning to death. Rather, there are also slight variations in the *ahâdith* which establish other tenets of Islâm. For example, there are various methods of reciting the *adhân* (call to prayer) and performing the *salâh* described in the *ahâdith*. All Muslims accept these slight variations in the method of *adhân* and *salâh* and the followers of

the different *madhabs* (schools of jurisprudence) have based their practice on these various narrations. However, no one says that *salâh* or *adhân* is not established based on these variations. Similarly, there are absolutely no grounds for rejecting the common subject matter of stoning to death mentioned in the *ahâdith* just because of these slight variations.

Objection # 5 – Stoning is irrational and barbaric

a. The role of intelligence in Islâm

To object that stoning to death is barbaric goes against the very spirit of Islâm and it originates from a person judging the commands of Allah based on his/her emotion and intellect. There is great danger in a person adopting such a stance because it will eventually lead a person to reject a command of Allah and thus leave the fold of Islâm. Therefore, it is of vital importance that we first understand the position of intelligence in Islâm, the manner in which this intelligence should be used and the limits of this intelligence.

Mufti Sayed Jalil writes in this regard, "Kept within its limits, man's intellect is a great bounty from Allah. The point to bear in mind is that the Being Who created this intelligence has also informed us about the way to use it and about its limits. We will therefore utilize this intelligence in conformance with the instruction of our Rabb (Lord) and apply it only to matters for which Islâmic law permits us to use it. We will be guilty of transgression and ignorance if we have to apply our intelligence to matters other than these and if we reject matters of Islâmic law because we are unable to understand them.

It is common knowledge that when a government is unanimously instated, any law that it passes will have to be accepted even though some people do not understand it. Therefore, if a government passes a law and some 'intellectuals' object that they do not see the sense in the law, everyone will regard them as fools and they will be disgraced. This is so because it will constitute a crime to oppose a law of any government and object to it after accepting its authority. Therefore, **how can anyone object to the laws of Allah after accepting Allah as the Lord of the universe and Rasûlullah ρ as Allah's true Messenger?**

It often occurs in everyday practice that people have to ignore what their intelligence says. When a person falls ill, he immediately thinks of consulting a doctor or specialist. After examination and diagnosis, medication is prescribed. People do not question the doctor's prescription, asking why a certain medicine was prescribed instead of another. No patient tells the doctor that the prescription does not make sense to him and that a sweet medicine should be prescribed instead of a bitter one. Even educated intellectuals shelve their intelligence at this juncture and rely on the intellect of the doctor.

Such should be one's approach to the injunctions of Islâmic law. The intelligence should only be utilized as far as Islâmic law permits. Thereafter, the laws of Allah and his Rasûl ρ should be accepted without objection. It is regrettable that today we have people who are reluctant to accept the laws set by Allah in the same manner which [they are willing to accept the diagnosis of an expert doctor]."¹⁰⁷

¹⁰⁷ The role of intelligence in Islaam (pg. 15, 18-19)

b. The example of the *Sahâba* ψ

The *Sahâba* ψ are our role models and they have practically demonstrated to what extent we should use our intelligence for understanding the injunctions of Islâm. It is an accepted fact that Abû Bakr ψ holds the greatest virtues and honor after the Prophets υ and one main reason for his attaining this rank was his unshakeable conviction in the truthfulness of the statements of Allah and His Prophet ρ, irrespective of whether they conformed to his logic or not. Aishah ψ narrates that when Rasûlullah ρ was taken by night to Masjid Al-Aqsâ (in Jerusalem), people began to discuss this occurrence in the morning. As a result of this some people who had previously brought faith on Rasûlullah ρ renounced Islâm. A group of polytheists went to Abû Bakr ψ and said, 'Don't you want to know about your companion (Rasûlullah ρ)? He claims that he was taken on a journey last night to Masjid Al-Aqsâ and that he came back before morning.' Abû Bakr ψ replied, 'I declare him to be truthful in that which is even more difficult to believe; I bring faith that he receives revelation from the sky in the morning and evening.' For this reason, Abû Bakr began to be called as '*As-Siddiq*' (one who greatly verifies the truth)."¹⁰⁸

A person who questions the validity of stoning to death in Islâm probably would have been from the group that renounced Islâm after hearing that Rasûlullah ρ made such a journey that defied logic. Similarly, he would probably also have been from those that renounced Islâm after hearing that the *Qibla* (direction of worship) changed from Masjid Al-Aqsâ in Jerusalem to the Ka'ba in Makkah and from those who questioned

¹⁰⁸ Al-Hâkim (vol. 3, pg. 62, 76)

Nabi's ﷺ authority when he gave preference to some people over others during the distribution of the spoils of war.

This was a great test of the faith of Abū Bakr ᷺. In this modern era of airplanes, spaceships and jets, it is very easy for us to believe that such a journey took place. However, we can imagine how difficult it must have been for people 1400 years ago to believe in such an occurrence! The journey from Madina to Jerusalem at that time must have taken at least 2 weeks by camel, and logically, it seemed impossible for someone to cover that distance in one night. Yet Abū Bakr ᷺ knew that whatever Rasūlullah ﷺ said is true and he had conviction on the power of Allah.

One of the outstanding qualities of the *Sahāba* is that they would say, "We have heard and obeyed," whenever they received instruction from either Allah or Rasūlullah ﷺ, irrespective of whether they understood its rationale and whether it appealed to them. They were ready to carry out the command of Allah without any questions asked. We too should take lesson from them and adopt the same approach as Abū Bakr ᷺ and the *Sahāba* ᷺ with regard to the laws of Islām.

"Therefore, the safest thing for us to do is to accept stoning to death because it is the command of Allah; regardless of whether it seems logical or not. The underlying factor is that Allah is the Creator and Sustainer of the universe. Indeed, He created the human being from dust, granted him limbs and an intellect, and sent him into this world. He has given life and He will take life. Likewise, as the absolute Creator, He has the full authority to dictate when a life should be taken. Thus, Ibrahim ᷺ was ready to take the life of his son without any question. Similarly, on

the command of Allah, the life of one who committed murder or adultery will be taken. It is entirely the prerogative of our Creator. One who believes that Allah is *Al-Hakim* (the All-Wise) will realize that the command of stoning is full of wisdom, whether he understands the wisdom or not."¹⁰⁹

c. Western criticism of stoning to death

It is very hypocritical for the west to criticize the Islâmic punishment of stoning to death as being cruel, inhumane and uncivilized. They have the audacity to criticize Muslim law while they themselves have legalized the murder of millions of children through abortion under the banner of 'free-choice.' Yes, abortion is nothing less than murder because medical experts are convinced that life exists in the fetus and even the embryo. It is also an established fact that these abortions take place without justification and without an excuse which is recognized in Islâm. The fear of not being able to provide for the child, the fact that a child is born to parents out of wedlock, or that 'now is not the time' are not valid excuses for killing an innocent human being. The punishment of a few adulterers in Muslim countries is insignificant and stands pale in comparison to this mass murder which is taking place daily in the western world. They allow this to take place without any hue or cry but when Muslims wish to punish someone who has committed a crime against society according to their religious law, then there is a great uproar. Petitions are signed, appeals are made, the media targets Islâm and everyone jumps up in protest. Is this what the west

¹⁰⁹ Adapted from a pamphlet written by the Jamiatal Ulema, Kwazulu Natal

calls 'justice' and 'fairness'? Clean up your own act first before you start criticizing others.¹¹⁰

Chapter 5 –Is stoning to death justified?

a. The harms of adultery¹¹¹

To understand the reasoning for implementing such a severe punishment like stoning to death, one first needs to understand the devastating effects of the crime for which stoning to death has been prescribed as a punishment. Adultery is a heinous crime which not only destroys the lives of the parties involved but also the lives of the people around them. The widespread occurrence of adultery is a direct cause for the economic, social, physical and spiritual destruction of society.

1. Economic harms of adultery

Adultery increases the incidence of poverty in society because it leads to children being born out of wedlock and raised by single parents. "By 1990,¹¹² the number

¹¹⁰ I would like to thank Advocate Muhammad Abdullah Vahed for sharing this point with me.

¹¹¹ We have titled this section 'the harms of adultery,' but fornication is also indirectly implied because both refer to sexual relations which take place outside marriage without assuming the responsibilities which are attached to it. There is only a slight technical difference between the two. Fornication generally refers to when un-married people have sexual relations and adultery generally refers to when married people have extra-marital sexual relations.

