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Renewal of the contemporary Islamic message
Changeable and unchangeable: Penal Code as a model

By

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In the name of Allah, the benevolent and the merciful

Changeable and unchangeable in the present time;
 Islamic Penal Code as a model

Preface

The importance of this discussion lies in the fact that it deals with the predetermined nature of the contemporary Islamic message. The Islamic civilization as well as the Muslim community by virtue of their formation in decades and epochs cannot prosper and flourish unless they represent and adopt a practical and real basis for their survival as well as for the mobility of their society and civilization.

If it is the basic criterion for reawakening of the Muslim community (Ummah), revival of Islamic civilization and its reconstruction in today's changing and challenging world then the Muslim intellectuals, the theologians the scholars and those who have rational mind and operate the key of change and revivalism should not sleep unless they find out the reasons of the crisis the Muslim community is facing for rigid messages. They ought to welcome them in letter and spirit, adopt an active practical perspective for their self-satisfaction and enact them in their lives & progress of their societies.

In the given situation, there has to be some disorders in the contemporary Islamic messages especially the stable ones and their reflection on the life of individuals and societies, as the community hesitates to follow most of them. If we realize the wrong happened to the universal vision of the community and their thinking, the pollution that infected their culture, their psyche and emotion due to the authoritative training and oppressive exercises we can realize the defacement happened to the contemporary Islamic messages that explain, to some extent, the condition of the

Community and their alarming sickness in various spheres of contemporary social life and practical exercises.

With this discussion we are required to integrate civilization ascendancy universal Islamic vision with the systematic comprehensive method to look into one of the important stable Islamic law i.e. Islamic penal code. This would be a model to reformulate the contemporary Islamic messages in the light of Divine verses and the scientific understanding of the norms by the human beings. As it would be a model for the schools of Islamic legislation and its objectives which are responding to the present needs and paving the way for building a better human society.

The discussion aims at the realization of the importance of the intellectual reform of the community. As it aims to invite the intellectuals and the Ulema to review the Islamic messages vis-a-vis their rigidity in method and the straight scientific style that can satisfy the wisdom, pacify the souls, respond to the natural calls of human beings and spread the best in them.

There can never be a renaissance and awakening unless the vision, the concept, the method and messages are reformed and presented on the real practical scientific Islamic bases. The deterioration and marginalisation of the community will continue until the thinking of intellectuals and reformers reach to the level of reawakening and they are able to lead the civilization march.

We beg Allah's help, appropriateness and guidance
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Significance of Islamic penal code

One has to observe the feeling that alternatively occurs in the mind of the people regarding the Islamic penal code particularly the word “Hudood” (Divine Statute of punishment). He also must be particular to the fear of superstitious harshness that appears at a time when the people believe that Islamic law does not aim at rousing emotions of the masses in general and the Muslims in particular. Whatever is stated about the Islamic principles, values and spirits has to be loaded with the sense of benefit, security and tranquility for the human beings.

Similar feelings occur in human minds when controversy arises on Islamic penal code. Those who are driven by such feelings are afraid of capital crimes pertaining to human nature. Due to existing social condition and the provocative role of the visual media youths, in general, fall prey to cases of rapes and illegal sexual relations. These crimes invite Stringent punishments. They may be in the form of kind judgments like flogging, insult and social abuse.

Hence, there is nothing to wonder if the researchers keep on changing their mind on the above issues. Perhaps, legal commitment to Islamic punishment will be the best solution to such problems as it would be more understandable and welcomed by the people.

Similarly, the researchers hang on for a while when they look into the rationale behind four candid and irrefutable witnesses to prove the rape crimes while only two witnesses are needed for establishing murder and reprisal cases.

The above cases lead us to so many questions like; why four witnesses are required? Why there cannot be three or five or six? Does the digit four have some significance or it is just a random digit or any other reasons? Like digit four, three, five, six and beyond also denote a team. Then why is it that digit four is the lowest limit to prove such allegations.

How to address?

These and other similar apprehensions come in the minds of the researchers about the Islamic penal code. The circumstances, the occupations and the nature of specialization of the researchers may not be

in consonance with mine so for the concentration on the issue is concerned.

Whenever such apprehensions occurred in my mind I was very clear that these issues could be addressed only through comprehensive and systematic method. In fact, understanding dimensions of nature related to the human issues is the topic of discussion. It means such issues can be addressed through a method that can club revelation, wisdom and attitudes together (the book of revelation, the book of wisdom, nature and the universe complement each other). Earlier I wrote on the issues of Islamic method and the complementary sources of knowledge in the revelation, wisdom and the nature. The experiment of International Islamic University in Malaysia was an attempt to bridge the gap between revelation (Holy Scripture) and the universe (wisdom and the universal norms). It was also an attempt to define time and space relations network, its possibilities and challenges and put limitations on hereditary partial method, which talks about the circumstances of its time and space.