¹¹²Note: While discussing the harms of adultery, we have generally cited the data of the United States as a sample of a western country. However, the data of other western countries may vary.

[of single parent families] had more than doubled to 9.7 million. For the first time in history, children are more likely to reside in a single-parent family for reasons other than the death of a parent. One in four children are born to an unmarried mother, many of whom are teenagers. . . . Ninety percent of single-parent families are headed by females. Not surprisingly, single mothers with dependent children have the highest rate of poverty across all demographic groups (Olson & Banyard, 1993). Approximately 60 percent of U.S. children living in mother-only families are impoverished, compared with only 11 percent of two-parent families. The rate of poverty is even higher in African-American single-parent families, in which two out of every three children are poor." ¹¹³

2. Social harms of adultery

Adultery greatly contributes to the moral deterioration of society because it is a cause for the break-up of the family structure and for children growing up without a parent. The situation in America has deteriorated to such an extent that Census Bureau projections indicate that at least half of all American children will spend part of their growing years in a single-parent family.¹¹⁴ Both a mother's love and a father's authority are needed to properly bring up a child, teach him manners, educate him and inculcate in him the values needed to make him a constructive member of society. Naturally, a child brought up by a single parent will be lacking in many aspects of child development.

¹¹³Single-parent Families in Poverty, Jacqueline Kirby, M.S., The Ohio State University

¹¹⁴Arthur J. Norton and Paul C. Glick, "One-Parent Families: A Social and Economic Profile," *Family Relations*, XXXVI (January 1986), 9-18.

Jacqueline Kirby writes, "Past research has indicated that children from single-parent families are more likely to experience less healthy lives, on the average, than children from intact families. For instance, children growing up with only one parent are more likely to drop out of school, bear children out of wedlock, and have trouble keeping jobs as young adults. Other consequences include risks to psychological development, social behavior, and sex-role identification."¹¹⁵

Crime also increases in a society where adultery is rife. Barbara Dafoe Whitehead writes, "The relationship [between single-parent families and crime] is so strong that controlling for family configuration erases the relationship between race and crime and between low income and crime. This conclusion shows up time and again in the literature. The nation's mayors, as well as police officers, social workers, probation officers, and court officials, consistently point to family break up as the most important source of rising rates of crime."¹¹⁶ "If a single-parent family is in a neighborhood with a large number of other single-parent families, the odds of the young man becoming involved in crime are tripled."¹¹⁷

¹¹⁵ Single-parent Families in Poverty, Jacqueline Kirby, M.S., The Ohio State University

¹¹⁶ Barbara Dafoe Whitehead, "Dan Quayle Was Right, Atlantic Monthly, April 1993.

¹¹⁷ These findings are based on a study conducted for the Department of Health and Human Services by M. Anne Hill and June O'Neil of Baruch College. The study carefully held constant all socioeconomic variables (such as income, parental education, or urban settings) other than single parenthood (Fatherlessness & Crime, by Dave Kopel).

Children from single-parent families are more likely to become involved in criminal activity. "According to one study, children raised in single-parent families are one-third more likely to exhibit anti-social behavior."¹¹⁸ O'Neill found that, holding other variables constant, black children from single-parent households are twice as likely to commit crimes as black children from a family where the father is present¹¹⁹ Research indicates a direct correlation between crime rates and the number of single-parent families in a neighborhood.¹²⁰ "There is also a second association between illegitimacy and crime: unwed fathers are more likely to commit crimes than are married fathers."¹²¹

It is also an established fact that most of the people in the prison system came from single parent homes. Dave Kopel writes that 43% of prison inmates come from fatherless homes.¹²² According to the U.S. Department of Health and Human Services, 70 percent

¹¹⁸ Deborah Dawson, MD, "Family Structure and Children's Health and Well-Being: Data From the 1988 Interview Survey on Child Health," paper presented at the Annual Meeting of the Population Association of America, May 1990.

¹¹⁹ William Barr, "Crime, Poverty, and Family," Heritage Foundation Lectures, July 29, 1992, citing statistics from the Bureau of Justice Statistics.

¹²⁰ See, for example, Douglas Smith and G. Roger Jarjoura, "Social structure and Criminal Victimization," *Journal of Research in Crime and Delinquency*, February 1988; William Niskanen, "Crime, Police, and Root Causes," *Cato Institute Policy Analysis* no. 218, November 14, 1994.

¹²¹ *Fatherlessness & Crime*, by Dave Kopel

¹²² William Barr, "Crime, Poverty, and Family," Heritage Foundation Lectures, July 29, 1992, citing statistics from the Bureau of Justice Statistics.

of all juveniles in long-term correctional facilities did not live with their fathers while growing up. In fact, a case study in Wisconsin revealed that nearly 88 percent of juvenile delinquents in state custody came from broken homes. A 1996 survey relating to the family background of jail inmates revealed that 60.3 percent grew up in broken homes. (Bureau of Justice Statistics Special Report, "Profile of Jail Inmates 1996," 1998). "Most gang members, 60 percent of rapists, and 75 percent of teenage homicide perpetrators come from single-parent homes."¹²³

Prostitution also will thrive in a society which does not take a hard stance towards adultery and bring with it all its associated evils. "The National Task Force on Prostitution suggests that over one million people in the US have worked as prostitutes . . . or about 1% of American women."¹²⁴ "Average arrest, court and incarceration costs amount to nearly \$ 2,000.00 per arrest. Cities spend an average of 7.5 million dollars on prostitution control every year, ranging from 1 million dollars (Memphis) to 23 million dollars (New York)."¹²⁵ There are about 100,000 arrests made each year¹²⁶, meaning that the total costs of prostitution

¹²³ Fatherlessness & Crime, by Dave Kopel

¹²⁴ Priscilla Alexander, Prostitution: A Difficult Issue For Feminists, (in Frederique Delacoste and Priscilla Alexander, Sex Work: Writings by Women in the Sex Industry, San Francisco: Cleis Press, 1987.)

¹²⁵ Julie Pearl, The Highest Paying Customers: Americas Cities and The Cost of Prostitution Control. (Hastings Law Journal, April 1987. pp 769-800)

¹²⁶ Priscilla Alexander, Prostitution: A Difficult Issue For Feminists, (in Frederique Delacoste and Priscilla Alexander, Sex Work: Writings by Women in the Sex Industry, San Francisco: Cleis Press, 1987.)

control in the whole U.S. is about 2 billion dollars. Prostitution is often the gateway crime for women (Chesney-Lind, 1997). It has been reported that 70% of female inmates in American prisons were initially arrested for prostitution (Boyer & James, 1983, p. 131). Currently one in three women in jails today were arrested for prostitution; 7 in 10 women imprisoned for felonies were initially arrested for prostitution (Flowers, 1998, p.8).

3. Adverse effects on health

Rasûlullah ﷺ already informed us over 1400 years ago of the great harm which adultery presents to a society's health. He said, "Whenever unlawful sexual intercourse becomes widespread in a society - so much so that they start doing it in the open - plagues and various types of sicknesses will spread amongst them which weren't present in previous generations."¹²⁷ It is stated in another narration, "Whenever fornication will start becoming dominant in a society, death will spread."¹²⁸ We can see this prediction coming true in today's times as a result of the increased promiscuity and immorality of society; many sexually transmitted diseases have started spreading which were not heard of in the recent past. These diseases are causing devastating symptoms in those who are afflicted and for many of them there is no cure. "The estimated total number of people living in the US with an incurable STD is over 65 million. Every year, there are approximately 15 million new cases of STDs, a few of which are curable. STDs, other than HIV, cost more than \$8 billion each year to diagnose and treat, both the disease and their

¹²⁷ Al-Hâkim has said this is a sahih hadith (vol. 4, pg. 540)

¹²⁸ Fath Al-Bâri (vol. 10, pg. 193)

complications."¹²⁹ We will now briefly discuss some of the major sexually transmitted diseases.

Aids is the most serious of these sexually transmitted diseases since it is fatal and there is no cure for it. "Each year, almost 5 million people are infected worldwide and Aids is the cause for about 3 million people dying each year. Almost 22 million people have died already from Aids. Almost 7 million children become orphans each year because of Aids."¹³⁰ The spread of Aids is also placing a great burden on health care to provide medication and treatment for afflicted patients. "According to a study released at the 14th Annual International AIDS Conference in 2002, the US spends an average of \$34,000 per year on each sick AIDS patient, while treating a well, or early stage, patient averages around \$14,000. Based on these figures, if a patient receives treatment for 15-20 years, the total lifetime costs will be upwards of \$200,000 per patient. Further, the epidemic is creating a huge crisis in the overall economy of some of these countries because people are becoming too ill to work, therefore the workforces in countries with very high rates of HIV/AIDS are becoming decimated."¹³¹

Another common sexually transmitted disease is herpes. "There are two forms of genital herpes — herpes simplex virus-1 and herpes simplex virus-2. Although herpes-1 is most often associated with cold

¹²⁹ Journal of the Family Research Institute, Founded 1982

130 UNAIDS (2003) AIDS epidemic update, December

UNAIDS (2002) AIDS epidemic update', December

UNAIDS (2002) 'Report on the global HIV/AIDS epidemic', July

¹³¹"HIV and Aids, Medical Economics of the Epidemic" from TIV, Education for health care professionals

sores and fever blisters, both forms of herpes may be sexually transmitted. In fact, most adults have herpes simplex virus (HSV), either type 1 or type 2, or both. During pregnancy, herpes may cause miscarriage or stillbirth. If active herpes infections are present during childbirth, newborn infants may suffer serious health damage, including developmental disabilities and, rarely, death. Transmission to a newborn is more common during the first episode of the herpes infection and less common during recurrent herpes outbreaks. More than 45 million Americans have been diagnosed with genital herpes. At least one million new cases are diagnosed every year. Like many other viruses, the HSV remains in the body for life. There is no cure for HSV, but its symptoms can be relieved and the number of recurrences reduced through medication.

There are more than 100 different human papilloma viruses (HPVs). They cause a variety of warts and other conditions and can remain in the system for life. Studies suggest that as many as three-quarters of adults in the U.S. have been infected with at least one type of HPV. Thirty of these HPVs are genital and affect sexual and reproductive organs. A few cause genital warts, but most genital HPV infections are not visible and have no symptoms. Some of these cause cancer of the cervix, vulva, or penis. Every year, more than five million Americans are newly infected with genital HPVs — about 20 million women and men are now infected. There is also no cure for HPV, but genital warts can be treated.

The pelvic inflammatory disease is a progressive infection that harms a woman's reproductive system. PID occurs throughout the pelvic area, in the fallopian tubes, the uterus, the lining of the uterus, and in the

ovaries. Treated or untreated, PID can lead to sterility, ectopic pregnancy, and chronic pain. The more episodes of PID a woman has, the greater are her chances of becoming infertile. "At least 15 percent of all infertile American women are infertile because of tubal damage caused by pelvic inflammatory disease (PID), the result of an untreated STD."¹³² PID is not always the result of a sexual transmitted infection — but in most cases it is. The sexually transmitted infections that most commonly cause PID are gonorrhea and chlamydia. More than 1,000,000 U.S. women have an acute episode of PID every year. It is believed that millions of other cases go undiscovered."¹³³

4. Spiritual harms

There are also great spiritual harms in committing adultery. Rasûlullah ﷺ says, When a person commits unlawful sexual intercourse, his *imân* (faith) leaves his body and hovers over him like a cloud. When he leaves this sin, then his *imân* returns to him."¹³⁴ Ibn Abbâs ؓ says that the act of fornication decreases the luster and glow of a person's *imân*.¹³⁵ The *imân* of a person is his most valuable possession and the key to success in the hereafter. The fact that a person's *imân* is separated from him while committing the act of fornication is enough to show the gravity of the situation and the seriousness of the matter.

Considering the severe repercussions which adultery has on society, Islâm has adopted a very severe stance towards this crime. Fornicators will be lashed

¹³² Journal of the Family Research Institute, Founded 1982

¹³³ Planned Parenthood

¹³⁴ Fath Al-Bâri (vol. 12, pg. 61)

¹³⁵ Sahîh Bukhâri (before hadith #6772)

100 times in public and *muhsans* will be stoned to death. The primary objective of implementing such severe punishments is to deter people from committing this crime and to protect society from its harmful effects. A person who examines stoning to death in this light will be forced to admit that this punishment is fully justified in this situation.

b. The Islâmic approach towards adultery

We have seen above that adultery is a great evil and there is a need to eradicate it from society. The philosophy of Islâm is to address the problem from its root. Firstly, it has adopted such measures which reduce the occurrence of unlawful sexual relations in a society. Allah says, "And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality and is evil as a way."¹³⁶ Allah has not only prohibited mankind from committing unlawful sexual intercourse, but He has commanded them to avoid all situations and acts which may lead to adultery. Similarly, women are commanded to completely cover themselves when they leave their houses in such a way that no part of the body and not even the shape of the body is exposed to strangers.

Thereafter, both men and women are told to lower their gazes from members of the opposite sex with whom marriage is possible, and intermingling between the sexes is severely condemned. Looking at strange women, reading pornography, watching pornographic movies, fantasizing, and all other means of arousing impermissible sexual desire are severely prohibited. Also, Islâm has encouraged marriage at a young age and has made it as easy as possible. If a person's

¹³⁶ (17:32)

sexual desire cannot be fulfilled by one wife, he is allowed – subject to certain conditions – to marry up to four wives. Thus, when all these aspects of Islâm are practically applied and people are conscious of Allah, the temptation to commit fornication and adultery no longer remains and it becomes very easy to avoid it. Under these circumstances, severe punishments may be inflicted on offenders because they have no excuse or justification for transgressing the Divine laws.¹³⁷

c. A comparison between the Islâmic and secular approach to adultery

There is a stark contrast between the Islâmic and secular approach for combating adultery. Western countries do not have an effective penal code, moral code, or preventative measures in place to curb the spread of adultery. In contrast to this, Islâm has instituted preventive measures as discussed above and established a strict penal code to prevent adultery from occurring. "The divine ordinance of *rajm* (stoning to death) is the only solution to the recent increase in the number of abductions, fornications, adultery, debauchery, and indiscriminate criminal and indecent sexual assaults on females. The measure seems to be the most severe but the evil is also the most heinous, creating chaos and disturbance in society. It has been established that leniency with criminals of this nature merely encourages their immoral pursuits. No measure short of an extreme penalty can stop these offenders. Light punishment displays indeed a very low standard of sexual moral sense of the people.

¹³⁷ Adapted from Crime and Punishment (158-9)

This also illustrates that the Prophet ﷺ possessed the greatest moral character in the world and he attached the utmost importance to morality. Let the critics of the Prophet's ﷺ character ponder now over this point in judging the true character of the Prophet ﷺ. The breach of the greatest trust which is imposed on a man or a woman, the breach which ruins families, destroys household peace, deprives innocent children of their loving mother, a beloved husband of his dear wife, is not looked upon as seriously as the breach of trust of a few rands . . .

Western law does not hold fornication or adultery by itself as a crime, it becomes a crime only when it is committed forcibly, i.e. rape. In contrast to this, Islâmic law looks upon fornication by itself as a crime, and regards rape or the act of encroachment on the rights of the husband or wife (adultery) as additional crimes. This basic difference between viewpoints of the two systems of law gives rise to the differences in the punishment of the offence. In the case of rape, the Western law rests content with the sentence of imprisonment only; in the case of adultery with a married woman it requires the adulterer to pay compensation to the husband. This punishment cannot act as a deterrent, it rather encourages the offenders. That is why fornication and adultery are on the increase in the countries where this law is in force. In contrast to this, the Islâmic law punishes fornication and adultery so severely that the society is automatically cleansed of this crime for a long time. This is why it has never become rampant in the countries where the Islâmic punishment for it is inflicted, since it so terrifies the whole nation that no one dares to commit it. In a way it performs psychological surgery on the minds of those having criminal tendencies, thus instinctively reforming them.

The Western nations abhor the infliction of a hundred lashes or stoning to death. This is not because they dislike the idea of physical torture. It is because their moral sense has not yet fully developed. At first, they regarded fornication and adultery as something indecent; now they look upon it as fun, as a pastime which amuses two persons for a little while. Therefore, they want the law to tolerate this act, and not regard it seriously. Obviously, a person who harbors such thoughts would regard a hundred lashes or stoning to death as harsh, but if his rational faculties had developed, he would realize that fornication, whether it is committed voluntarily or forcefully, is in each case a social crime that affects the entire society. This will naturally make him modify his view about punishment, so that the society is saved from the hazards of these evils. He would have to admit that it is better to subject one or a few persons to severe physical torture for the salvation of multitudes of people from countless moral and sociological evils than to inflict light punishment on criminals and so jeopardize the well-being of not only the society but also of future generations.