The experiment of International Islamic University aimed at formulating a contemporary comprehensive Islamic method that assembles both, the revelation and the universe (wisdom, natures and norms). Such assembling is required to be on a systematic analytical basis taking into account the requirements of time and space. This formulation is academic, scientific and able to understand the nature of Islamic messages. The extent of the relevance of each Islamic message to the audience depends on the variations in age, circumstance, psychology and culture, as it depends on the academic and intellectual level due to the development of partial and disintegrated method. This, for a long, has been influencing the Muslim mind, tarnishing the image of universal Muslim being and has torn apart their social traditional fabric. And it led to the conflict between the Ulema and the Sultans, which ultimately resulted in the isolation of the Ulema and the deviations in the ideas of Sultans. Both the sections failed to realize the changes and find out their solutions as well as alternatives. Both the sections resorted to the use of intimidating weapons; intellectually from the part of the Ulema and materially as well as physically on behalf of the Sultans. Thus, intimidation became for helpless and weak political & intellectual leaderships as a political tool to control and prevent the total collapse of the society. As it proved to be the best mean to control the socio-political anarchy. At the same time, intimidation, tyranny and corruption became the fundamental means to protect specific sectarian interests. And that

was the reason for the negativity of the Muslim human being, his disloyalty and the formation of psychological slavery and finally the annihilation of the natural desire for ascendancy, love for knowledge, conquest, innovation, style of vibrant intellectual exercises in order to overcome the negativity, backwardness, split, weakness and marginalization.

The personalities like Ibn Hazm, Ibn Taimiya and Ibn Khaldun were the confluence of revelation (Holy Scriptures) and the universe (nature, traditions and norms). They followed a comprehensive, systematic and enlightened method in their number of perceptions. Their legacy, despite ups and down in their views on community and culture is a guideline for the experiment of International Islamic University in Malaysia, to formulate a cotemporary, comprehensive curriculum which can be emulated to renew the Muslim wisdom and to generate the alternative human learning leading to the values of revelation, its purposes and principles to counter the challenges of the age, to renew the human and Islamic civilization and to revive it.

With the sincere adoption of ideas of such personalities and the spirit of their thinking style by the intellectual schools and universities became models to be renewed and emulated. They played their role in the revival of Islamic civilization. Their efforts did not merely remain as flashes and sudden events on the horizon of Islamic intellect. Their shining will stay on the sky of knowledge, intellect and learning till they are extinguished. Thus, knowledge integration through living systematic and comprehensive thinking style of these scholars and their practical life experiences speak of the glory of their academic contribution and toiling efforts in their respective time and space.

The crux is that, if a Muslim student in this age succumbs to negative understanding of any important and critical issue like Islamic penal code and the stand of the entire community on this issue, the solution to the problem and the required vision must emanate from systematic and comprehensive thinking method, as this thinking and method are the unison of thinking with method which can be looked into through issues of contemporary Islamic thinking and its ambiguities. The issues include how to achieve goals of Islamic penal code and what should be the modus operandi, without suppressing the human souls, crushing their self-confidence and their basic desire, and without resorting to fear psychosis mechanism. And final issue is how to end the subjugation of the

suppressed people providing option to a free noble man for adopting path leading to welfare, guidance and perfection in performance.

From accommodation problems to Islamic penal code

The construction of International Islamic university campus in Kuala Lumpur, the capital of Malaysia and the subsequent planning of a new University campus in the outskirts of Gombak was a unique experience in building a Islamic university complex for inculcating Islamic values in the borders in general and the Muslim students in particular realizing their needs and their personal qualities in the university premise and keeping in mind the circumstances in Malaysia and the potentialities of available resources.

Among things need to be undertaken is to evolve the best possible management for achieving peace and tranquility and inculcate the Islamic ethics and values in the university hostellers.

The development of university complex needs realization of Islamic values, understanding of human needs, their nature and requirements in the university environment to make an access to solutions and successful perceptions with residential services at the minimum cost.

Surprising enough, a socio-psychological analysis made on the mode of students accommodation led, unintentionally, to a new vision for the aims of punishment in Islam and the rationale behind four witnesses in cases of rape as it led to the rationale behind the punishment of witnesses less than four. It also led to the logic of difference between the crimes of natural instinct and the crimes of aggression on blood and wealth.