The Western civilization, as a result of the urge of favoring the individual against the society, has been built on an exaggerated notion of the rights of the individual. Therefore, even if an individual harms the society to his heart's content, the Westerners do not feel ill, they rather put up with it willingly, in most cases. But when the individual is proceeded against with a view to protect the rights of society, they shudder with horror and all their sympathies go with

the individual against society.¹³⁸ Moreover, they also have the special characteristic of regarding feelings as more important than reason. Therefore, when they see the individual, as a particular case, being severely dealt with, they feel outraged at the sight of his sufferings. But, they do not seem to comprehend the far-reaching consequences of the damage that is caused to society and the future generations.

Evil men of the modern era contend that if two members of the society come together to enjoy each other for a little while, society is not harmed. Why should it then interfere with their affair? Of course, society has every right to interfere if one party commits violence or fraud against the other, or becomes a nuisance to the community. But when there is no such apprehension and the matter is confined only to the seeking of pleasure between two persons, society should have no jurisdiction over them. For if the private affair of individuals be meddled with in this manner, personal freedom will be reduced to nullity.

This concept of personal freedom is one of the absurdities of Western intellect. The social chain in which mankind is bound has not left any individual free from its hold in whatever he does or wherever he is. Whether behind closed doors, or within the protection of walls, he is inextricably linked with society as in the company of others. Therefore, when he is busy squandering his sexual energy aimlessly for temporary pleasure in a secret place, he is in fact sowing the seeds of anarchy and disruption in society and

¹³⁸ Adultery is so rife in society nowadays that most of their beloved ones are guilty of it, so they would shudder to think of their loved ones being punished in the same way.

harming it morally, materially, and socially. In his selfishness, he is striking at the root of all those social institutions by which he benefited as a member of society, but refused to support their maintenance and survival. When this dishonest person used his sexual energy without any intention of procreating, he in fact, in his personal way, struck a blow at the root of this system. He broke the contract by which he was bound as a human being; and he tried to shift the burden of this responsibility on to the shoulder of others. He is no asset, but in fact a cheat and a thief. To allow him any concession is to commit a crime against humanity.

In societies other than Islâm, fornicators and adulterers are not punished at all for their willful disrespect for chastity. This indeed inflames the passions of young men who disregard the value of sexual morality. The most precious jewel of chastity in a women's crown of virtue can be compensated for a few coins. Until and unless every government implements the Islâmic code of [punishment], there will never be a decrease in fornication, kidnapping, and adultery."¹³⁹

d. Stoning to death is a mercy for mankind

Muslims believe in Allah as their creator and thus they concede that the being that created them will know better as to what is beneficial for mankind. This should be our same perspective regarding the divine punishment of stoning to death. Allah has prescribed the punishment of stoning to death for the betterment of society and to discourage people from fulfilling their sexual desires like animals. "Fornication is something which every intelligent person considers to be evil, and

¹³⁹ Morality in Islâm (pg. 162-165)

whoever commits fornication only considers it to be good because it is in accordance to his desires, i.e. it is his desires which are the motivating factor in his committing this evil, not his intelligence. A person who commits fornication is like an animal that fulfills its sexual desire with another animal. Therefore, Allah has enacted a deterrent from the act of fornication to ensure that man completely abstains from this evil and that his intelligence - which makes him a human being and distinguishes him from animals - remains with him.

In reality, the establishment, knowledge, and implementation of this deterrent is a mercy for mankind. The reason for its establishment being a mercy is that if it were not established as a deterrent, then people who follow their desires would live their life behaving like animals. They would be deprived of the high qualities which humans possess, their intelligence would be rendered useless, and the lantern of light which is in their heart (for accepting guidance and good) would be extinguished.

Whoever comes to know of the punishment which Allah has stipulated for fornication will ponder over the consequences of his actions and will desist, thus making him worthy of praise because he is using his intelligence and doing good. The implementation of this deterrent is also a mercy because the pain of the 100 lashes will make him think twice before he repeats this evil deed. If the person is to be stoned to death, then verily he has shown his submission for the truth and he will be purified from the filth of his deed. Similarly, this will serve as a great deterrent and warning to others because whoever realizes that

stoning to death is the consequence for fulfilling his sexual desire will definitely desist.¹⁴⁰

The reason for taking the life of a person as a punishment for adultery is that this evil act of adultery is in reality the cause for people dying and generations being destroyed. This is because the adulterer is depositing his sperm in a woman without any intention of procreation. If the woman does not become pregnant, then he has wasted his sperm. If she does become pregnant, then he is the cause for the neglect of that child and for its dying in a figurative sense (by growing up without a father). It is for this reason that the life of the perpetrator of this evil deed is taken."¹⁴¹

e. An adulterer deserves a severe punishment

The perspective of Islâmic law is that the punishment of stoning be meted out as seldom as possible, but when it is applied, it should be a means of deterring people and admonishing them to avoid sin. The severity of the punishment should overcome any possible pleasure to be derived from the sin in the mind of any potential perpetrator. Firstly, in order to protect chastity and morality, Islâm has stipulated such rules and regulations which make it extremely difficult for fornication to take place.

Thereafter, the conditions to establish that adultery took place in such a way that stoning becomes binding

¹⁴⁰ We deem it appropriate here to quote what the Bible has to say on the objective of stoning to death. It is stated in Deuteronomy 21, verse ²¹ "And all the men of his city shall stone him with stones, that he die: so shalt thou put evil away from among you; and all Israel shall hear, and fear."

¹⁴¹ Mahâsin Al-Islâm (pg. 60)

are extremely difficult to fulfill. There is a general principle in Islâmic law that a divine punishment will not be applied with the presence of even the smallest doubt. Thus, great effort is made to avoid prescribing the punishment if there is scope to do so and no room is left for error. The spirit of Islâmic law shows that the benefit of the doubt is given to the offender, even if it is very slight.

The only way to prove adultery through witnesses is if the man and woman have committed adultery in the open so that everyone can see. This will occur only in extremely rare circumstances when the morality of a society has deteriorated to such an extent that they start committing sexual intercourse in the open. The natural modesty which Allah has instilled in man will in most instances prevent him from committing such an act in public.

Thereafter, the punishment of stoning to death will be dismissed if any of the witnesses retract before the stoning can take place. Besides that, the punishment will not be applied if there is the smallest doubt. There is also a severe punishment for a person who accuses another person but cannot prove it through the manner shown by Islâmic law. If a person still commits adultery in a way which makes stoning binding despite the presence of such stringent conditions, this means that this person is a limb from the collective body of society in which a harmful virus has spread. Just as a body cannot be saved without amputating the limb in which gangrene has spread, similarly society can only be saved if this corrupted member of society is removed. Having mercy on this

affected limb and leaving it in this state is committing oppression on this body.¹⁴²

Upon this, one may ask that why is there a difference in the punishment of a fornicator and an adulterer. The following is a summary of Maulâna Ashraf Ali Thanvi's answer to this question:

"Islâm has differentiated between the punishment of a *muhsan* who has unlawful sexual relations and that of a non-*muhsan*. A *muhsan* will be stoned to death and a non-*muhsan* will be lashed 100 times. A person has to have certain qualities in him before he is considered a *muhsan*. As mentioned above, a *muhsan* is a free (not a slave), mature and sane person. He must also have had married a free woman who possesses the above-mentioned qualities through a marriage which is recognized in Islâmic law and had vaginal sexual relations with her.

The reason for stipulating these conditions is that stoning is a very severe punishment which should be administered on a person who has committed a very severe crime. A person who has the qualities of a *muhsan* in him has been bestowed with great favors, and the fact that he has had unlawful sexual relations despite having these great favors bestowed on him makes him deserving of a very severe punishment.