The socio-psychological studies led to a vision assimilated with feelings to underline a context that highlights the Islamic legal texts, explains their rationality, perceptions and dimensions and allows a new vision that cannot be reached merely through cross examination of the texts legally and literally nor the texts can be accepted literally because their secrets and rationality can not be understood. The student, in that circumstance, can only estimate and give a general perception loaded with unsatisfactory and insufficient answers. Through these random estimations he will not be able to express the real hidden meanings of the texts because, as a matter of fact, the Islamic legal texts are not at random and aimless. They aim at achieving peace and tranquility in society and

keep it away from the intimidation and threats, which has made an inroad through partial legal, literal and lingual vision.

Integration of sources of Islamic knowledge (revelation) with universe (wisdom, norms and events)

The discussion of socio-psychological vision of the texts leads us to the integration of revelation with the knowledge of the universe, practically explains the theme of Islamic knowledge and the meaning of integration of knowledge of revelation and the universe (**wisdom, norms and events**).

The first problem that appears in the planning of student accommodation in one room is the most suitable number, especially when one room is shared by a number of students of different age groups in the universities. This is a common phenomenon in this university and similar others which are run through public funding. In such circumstance individual loses his personal qualities that he needs desperately. And some times, sharing accommodation triggers dispute among the residents.

To understand the meaning of integration that we are talking about it would be better to follow the steps that have already been wound up. How those steps led to the process of integration and? And how following those steps and applying the knowledge of social psychology could attain the various visions.

When I started analyzing socio-psychological condition in terms of sharing students' accommodation was the beginning of accommodating one student in a single room. And at that time it was considered to be the best option.

After pondering over the psychological and socio- economic aspects I found that it was not the exemplary solution for the general accommodation of the students economically. In the country like Malaysia the state bears most of the educational expenses of students. Hence looking at the multiplying number of students single bed accommodation has economically, become almost impossible .The most important to my mind is that the single bed accommodation is not better at all with socio-psychological point of view. The students particularly during vacation or at the graduation level are generally the young ones. They need the care of their families to fulfill their needs in food; dress etc and generally they are segregated from their families for the first time in

their lives. In the new stage of their studies they are in disturbed psychological condition as, they ought to set the affairs of their lives away from their families especially at a time when shifting to a new stage of learning is quite different in styles and requirements of the past.

Hence, single bed isolated accommodation is not the best step for such students. The shared accommodation is the best way to familiarize them with their colleagues and acclimatize them with new environment. In this set up they will seek the cooperation of their colleagues, which will lead them finally to achieve independence and self-confidence in this unique environment with its new requirements. In this case he will be like the family members of the deceased lying without persons wailing upon him.

It also occurs to my mind that accommodation of two persons in one room represents the best solution, nevertheless, the matter looked contrary when a serious thought was given to it. From ethical, psychological, social and economic point of view this solution also does not look to be the best one from various angles.

Economically, such accommodation has been very expensive and led to certain circumstances for moral deviations. Though, such cases might be rare and exceptional. The most important confusion from which one cannot escape himself is the socio-psychological confusion. And this is the confusion, which involves the difficulty of solving a dispute between two partners as; there is no third partner who can facilitate the solution of disputes between the two.

Sometimes the mind goes to the accommodation of three students in one room as the best solution. As a matter of fact, this is also not necessarily an appropriate way out, as it has failed due to different reasons. Human nature is inclined towards encouraging two among three for establishing strong and reliable relations, which leaves the third isolated, and he becomes victim of whispering between the two in the presence of the third. For this reason the Prophet stopped whispering between the two in the presence of the third.

Naturally it leads to an idea of accommodating four persons in one room. Surprising enough, we find that the idea of accommodating four students in one room is the best solution because it achieves the minimum integrated socio-psychological interaction or it can be termed as the least limit for the integrated human society. In fact, production and

reproduction is impossible except with four couples of males and females.

It is also clear that living four students together might have some negative aspects; nevertheless such arrangement achieves lot of socio-psychological positive benefits. We find that if relations are established between two persons on any matter the other two find out alternative. In most of the cases the relations at one point of time have to be developed among all the four leads to social interaction and comprehensive collective friendship. Similarly we also find that in case of a dispute between the two among four the other two mediate the issue and facilitate diffusing the dispute and restoring the dignity among all conflicting partners.

Amidst these mental sufferings in solving the student's accommodation problem, social dimensions and social interaction among the individuals of the human society the relevance of four for a group with socio-psychological standpoint appeared all of a sudden to me. Consequently this analysis intemperately and unintentionally put a new light on the relevance of the four witnesses in the cases of rape from the socio-psychological point of view.

In the previous analysis I found that the condition of four witnesses is not merely digital rather the socio-psychological relevance of the group of four became clear to me for all those questions pertaining to the condition of four witnesses for establishing rape crimes and executing punishment in case the number of witnesses is less than four or their witness is not candid and irrefutable which can make the punishment binding. Specifically, in such cases the punishment are meted out to perpetrators in order to stop licentiousness activities, hurting other's feelings, corruption and propagation of pornography in the society. The crux of the matter is that punishment is not being meted out for the crimes but it is for the publicity of pornography and licentious activities in the society. However, the basic spirit of punishment lies in the motives to control the sliding human tendency and to make prevail the factors of sound human nature to satisfy their needs and aspirations.

Social concept of four witnesses

It is important here to draw the attention towards the results that appeared after the socio-psychological analysis that we made through the

study of students accommodation in the university hostels. The study under discussion made it clear to me that the digit four has an important specific socio-psychological meaning as, this digit denotes the least limit for the integrated human social interaction with all possibilities of social balance and satisfying the human needs. It means that the digit four denotes the lowest limit for integrated society as well as its positive interactions. This is the reason that four witnesses are the minimum condition for establishing rape crimes as it means proclamation in four. And whoever proclaims in the group of four proclaims in the society. Thus, four is the lowest limit for a group to be called society; neither three or less than three nor five or more than five.

Through this analysis and the realization thereupon for the concept of four witnesses it appears that four was not a random digit but it contains an important socio-psychological meaning. The importance of the digit is evident from the fact that it deals with all crimes committed publicly including publicity of pornography and corruption, aggression on other's freedom and choices. It is also applicable to heinous acts of the deviated people, which the younger are exposed to. God the almighty observes; (if you commit sins don't disclose to others (Hadith)).

Nevertheless, the rationale behind the punishment of witnesses less than four even if they are three and their witness is candid and irrefutable becomes clear from this analysis that is for their licentiousness publicity and propagation of fornication and not for the deed itself. Such deeds have to be propagated in the society whose lowest limit is four persons. Similarly the witnesses less than four will be penalized for they have publicized sins of sinners instead of concealing them and they tried to bring forth the lapses and slackness which were committed covertly and they converted the crime into a matter called for repentance, admonition and penance. They converted the case into a scandal by which the human dignities were violated. Hence, ambushing human mistakes and publicity of heinous crimes and corruption in the society is liable to punishment. This way, the witnesses less than four took out the crimes, lapses and the weaknesses of human beings from personal circle to the circle of scandal, publicity and propagation. Thus, the witnesses less than four have to be penalized and scolded.

Moreover, we must remember that four candid and irrefutable witnesses (not fabricated or presumed ones) are essential to establish the propagation and publicity of the heinous crimes like rape. Has there been

the punishment of flogging or stone to death for such crimes or to establish mistake and lapses of human tendency motives themselves two witnesses would have been sufficient. But the contexts have to be taken into consideration while establishing such crimes. The aggression on blood and wealth needs only two witnesses because here the punishment as a deterrent is intended to stop crimes. Thus, four candid and irrefutable witnesses are essential because these crimes are intended to publicity of licentious activities and propagation of heinous crimes among the Muslims.

The almighty says; Those who love (to see) scandal circulate among believers, will have a grievous chastisement in this life and in the hereafter: Allah knows, and ye know not. (24:19)

He further says; And those who launch a charge against chaste woman, and produce not four witnesses (To support their allegations) , flog them with eighty stripes; and reject their evidence ever after; for such men are wicked transgressors. Except those who repent there after and mend (Their conduct); for Allah is oft forgiving and merciful. (24:4-5)

As He says: And those who have done an act of indecency or wronged their own souls remember Allah and ask forgiveness for their sins. And who can forgive sins except Allah? And are never obstinate in persisting knowingly in (the wrong) they have done. For such the reward is forgiveness from their lord, and garden with rivers flowing underneath and eternal dwelling. How excellent a recompense for those who work and strive.(3:135-136)

Questions arise here are about the nature of crimes, how to confront them? And how the society would face them?

In order to be familiar with the objectives of Islamic penal code we have to understand crimes and the vices attached to the nature and the psychological tendency of the human beings, their social and ethical interpretations based essentially on the best upbringing, education, formation of the integrity of the youths and their urge to get rid of vices. Hence, it is incumbent to prevail upon the vices and deviations in the psychological tendency through best upbringing, education, spending maximum efforts on sermons, awareness, the best ideals, mobilizing for penance, admonitions, consideration, paving the way for straight

behavior, offering moral and spiritual assistance to them, particularly the youths and the young ones.