The qualities which are found in a *muhsan* are such that they prevent a person from committing adultery. Everyone knows that intelligence and sanity stop a person from adultery. Similarly, a person's intelligence reaches its maturity after puberty. A free person has the ability to conduct a valid marriage with

¹⁴²Adapted from Rajm ke Shari'y Haythiyat (pg. 10)

a woman through his own choice, and he can have sexual relations after enacting such a marriage, through which he can satisfy his sexual desires. Also, his ability to satisfy his sexual desire with his wife through lawful means by itself acts as a strong deterrent from having unlawful sexual relations. The punishment for a non-*muhsan* is lighter because the qualities which deter a person from fornication are only partially found in him/her. Therefore, they are lashed instead of being stoned."¹⁴³

f. An inside perspective on stoning to death

To get a better understanding of stoning to death, it is important to gain the perspective of people who practically apply the Islâmic penal code in their country in modern times and are aware of the positive effects which it has on society. In this regard, the Saudi Arabian legal experts addressed their European counterparts at the conference on Muslim Doctrine and Human Rights. We will now quote an excerpt from this presentation;

"This penalty is prescribed only when the culprit, prior to his delict, had contracted a legal marriage, and if four witnesses known for their righteousness and integrity, were present at the accomplishment of the sexual act, in a manner which could exclude the possibility of doubt; it would not be sufficient namely, that they had seen the accused completely naked and stuck together."

¹⁴³ Adapted from *Ahkâme Islam Aql ke nazr me* (pg. 233)

The Delegation went on to say:

"Here again, we agree with our guests on the severity of the punishment. Nevertheless, it is not imposed in Islâm, unless the act, as we just said, was testified to by four objective and trustworthy witnesses. The testimony of one witness has no value before the law: in that case, the person is advised to refrain from making the denunciation, and condemned to be scourged, if he would continue in his accusations; the same thing happens, if there are only two, or even three witnesses. The preliminary condition, required by the Verse, is the presence at the moment of the act, of four witnesses who can be trusted, and never have been indicted. But if the act was accomplished in the presence of four witnesses, the judgment is that public order has been seriously offended. Whether legitimate or not, it is always improper for the sexual act to take place in public. This is why Islam reveals the most severe attitude against offenders of public order and morality.

We suppose that, if such a thing has occurred in the street of the Capital of a civilized country, where complete sexual liberty is allowed, passersby would have taken upon themselves to lynch the performers, even before the case could be laid before a court. Such people would be treated like beasts, and their lives would not deserve any more respect."

Then, the Delegation proceeded:

"It must be noted, in the matter that the severe punishment of adultery was prescribed at the very beginning of the Islâmic message. There was, at that time, an urgent necessity to bring society out of a system, where existed, in numerous walks, absolute

sexual license, and by the very fact, there was utter confusion with regards to paternity, into a new order, where procreative instinct would be regulated, and could be exercised only within the limits of legitimacy. And so, from the beginning of the Islâmic predication, and during the whole life of the Prophet ﷺ, not one single case of adultery was established by the evidence of four eye-witnesses."

The Delegation continued:

"Thus, Gentlemen, it was not possible to prove, by such evidence as is required, one single case of adultery at the time of the Prophet ﷺ; and yet, it was an age of transition from general sexual license to discipline and legality on this point. Fourteen centuries have elapsed since that most severe penalty was edicted, and we can strongly affirm that fourteen cases of stoning could hardly be numbered in all that time. In this way, punishment by stoning has remained what it always was, cruel in principle, but extremely rare in practice. But, through the very ruthlessness of this provision, Islâm has prevented dislocation of family and confusion with respect to paternity. We surely admit that men are always men, but it remains that , under a secular legislation, where such a severe punishment, religiously motivated, is lacking, married people tend to lose the fear of God, and are more tempted to fall in this crime. Generally speaking, the state of things prevailing in non-Muslim countries has caused the dissolution of family ties, and jeopardized the conjugal happiness, which Muslim husbands and wives, faithful to one another, to their religion, and to God, enjoy."¹⁴⁴

¹⁴⁴ Crime and Punishment by Mohammad Vahed (pg. 160-162)

Conclusion

In summary, we can say with certainty that stoning to death is an integral part of Islâm which Rasûlullah ρ, his *Sahâbâ* ψ and all the scholars of Islâm accepted. We hope that what we have written is enough to remove any doubts a person has regarding stoning to death and to encourage him to bring faith on stoning to death being a command of Allah. Our duty is only to convey the message; it is up to Allah to give the divine ability to a person to do good. Lastly, we like to encourage anyone who still has any questions regarding this topic to consult qualified scholars and make an effort to remove any doubts which they may have.

May Allah give us the divine ability to understand the important injunction of stoning to death and bring faith upon it. May Allah protect the imân of all Muslims from incorrect beliefs and guide them to the straight path. May Allah enter all Muslims into *Jannat* and allow them to enjoy its bounties. Amîn.

Bibliography

English

Vahed, Muhammad Abdullah : Crime and Punishment
(Durban: Al-Noor Publishers, 2003)

Sheik, Dr. Mufti Allie: Morality in Islam (South Africa:
Qâsimî Publications, 2000)

Abdul Jalil, Mufti Sayed (translated by Mufti A.H.
Elias): The Role of intelligence in Islaam
(Johannesburg, Jet Printers, 2000)

Usmani, Justice Muhammed Taqi Usmani: The
Authority of Sunnah (Karachi, Idaratul Quran wal
Ulumil Islami)

اردو

اسلام اور عقلیات / مولانا اشرف علي تھانوي : إدارة اسلامیة، لاہور

فقہ مي إجماع کی أحكام / مفتي محمد رفيع عثمانی : إدارة المعارف ، کراتشي

أحكام اسلام عقل كي نظر مي / مولانا اشرف علي تھانوي : دار الإشاعة ، کراتشي

تصرة الحديث / مولانا حبيب الرحمن : زمزم بلشرز ، کراتشي

شرعي حدود و قصاص / مولانا مفتي عاشق إلهي : إدارة المعارف ، کراتشي

العربي

محاسن الإسلام / محمد بن عبد الرحمن البخاري : دار الكتب العربية ، بيروت

الإبهاج في شرح المنهاج / علي بن عبد الكافي السبكي و ولده عبد الوهاب بن علي السبكي : دار الكتب العلمية ، بيروت

تكملة فتح الملهم / مفتي تقي عثمانى : مكتبة دار العلوم ، كراتشي

فيض الباري / مولانا أنور شاه كشميري : المكتبة الرشيدية ، كونطه

الإجماع / ابن المنذر : دار الكتب العلمية ، بيروت

الإجماع / علي ابن أحمد ابن حزم : دار الكتب العربية ، بيروت

موسوعة الحديث الشريف ، الكتب الستة : دار السلام (رقمنا احاديث الكتب الستة علي هذا)

تدريب الراوي / السيوطي : قديم كتب خانة

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سنن الدارمي : نشر السنة ، ملتان

مطالب العالية / حافظ ابن حجر : دار المعرفة

الإصابة / حافظ ابن حجر : دار الكتب العلمية

مستدرك الحاكم : الطبع الأول لدار المعرفة

تلخيص الحبير / حافظ ابن حجر : عباس أحمد باز

سنن البيهقي : نشر السنة ، ملتان

فتح القدير / ابن الهمام : مكتبة الرشيدية

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فتح الباري / حافظ ابن حجر : الطبع الأول للمكتبة السلفية

عمدة القاري / حافظ بدر الدين العيني : الطبع الأول لدار الفكر

الإستذكار / ابن عبد البر : مؤسسة الرسالة

بداية المجتهد / القرطبي : دار الفكر

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تفسير قرظبي : دار الكتب العربي

وفاء الوفاء / السمهودي : دار الكتب العلمية

البنابة / العيني : مكتبة الحقانية ملتان

موطأ الإمام مالك : قديم كتب خانة

Appendix

تخريج الأحاديث التي في آية الرجم

قد ذكر الحافظ ابن حجر في فتح الباري جملة من الأحاديث التي فيها ذكر آية الرجم

1.. ، "وقد وقعت هذه الزيادة في هذا الحديث من رواية الموطأ عن يحيى بن سعيد عن سعيد بن المسيب قال " لما صدر عمر من الحج وقدم المدينة خطب الناس فقال: أيها الناس قد سنت لكم السنن وفرضت لكم الفرائض وتركتم على الواضحة - ثم قال إياكم أن تهلكوا عن آية الرجم أن يقول قائل لا نجد حديثين في كتاب الله، فقد رجم رسول الله صلى الله عليه وسلم ورجمنا، والذي نفسي بيده لولا أن يقول الناس زاد عمر في كتاب الله لكتبتها بيدي: الشيخ والشيخة إذا زنيا فارجموهما البتة". قال مالك: الشيخ والشيخة الثيب والثيبة." (عن عمر رضي الله عنه قال : إياكم أن تهلكوا من آية الرجم أن يقول قائل زاد عمر في كتاب الله لكتبتها الشيخ و الشيخة إذا زنيا فارجموهما البتة

فإننا قد قرأناها - قال الحافظ ابن حجر هذا حديث حسن صحيح أخرجه أحمد عن يحيى بن سعيد القطان عن يحيى بن سعيد الأنصاري مختصراً ... (موافقة الخبر الخبر - 2 / 302 -

303))

2. و وقع في " الحلية " في ترجمة داود بن أبي هند عن سعيد بن المسيب عن عمر " لكتبتها في آخر القرآن "

3. و وقعت أيضا في هذا الحديث في رواية أبي معشر الآتي التنبيه عليها في الباب الذي يليه، فقال متصلا بقوله قد رجم رسول الله صلى الله عليه وسلم ورجمنا بعده " ولولا أن يقولوا كتب عمر ما ليس في كتاب الله لكتبته، قد قرأناها الشيخ والشيخة إذا زنيا فارجموهما البتة نكالا من الله والله عزيز حكيم.