From this rationale it is good to look into the method of psychological dealing of the Prophet (PBUH) in this field. His wisdom contains the best example. We should see how the prophet dealt with this problem when a young man obsessed with sexual lust came to him and sought his permission for adulteration. He did not resort to the harsh and violent measures rather resorted to active educational treatment to the sexual lust of the youth and enabled him to control his lust. He made him closer politely and neither scolded him nor did he intimidate him nor spilled over his head the speeches of punishment; lawful and unlawful. He addressed the heart of the youth, his dignity his best potential. Through reminding him that all women are his mothers, sisters and aunts. If he does not like that his dignity to be sullied by the people then how can he like to soil the dignity of the people. It means he likes for the people that he does not like for himself. Thereby the prophet instilled in the mind and heart of the youth ethical principle, a matter that made his sense and self-respect a guard to stop him from making aggression on other's dignity. If he agreed to commit sins means he was allowing his conscience to violate his dignity. The noble man likes for himself what he likes for others.

The prophet did not confine to this but through this anecdote he advised the youth of the community in the best manner to control the sexual lust through marriage, unblemished reputation, spiritual exercise, following obedience and sanctity and distancing oneself from disobedience and vices. He said, o, the youths whoever have the potential should marry and who is incapable should observe fasting, this would be better for him (Hadith).

Allah the almighty proclaims in His Holy Scripture, “ Nor come nigh to adultery for it is an indecent (deed) and an evil way” (17:32).

He further said; O, ye who believe! Follow not Satan's footsteps; if any will follow the footsteps of Satan he will (but) command what is indecent and wrong. And were it not for the grace and mercy of Allah on you not one of you would ever have been pure but Allah doth purify whom he pleases. And Allah is one who hears and knows. (24:21)

He adds saying; Say to the believing men that they should lower their gaze and guard, their modesty that will make for greater purity for them. And Allah is well acquainted with all that they do.(24:30)

He goes on saying; recite what is sent on the book by inspiration to thee and establish regular prayer, for prayer restrains from shameful and evil

deeds. And remembrance of is the greatest (thing in life) without doubt. And Allah knows the deeds that ye do. (29-45)

As He says: And those who have done an act of indecency or wronged their own souls remember Allah and ask forgiveness for their sins. And who can forgive sins except Allah? And are never obstinate in persisting knowingly in (the wrong) they have done. For such the reward is forgiveness from their lord, and garden with rivers flowing underneath and eternal dwelling. How excellent a recompense for those who work and strive.(3:135-136)

Now it is evident from the previous analysis that publicity, proclamation, assertion, wantonness and the dissemination of vices in the society are the issues which are subjected to the legal punishment as, they are directly related to the tendencies and natural instinct like rape, drinking wine, drug addiction etc. That is why we find that the second righteous caliph Umar b. Khattab (RA) when surreptitiously came to know about the people taking wines at their homes slipped into a house jumping over the wall and he saw the people taking wine. He wanted to punish them but they quarreled saying they were taking wine in seclusion and they did not publicize the vices. Finally the caliph waived their punishment and legal prosecution off.

Contrary to the above cases, we find that the punishment in wealth and blood **itself is means**. That is why as per Islamic laws two witnesses are sufficient to prove the aggression on wealth and blood. They cannot be taken at par with crimes based on natural instincts. Similarly, it should be kept in mind that the punishment for these crimes is to stop aggression and transgression; to protect the rights and wealth along with the retention of blood.

Security, the most common rationale behind the IPC

On the basis of above analysis we conclude that the rationale behind the Islamic Penal Code is to ensure peace and security in the Muslim society and protect its members from the aggression of the transgressors be it in the cases of natural instincts or in the cases of wealth and blood.

Punishment in crimes of natural desires (which are not under the strict control of human beings all the time through out their lives) is not for the crimes as they are not the motives themselves rather means to

propagation, assertion and publicity. Such acts ultimately will hurt others and spread corruption in the society along with the satisfaction of needs through unlawful means. It is certain that satisfying needs through unlawful means does not necessarily require publicity (If you commit sins don't disclose them). Whoever publicized and propagated is not only a sinner rather a pervert, he has no excuse. He deserves to be punished to safeguard the security of the people, protect their ethical, social and religious rights and to stop the corruption from spreading on the earth.

It appears from the analysis that a Muslim individual or the Muslim society has to enjoy security and tranquility instead of fear, scare and awe. Undoubtedly, when a Muslim or a citizen of the Muslim state thinks of the rationale behind the punishment of crimes of natural instincts he will realize that it was meant to stop corrupt people from spreading corruption in the society or to earn dangerous unlawful things from those corrupt means or to stop them from spreading corruption in the people's lives and to delude their younger ones unintentionally. All these steps are not to ambush the lapses and mistakes of human beings and play with their dignity in this context but to remove the fear and scare of individual as well as the society and ensure peace and tranquility. Any application of the deterrent suitable punishment, more or less, to the licentious pervert or the tyrant aggressor will naturally not instill fear in the people but protect the ethics, dignity and respect & will finally save the rights, wealth and blood.

On the other hand, we have to realize that the publicity of rape crimes in the broad daylight demands highest limit of punishment. Besides scolding at the culprit, the rationale behind the punishment is also to protect the basic human rights, maintain their dignity and the dignity of those who care for it irrespective of loss and profit. The same is applicable to the vices leading to their publicity and critical social implications in the family as well society. Thus, with this kind of harsh punishment it will not remain easy to violate the dignity, spoil the respect and rights particularly, the rights and dignity of weaker sections like women and children. It also will be difficult for a child (if he falls prey to such crimes) to be deprived of his nourishment in the care of his parents. A great deal of such victims will become fertile land for the socio-economic and emotional sufferings. They will also become victims of malice,

violence and the crimes. Allah, the almighty says“ Nor come nigh to adultery for it is an indecent (deed) and an evil way” (17:32) He further says, “ The woman and the man guilty of fornication flog each of them with a hundred stripes” (24-02)

The most important features of Islamic laws and the Islamic society find their expression in the human nature, its dynamism and potentials. The laws explain the meaning of human freedom and determine its limits referring to the changing condition of material society, which seems to have lost the way to coordinate between human freedom and the principles of human social fabric. While in the light of complete Islamic vision as well as the realization of social happening, social needs and challenges it is possible to define the concept of society based on counsel and nothing else and to define the limits of freedom that includes the positive and negative essential rights and public duties. As the Islamic laws also define the prohibited, unlawful and harmful things. They discourage every harmful thing even if they are not unlawful and encourage every useful thing. They also facilitate the lawful things, as the root of everything is the lawfulness even if the legislators between lawful and unlawful categorize them. All these steps aim to stop the atrocities, corruption and suppress the crime in the society. They are also needed to maintain the rights of the people, their respect as to explore their energy, activate their potentialities and achieve good things on the earth which are in tune with their nature of ascendancy.

The ignorance and random approach to the nature of human social coordination, their limits and objectives and thereby the coordination of freedom and whatever related to the rights and duties leads to the anarchy in the human relations as it happened in most the previous civilizations. It also leads to the collapse of the human social system because the universe and the human world are built upon certain basic orders or systems. Each system; material or human has to be governed by some rules and limitations for its existence. Thus, complete scientific understanding of the nature of human system, its objectives, principles and limits is must, as they were received through reliable and undistorted revelation. Thus, any slackness in scientific understanding of the principles for human society and the extent of its distance from its real sources will push these system to the collapse and deterioration.

We have been observing this human social collapse and deterioration in the family set up and ethics of the material societies devoid of spiritual

ideals emanated from Divine Revelations. These ideals are completely undistorted, real and universal. Divine orders were revealed to human being so that they can mould their nature and achieve self from the day one of their existence. Despite material progress achieved by these

societies they have to meet the fate of their previous nations and civilizations that have gone into oblivion.

Nevertheless punishment, in the cases of wealth and blood will be contrary to the punishment in crimes related to natural instincts, as they themselves are objectives. In such cases apart from circumstances two witnesses will be sufficient. The evil people will not be frightened with suitable, detrimental normal punishment less than the defined limit in the field of wealth and blood. They generally do not conceal the intention of killing the innocent people or plundering their wealth and properties but they keep in mind that during lifetime they or their wealth may be subjected to aggression. That is why they think that aggression on wealth and blood does not need harsh punishment.

The objective is to stop the crime and not to revenge

The purpose of punishment in the Islamic law is to protect the society from corruption and disintegration; to save from aggression on the people and wealth and to safeguard the innocent. It does not aim at the punishment itself, as punishment in the Islamic law is not an end in itself but it is a means to reform, ensure the security and whatever can be achieved through reform and security within its lowest limit of punishment. That is why Islam has authorized the guardians of killed person to forgive and encouraged forgiveness, because forgiveness is generated when somebody feels secured and it is devoid of revenge.

The prophet said, Drop the Divine statute of (punishment) if you have any iota of confusion “ Hadith narrated by Tirmidhi, Majah and Baihaqi. Ibn Mundhir maintains that from whomever among the scholars I received education they all agreed upon dropping the punishment if there is any iota of doubt, margin of Rauz al- Murabba, vol.7. P.320.