4. " وأخرج هذه الجملة النسائي وصححه الحاكم من حديث أبي بن كعب قال " ولقد كان فيها - أي سورة الأحزاب - آية الرجم: الشيخ " فذكر مثله " (عن أبي بن كعب رضي الله عنه قال: كم تعدون سورة الأحزاب قال قلت ثنتين أو ثلاثا و سبعين آية قال كانت تزوي سورة البقرة أو أكثر و كنا نقرأ فيها الشيخ و الشيخة إذا زنيا فارجموهما البتة نكالا من الله - قال الحافظ هذا حديث حسن أخرجه النسائي و عبد الله بن أحمد في زيادات المسند من طرق عن عاصم و صححه ابن حبان و الحاكم و عاصم هو ابن بهدلة القارئ و هو إمام في القراءة صدوق في الحديث تكلم بعضهم في حفظه و أخرجه أحمد و صححه ابن حبان و الحال أيضا من حديث زيد بن ثابت فذكر مثل حديث أبي بن كعب دون القصة و قال في آخره نكالا من الله و رسوله - (موافقة الخبر الخبر - 2 / 302-303))

5. ومن حديث أبي بن ثابت " سمعت رسول الله صلى الله عليه وسلم يقول: الشيخ والشيخة " مثله إلى قوله " البتة "

6. "ومن رواية أبي أسامة بن سهل أن خالته أخبرته قالت " لقد أقرأنا رسول الله صلى الله عليه وسلم آية الرجم " فذكره إلى قوله " البتة " وزاد " بما قضيا من اللذة " (و أخرجه الطبراني وابن منده من رواية أبي أمامة بن سهل بن حنيف عن خالته العجماء قالت : سمعت رسول الله صلى الله عليه وسلم يقول : الشيخ و الشيخة إذا زنيا فارجموهما ألبتة بما قضيا من اللذة - قال الحافظ و سنده حسن و فى الباب عن أبي ذر أخرجه الحاكم و غيره أيضا و الله أعلم (موافقة الخبر الخبير- 2 / 302-303) (و روى النسائي عن أبي أمامة أسعد بن سهل بن حنيف عن خالته قالت لقد أقرأنا رسول الله صلى الله عليه وسلم آية الرجم الشيخ و الشيخة إذا زنيا فارجموهما البتة بما قضيا من اللذة - قال السبكي سنده جيد (الإبهاج لشرح المنهاج - 2 / 242))

7. وأخرج النسائي أيضا أن مروان بن الحكم قال لزيد بن ثابت " ألا تكتبها، في المصحف؟ قال: لا، ألا ترى أن الشابين الشيبين يرحمان؟ ولقد ذكرنا ذلك، فقال عمر: أنا أكفيكم، فقال: يا رسول الله أكتبني آية الرجم، قال لا أستطيع "

8. ثم ذكر الحافظ: وأخرج الحاكم من طريق كثير بن الصلت قال: كان زيد بن ثابت وسعيد بن العاص يكتبان في المصحف فمرا على هذه الآية فقال زيد " سمعت رسول الله صلى الله عليه وسلم يقول: الشيخ و الشيخة فارجموهما البتة، فقال عمر: لما نزلت أتيت النبي صلى الله عليه وسلم. . . انتهى قول الحافظ مع ادراجنا بعض التخريج بين القوسين

و قد ذكر الحافظ ثماني روايات لآية الرجم و إسنادها حسن أو صحيح عند الحافظ لأنه قد ذكر في مقدمة الفتح "منتزعا كل ذلك من أمهات المسانيد و الجوامع و المستخرجات و الأجزاء و الفوائد بشرط الصحة أو الحسن فيما أورده من ذلك" (فتح الباري 6 / 1)

ثم قال أبو جعفر النحاس : و ذكره غيره رابعا قال تنزل الآية و تتلى في القرآن ثم تنسخ فلا تتلى في القرآن و لا تثبت في الخط و يكون حكمها ثابتا كما روى الزهري عن عبد الله بن عباس قال خطبنا عمر بن الخطاب قال كنا نقرأ الشيخ و الشيخة إذا زنيا فارجموهما البتة بما قضيا من اللذة قال أبو جعفر و إسناد الحديث صحيح (الناسخ و المنسوخ لابي جعفر النحاس - 15)

و في خطبة عمر في الرجم أيضا دلالة صريحة على أن آية الرجم كان في القرآن ، قال عمر فكان مما أنزل الله عليه آية الرجم قرأناها و وعيناها و عقلناها - قال القرطبي و هذا نص من عمر رضي الله عنه على أن هذا كان قرآنا يتلى و في آخرها ما يدل على أنه نسخ من القرآن و بقي حكمها معمولا به و هو الرجم و قال ذلك عمر بمحضر الصحابة رضي الله عنهم و في معدن الوحي و شاعت هذه الخطبة في المسلمين و تناقلها الركبان و لم يسمع في الصحابة و لا فيمن بعدهم من أنكر شيئا مما قاله عمر و لا راجعه لا في حياته و لا بعد موته فكان ذلك إجماعا منهم على صحة هذا النوع من النسخ و هو نسخ التلاوة مع بقاء الحكم (المفهم 5 / 184)

و كذا قال القاضي عياض في شرح نفس الحديث : "بما أنزل الله" الأظهر في معناه و الله أعلم ما ذكره في الموطأ في الفصل الذي ذكر من هذا الحديث و الخطبة أيضا و هو قوله الشيخ و الشيخة إذا زنيا فارجموهما البتة فإننا قد قرأناها و يحتمل أن يريد بما أنزل الله أي من الوحي على نبيه و شرعه له و في هذا كان قول عمر رضي الله عنه ذلك على المنبر و إخباره برجم النبي و رجمهم معه و قرأ إثر آية الرجم و لا منكر له من علماء الصحابة و جماعتهم رضي الله عنهم ما يدل على موافقتهم له إذ لا يقر على منكر و لا يسكت عما استشهد به فيه عما يعلم خلافه و هذه الآية مما نص العلماء أنه يثبت قرآنا في المصحف و لا يتلى (إكمال المعلم 5 / 508)

جواز إثبات النسخ بخبر الواحد

قال السبكي : واعترض الهندي بأن ثبوت نسخ التلاوة ما هو من القرآن و حكمه يتوقف على كونه من القرآن و كونه من القرآن لا يثبت بخبر الواحد فلا يثبت به تلاوة ما هو من القرآن و حكمه معا قلت و الاعتراض وارد أيضا في منسوخ التلاوة دون الحكم فلا ينبغي أن يقصره على هذا القسم ، ثم قال الهندي ممكن أن يجاب بأن القرآن المثبت بين الدفتين هو الذي لا بد من نقله من التواتر و أما المنسوخ فلا نسلم أنه لا يثبت بخبر الواحد سلمنا لكن الشيء قد يثبت بما لا يثبت به استقلالاً كما قال بعض الأصوليين ، إذا قال الصحابي في أحد الخبرين المتواترتين أنه كان قبل الآخر قبل و لزم منه نسخ المتأخر و إن لم يقبل قوله في نسخ المعلوم و لقاتل أن يقول لا يندفع السؤال بواحد من الجوابين أما الأول فإننا لا تعقل كونه منسوخا حتى تعقل كونه قبل ذلك من القرآن و كونه من القرآن لا يثبت بخبر الواحد قلنا و قوله لا نسلم أن القرآن المنسوخ لا يثبت بخبر الواحد لأن نسخه لا يكون إلا بعد ثبوت كونه من القرآن ثم يرد النسخ بعد ذلك متأخرا في الزمان فيصدق إثبات قرآن غير منسوخ بخبر الواحد ثم إثبات نسخه بخبر الواحد و يوضح هذا أن قول الراوي كانت الكلمة الفلانية من القرآن ثم نسخت تلاوة و حكما في قوة خبرين أحدهما أنها من القرآن و الثاني أنها منسوخة و كلا الخبرين لا يكفي فيه خبر الواحد و أما الثاني ففيما نحن فيه لم يتعارض دليلان و فيما استشهد به تعارض دليلان فلذلك رجحنا في موضع التعارض بمرجح ما و هو قول الصحابي هذا متقدم و إنما الذي يظهر في الجواب عن هذا السؤال أن زماننا هذا ليس زمان النسخ و في زمان النسخ لم يقع النسخ بخبر الواحد (الإبهاج في شرح المنهاج 2/242)