The Islamic Penal Code should be understood from the perspective of ensuring security and not from the perspective of using force and instilling fear psychosis in the people’s heart for the sake of revenge. This is the true perspective for Divine statute (punishment) in the Islamic law and this is the true perspective to understand the logic of Holy Scripture,

which defines the Divine Statute (punishment). However it is left on the conscience of society and the satisfaction of the community to define punishment within the limit of Divine Statute in the light of the text and its objectives as well as in the light of scientific studies to the human nature (Islamic social sciences) that can achieve the security and

deterrence and fight the crimes and aggressions provided these punishment should not transgress the stable Divine Statute in the continuous irrefutable text.

This understanding solves another confusion; confusion of theft whose harsh punishment and horrible, painful and distorted implications fills the mind of the people with fear and scare.

If we go through the Quranic text we find that the text was plain and simple neither it defines theft nor does it put any condition on the thief.

Allah the almighty says, “ As to the thief, male or female cut off his or her hands: a retribution for their deed and exemplary punishment from Allah. And Allah is exalted in power, full of wisdom’. But if the thief repents after his crime and amend his conduct, Allah will turneth to him in forgiveness for Allah is oft forgiving, most merciful” (5:38-39).

The text in its categorical wording says, to whomsoever the word thief can be applied his hands should be cut off. Thus, punishment of each thief is to cut his hands and the acceptance of penance from the part of a pervert who asserts on the commitment of crime and terrorizes the peaceful people if his hands are cut off are understood easily. If the penance of the thief molded his behavior, secured the pleasure of his lord and Divine statute is executed and his hands are cut off, his penance will not return his cut off hands because that is the highest limit of theft, not all the theft, as there is possibility that matter can touch the extent of forgiveness of the thief who announces his penance bidding good bye to his assertion on theft, spreading vices on the earth and terrorizing the innocent peace loving people. To understand the spirit of the Divine Statute for punishment we should look at the analogy of the second righteous caliph Umar b. Khattab (RA). He waived off the punishment of theft from a young man expecting that he would not repeat the same. Similarly he dropped the punishment of theft in the year of acute famine.

The early Muslim Jury felt the harshness of Divine statute in respect of theft. They endeavored to reduce this harshness as much as they could. They dealt with the application of these ordinances by prophet and

caliphs. They also touched at the purposes and benefits of these ordinances and they started narrowing down this limit resorting to so many conditions like *Nisab*, *Harz* and *Intifa-uz-Zarurah*. And finally they advised to mobilize the people for forgiveness.

During deliberations on the comprehensiveness and the objectivity of the issue we realized that the purpose of Divine statute is to determine the highest limit of punishment and the Quranic text in regard to theft does not lack in expression. We are bound to integrate the Quranic texts with independent endeavor and their application to corroborate the Quranic verses and their meaning. At the same time we realized the real meaning of the verses and their applications that ranges between the forgiveness and implementation of the Divine statute as per the circumstance. The same is applicable to the crime of killing because it also leads to terrorizing the people. Hence, they should be fought keeping in mind the requirements of time and space. It will help achieving the peace and tranquility because the extent of texts and their application are, as a matter of fact, adaptability of the concept of Divine statute with the Quranic text vis-à-vis the highest limit of punishment. Thus, forgiveness is the lowest limit, which sometimes can be adopted taking into account the vision of the Ummah and their counsel.

We should realize that the Divine statute for theft is the highest limit of punishment like in the case of *Qisas* (castigation). It is up to the counsel of society to determine the punishment as per the requirement of situation detrimental to the crime without any transgression and negligence to achieve the basic purpose, i.e. realization of peace and tranquility in the society. This way the legislation or the judgment in regard to Divine statute of punishment does not fall in danger from where one has no way out.

With this generous perception of Islamic Penal Code that achieves the purposes and leaves no space to frighten the society from Islamic legal punishment limit, as the determination of punishment at all circumstances lies in the social counsel as per its vision and satisfaction and it is at its disposal to achieve the basic purpose i.e. fight the crime and achieve the social security either with forgiveness or with punishment or any between the two provided the highest limit should not be transgressed.

When we look at the contemporary societies, which are replete with legislations and systems we find that some of these legislations embody

knowledge, wisdom, expertise and maturity and are in complete consonance with revelation and Islamic laws. And we observe that the legislations for fighting the crimes are continuously changing as per the requirement of the situation to achieve the security of the society. Thus, at times they abrogate in totality the system of execution and at some other times they bring back the system when the legislators feel their

necessity to fight the crimes and achieve the security of the society. As a matter of fact, the execution system was enacted in the beginning at some parts of the country while other parts remained untouched. And this is the condition of other punishment with constant addition and subtraction as per the requirements and necessities to ensure the social security for the citizens.