حكمة نسخ آية الرجم

قد كتب بعض الكفار كتابا يعترض على صحة القرآن و كونه كتاب الله و قال إن آية الرجم موجودة في كتبهم حتى اليوم و ليست في القرآن و ادعى أنه لا وجه و لا حكمة في نسخ هذا الآية فأردنا أن نذكر هنا قول علمائنا في حكمة نسخ هذا الآية:

قال السيوطي : و الضرب الثالث ما نسخ تلاوته دون حكمه و قد أورد بعضهم فيه سوالا و هو ما الحكمة في رفع التلاوة مع بقاء الحكم و هلا بقيت تلاوته ليجتمع العمل بحكمها و ثواب تلاوتها

و أجاب صاحب الفنون بأن ذلك ليظهر به مقدار طاعة هذه الأمة في الممارسة إلى بذل النفوس بطريق الظن من غير استفصال لطلب طريق مقطوع به فيسرعون بأيسر شيء كما سارع الخليل إلى ذبح ولده بمنام و المنام أدنى طريق الوحي و أمثلة هذا الضرب كثيرة قال أبو عبيد حدثنا إسماعيل بن إبراهيم عن أيوب عن نافع عن ابن عمر قال لا يقولن أحدكم قد أخذت القرآن كله و ما يدرية ما كله قد ذهب منه قرآن كثير و لكن ليقل قد أخذت منه ما ظهر ... ثم ذكر السيوطي أمثلة كثيرة لهذا الضرب من النسخ فليراجعه

ثم قال : و أخرج الحاكم من طريق كثير بن الصامت قال كان زيد بن ثابت Ψ و سعيد ابن العاص يكتبان الصحف فمرا على هذه الآية فقال زيد سمعت رسول الله صلى الله عليه و سلم يقول الشيخ و الشيخة إذا زنيا فارجموهما البتة فقال عمر لما نزلت آيت النبي صلى الله عليه و سلم فقلت أكتننها فكأنه كره ذلك فقال عمر ألا ترى أن الشيخ إذا زنى و لم يحصن جلد و أن الشاب إذا زنى و قد أحصن رجم ، قال ابن حجر في

شرح المنهاج فيستفاد من هذا الحديث السبب في نسخ تلاوتها لكون العمل على غير الظاهر من عمومها

قلت و خطر لي في ذلك نكتة حسنة و هو أن سببه التخفيف على الأمة بعدم اشتهاار تلاوتها و كتابتها في المصحف و إن كان حكمها باقيا لأنه أثقل الأحكام و أشدها و أغلظ الحدود و فيه الإشارة إلى ندب الستر ...

و أخرج ابن الضريس في فضائل القرآن عن يعلى بن حكيم عن زيد بن أسلم أن عمر Ψ خطب الناس فقال لا تشكوا في الرجم فإنه حق و لقد هممت أن أكتبه في المصحف فسألت أبي بن كعب فقال أليس أتيتني و أنا أستقرؤها رسول الله ρ فدفعت في صدري و قلت استقرئه آية الرجم و هم يتسافدون تسافد الحمر ، قال ابن حجر و فيه إشارة إلى بيان السبب في رفع تلاوتها و هو الإختلاف (الإتقان 3: 77-72)

قال مولانا أنور شاه الكشميري : و إنما لم يأخذه القرآن في النظم إجمالا لذكره ليندرئ عن الناس ما اندرأ فكان الجلد حدا مقصودا لا ينفك بحال و أما الرجم فهذا و إن كان حدا لكن المقصود درؤه متى أمكن فلو أخذه في النظم لحصل تنويه أمره و تشهير ذكره و المقصود إجماله كيف و لو كان في القرآن لكان وحيا يتلى إلى مدى الدهر فلم يحصل المقصود و لهذا المعنى جمع النبي صلى الله عليه و سلم بينهما مرة و اكتفى بأحدهما أخرى و هو معنى ما عن عمر Ψ في "الفتح" حين سأل النبي صلى الله عليه و سلم أن يكتب آية الرجم حيث قال له : كيف و إنهم يتهاجون تهاجر الحمر ، أراد أن التهاجر شائع و جزاءه الرجم فلو أكتبه لحصل تنويهه فالأولى أن يكون الرجم باقيا في العمل و خاملا في القرآن و لو أكتبه في القرآن بتأكد أمره فلا يناسبه الدرء و المقصود هو ذلك مهما أمكن ثم في حديث على أن رجمه إياها كان بالسنة و قال فقهاء إنه بالآية النسوخة المتلاوة الباقية الحكم قلت و تلك الآية و إن نسخت في حق التلاوة إلا أن هذا الركوع كله في قصة الرجم ((فيض الباري 4/449)

الرد على من زعم أن الرجم تعزير

قال الشيخ تقي عثمانى : و هناك فرقة أخرى من بعض أهل العصر تدعي أن الرجم إنما عاقب به النبي صلى الله عليه و سلم بعض الزناة تعزيرا و لم يكن ذلك حدا شرعيا و إن أكبر ما استدلووا على ذلك حديث النعمان بن بشير **٧** في الرجل الذي يقع على جارية امرأته قال فيه : لأقضين فيها بقضاء رسول الله صلى الله عليه و سلم لئن كانت أحلتها له لأجلدنه مائة و إن لم تكن أحلتها له رجمته —أخرجه الترمذي في الحدود (1475#)

قالوا إن رسول الله صلى الله عليه و سلم قضى في هذا الرجل بجلد مائة إن كانت زوجته أحلت الجارية له و ألغى الرجم مع أنه زان محصن فظهر أن الرجم لا يجب في جمع صور زنى المحصن و لو كان حدا لما جاز تغييره إلى الجلد

و هذا استدلال باطل أما أولا فلأن الترمذي تكلم على أسناد هذا الحديث و أما ثانيا فلأنه لو ثبت إسناده فالحق أن هذا الحديث على كون الرجم حدا أدل منه على كونه تعزيرا و ذلك لأن تحليل المرأة جارتها لزوجها شبهة في المحل و إن مثل هذه الشبهة يشقظ بها الحد دون التعزير كما أسلفنا في بداية كتاب القسامة فلو كان الرجم تعزيرا لما سقط بهذه الشبهة فلما أسقطه النبي صلى الله عليه و سلم بها تيقنا أن الرجم حد يسقط بالشبهات و أما جلد مائة في هذه الصورة فهو تعزير بعد سقوط الحد الأصلي و لذلك قال ابن مسعود **٧** ليس عليه حد و لكن يعزر ذكره الترمذي تعليقا ...

ثم إن الفرق بين الحد و التعزير أن الأول مقدر من الشرع لا يجوز لأحد أن يغيره إذا ثبت بشروطه والثاني مفوض إلى رأي الحاكم والقاضي فما فعله النبي صلى الله عليه و سلم أو أمر به من حيث الشارع صار حدا و ما فعله من حيث الحاكم صار تعزيرا و

هناك دلائل كثيرة تدل على أن النبي صلى الله عليه وسلم رجم الزناة و أمر به من حيث الشارع كتشريع أبدي خالد:

1- قدمنا أن الله سبحانه و تعالى أشار إلى الرجم في سورة المائدة و جعله "حكم الله" و إن العقوبة المقدرّة بحكم الله حد

2- إن رسول الله صلى الله عليه وسلم أعلن غير مرة أن الرجم حكم الله تعالى مما يدل على أنه ليس حكما وقتيا و إنما هو تشريع أبدي خالد
(الف) فمنها ما سيأتي عند المصنف رحمه الله في قصة اليهود في حديث البراء بن عازب Ψ أنه صلى الله عليه وسلم قال عند الحكم عليهما بالرجم ، "اللهم إني أول من أحيا أمرك إذ أماتوها "

(ب) قد تقدم في حديث عبادة Ψ أنه قال "خذوا عني خذوا عني فقد جعل الله لهن سبيلا " فنسب حكم الرجم إلى الله سبحانه

(ج) سيأتي في قصة العسيف أنه صلى الله عليه وسلم قال " لأقضين بينكما بكتاب الله" ثم حكم على المرأة بالرجم فهو دليل على أن الرجم كان حكما مفروضا من الله تعالى

3- قد تقدم في باب ما يباح به دم المسلم عن عبد الله بن مسعود Ψ مرفوعا لا يحل دم امرئ مسلم يشهد أن لا إله إلا الله و أن رسول الله إلا باحدى ثلاث الشيب الزاني والنفس بالنفس و التارك لدينه المفارق للجماعة و قد ثبت هذا الحديث عن غير واحد من الصحابة Ψ و قد وقع في حديث عائشة عند الحاكم في المستدرک (4:367) زان محصن فيرجم و رجل يقتل متعمدا فيقتل أو يصلب

وجه الإستدلال بهذا الحديث أن النبي صلى الله عليه و سلم قد قصر فيه إباحة الدم المسلم على ما وجب فيه إعدام الجاني حداً أو قصاصاً و إلا فقد ثبت عنه صلى الله عليه و سلم إعدام الجاني على سبيل التعزير في مواقع أخرى غير هذه الثلاث مثل قتل اللوطي و من شرب الرابعة و غيرهما فتبين أن الحديث إنما يتحدث عما يجب فيه القتل حداً أو قصاصاً و لا يتحدث عن القتل على سبيل التعزير و الرجم المذكور في جملة هذه الثلاث فهو دليل على كونه حداً

4- إن خطبة عمر رضي الله عنه من أوضح الدلائل على كون الرجم حداً فإنه جعله فريضة الله و حكم بضلال من ينكره و لا يقال ذلك في تعزير لأنه مفوض الى رأي الحاكم

5- إن من يقول في عصرنا بأن الرجم تعزير فإنه يريد أن حد الزاني هو الجلد و لكن إذا رأى الحاكم من الجاني ما يقتضي التشديد أكثر من ذلك رجمه تعزيراً و مقتضى ذلك أن لا يرمج كل زان محصن و إنما يرمج من عرف منه ارتكاب الزنا بما يقتضي التشديد في العقوبة و لكننا نرى في قصة ماعز و الغامدية رضي الله عنهما أنهما أتيا رسول الله صلى الله عليه و سلم تائبين ناديين على ما فعلا معترفين بجنايتهما و كانت الغامدية رضي الله عنها تعرف أن إقرارها يؤديها إلى الرجم بالحجارة حتى تموت و لكنها طلبت ذلك خشية من الله سبحانه ثم أمهلت حتى تضع و ترضع ولدها و لم يبعث لها رسول الله صلى الله عليه و سلم بعثاً و لا سجل اسمها في دفتر أو قنطر و لا أتبعها أحداً من الشرطة و لكنها بعد وضع حملها جاءت بنفسها دون أن يطلبها أحد على رغم أنها صارت أما لولد رضيع و كم يكون خاطرها قد تعلق بهذا المولود ؟ و كم تكون عواطف الإشفاق قد عرضت في سبيلها ؟ و لكنها بإيمانها الراسخ و عقيدتها الجازمة و علاقتها القوية بالله و رسوله قد اجتازت جميع هذه العوائق و عرضت نفسها لهذه العقوبة التي تقشعر لها الجلود

أفهل كانت الغامدية هذه تستحق التشديد في عقوبتها أكثر من حدها المفروض في كتاب الله تعالى ؟ بعد ما ظهر منها من الإستسلام لحكم الله ما لا يتصور من مجرم عادي ؟ و إني والله لا أجد نفسي في شك أنه لو كان الرجم تعزيرا و لو كان رسول الله صلى الله عليه و سلم يستطيع إلقاءه في حق مجرم لألغاه في حق الغامدية رضي الله عنها بعد ما ظهر منها من توبتها و ندامتها واستسلامها لأمر الله سبحانه و تعالى

6- من المعروف المسلم عند الجميع أن الرجم لا يجب إلا بشهادة أربع من الرجال العدول و هذا دليل على كونه حدا لأن التعزير لا يجب له نصاب من الشهادة أقوى من النصاب العادي و في هذا القدر كفاية لطالب حق إن شاء الله تعالى (تكملة فتح الملهم 2:433)

إطلاق الرصاص في الرجم

فرميناه بالعظم و المدر و الخزف و قال النووي و هذا دليل لما اتفق العلماء أن الرجم يحصل بالحجر أو المدر أو العظام أو الخزف أو الخشب و غير ذلك مما يحصل به القتل و لا يتعين الأحجار و قد قدمنا أن قول صلى الله عليه و سلم "تم رجما بالحجارة ليس هو للإشتراط

و هل يجوز إطلاق الرصاص في الرجم ؟ لم أجده صريحا في كتب الفقهاء و الظاهر أن لا يجوز في بداية الرجم لأن المقصود في الرجم أن لا يتعجل موت المرحوم ليكسر ألمه و ليجد مهلة للرجوع إن شاء في أثناء الرجم فإن أطلق الرصاص في بداية الرجم فات هذا المقصود فالمشروع أن يبدأ في رجمه بالحجارة و ما شاكلها مما لا يتعجل به موته و لكن يظهر لهذا العبد الضعيف عفا الله عنه أنه لو شرع الناس في الرجم بالحجارة و رموه بها قدرا يعتد به ثم تعسر موته فلو أطلق عليه الرصاص في الأخير

ينبغي أن يجوز و ذلك لأن ماعزا ψ رمي في البداية بحجارة صغار ثم رموه بجلاميد الحرة كما سيأتي في هذا الحديث و الجلاميد جمع جلمود و هو الحجر العظيم

و جاء في رواية هزال ψ عند أبي داود (رقم 4419) في آخر قصة ماعز فلقبه عبد الله بن أنيس و قد عجز أصحابه فنزع له بوظيف بعير فرماه به فقتله و وقع في قصة الغامدية من رواية أنس بن مالك ψ أن النبي صلى الله عليه و سلم أمر رجلا فقال انطلق إلى حجر عظيم فانتها من خلفها فارمها فاشدخها -رواه الطبراني في الأوسط كما في مجمع الزوائد (6:268) و قال الهيثمي و فيه من لم أعرف فهذا الروايات تدل على أنه لو تعسر على المرجوم الموت بعد ما شرع الناس في رجمه بالحجار الصغار جاز أن يرمي بما يتعجل به موته فالذي يظهر أنه ينبغي أن يجوز استعمال الرصاص في مثل هذه الحالة والله سبحانه و تعالى أعلم (تكملة فتح الملهم 2: 445)

About this book:

In recent times, *rajm* (stoning to death) has become a global issue and a subject of great controversy. The media, politicians, human rights groups and many disbelievers have criticized stoning to death as being barbaric and cruel. Unfortunately, many unwary Muslims have fallen prey to this propaganda and they have also began rejecting stoning to death as being a part of Islâm. Our present situation is an embodiment of the hadith of Rasulullah ﷺ which states, "A person will wake up in the morning as a Muslim and by nightfall he will be a disbeliever. A person will spend the night as a Muslim and will become a disbeliever in the morning." - *From the introduction*

"The book that you hold in your hand, dear reader, will highlight the existence of the law of *Rajm* and its significance in Islâm, together with proving its implementation beyond any shadow of doubt from various sources of Islâmic Law. The book also debunks the theory that the law of stoning is only found within the ambit of Islâmic Law. It will be a shocking revelation for many to learn that the punishment of stoning to death for adultery is also found in Jewish and Christian Scriptures.

The author, Moulana Abdullah Nana has gone the extra proverbial mile by not only proving the existence of this law in Islâm, but also refuting the hollow and hypocritical arguments of those who choose to lambaste the law of *Rajm* in Islâm." - *Mufti Muhammad Saeed Motara*