The knowledge, comprehensive approach, particularity and the realization of legal objectives are important for the thinkers of the Muslim community, their Ulema and their well-wishers to look into a number of issues that falters the Islamic perception in so many circumstances. This is a dangerous trend full of unwanted negative results, which paved the way for tarnishing the image of Islamic law as they allowed in the name of the Holiness to exploit these lapses for terrifying the people especially by the people in saddle to humiliate the common masses, crush their wills and suppress their capabilities. Varieties of oppression and corruption of the Muslim and the formation of a negative and horrible slave mentality in the Muslim community followed all these things.

Perhaps, our observation of a number of corrupt organizations supports the above thesis as they become bankrupt and used all the means and available ideologies like nationalism, liberalism and socialism to promote their corrupt organizations. They manage to suppress the people and mislead them by announcing to adopt the Islamic legal messages not because of their due care to the Islamic law but to terrify the people, frighten them and suppress their wills in the name of religion, and that is through resorting to the harsh legal punishment. However, as a matter of fact, they are applied to the poor people in the name of Islamic legal punishment. The sad part of the story is that despite eager and zeal to execute the punishment in its most harsh manner they ignore the other legal Islamic teachings, their objectives, and ethical, economic, socio-political and reformative norms for dispensing justice and resisting the suppression and its side effects.

With all seriousness and deep socio-religious knowledge it is incumbent upon all to look into a number of issues, which have caused humiliation and the weakness in the Muslim community. We should also look into the ways to distance the community from the road leading to ignorance and oppression and the misuse of holy positions.

It is not fair that demanding implementation of lowest limit in cases of sufficient active punishment to deter crime was sheer negligence to the Islamic law. As it is also not fair to say that the negligence in punishment, sometimes, leads to the negligence and indifference to prayers as, the obligation of prayer is different from the punishment of crime. In prayers, the lowest limit of contact with almighty Allah was made obligatory and addition to it was left on the individual as per his requirement. In this context, Islam mobilizes the human being for additional prayers voluntarily as per condition of his body and heart. The additional prayers include *Sunan* , *Tahajjud*, *Taraweeh*, *Etikaf*, *Six days fasting in the month of Shawwal*, *9th and 10th of the month of Muharram*, *fasting of Monday and Thursday of every week* and other optional prayers as per the requirement and energy of the individual.

However, the demand for the implementation of the lowest limit of punishment of the Divine ordinance to reform the society and suppress the crime does no way contradict the obligation of the essential lowest limit in the prayers which is obligatory for individual Muslim for his contact with the almighty Allah and additional prayers are left on the capacity of the individual and his psychological needs.

The Quranic verse pertaining to the lowest limit of punishment is in complete consonance with the verse of the lowest limit of prayers. They are the two sides of the same coin. They represent two facets of the same concept and same objectives. The punishment is not for the sake of punishment or for the intimidation or suppression but to fight the crime and stop it. Any amount of punishment that guarantees the same is sufficient. However, the purpose of prayer is to remember Allah, to keep in contact with Him, to seek inspiration, guidance and success from Him. That is why in prayers the lowest limit was made obligatory and the individual was mobilized to make an addition voluntarily in accordance with his psychological needs. This addition should be to the extent that can civilize him, guide him to the good, and stop him from tyranny and aggression and the commitment of sins and vices.

Allah the almighty says in His Book, “ O ye who believe! Remember Allah with much remembrance. And glorify Him morning and evening. He it is who sends blessings on you, as do His angels, that He may bring you out from the depths of darkness into light. And He is full of mercy to the believers” (32:41-43).

He further said, recite what is sent of the Book by inspiration to thee and establish regular prayer; for prayer restrains from shameful and evil deeds. And remembrance of Allah is the greatest (thing in life) without doubt. And Allah knows the (deeds) that ye do” (29:45).

And He says,” seest thou one who denies the judgment (to come). Then such is the one who repulses the orphan and encourage not the feeding of the indigent. So woe to the worshippers who are neglectful of their prayers. Those who (want but) to be seen but refuse (to supply) (even) neighborly needs” (107:1-7), as their behavior and deeds are devoid of the spirit and the motives of prayer as they are just for show and nothing more than hypocrisy.

Abu Hurairah (RA) one of the companions of the Prophet narrated the prophet’s saying, “ There are fasters who don’t get any thing from their fasting except hunger and there are night worshippers who get nothing except they pass sleepless night. (Nasai and Ibn Majah)

If we understood the nature of the punishment system, its relation with human nature and the comprehension of revelation we understood the role of faith, culture, conscience, role of education in directing the individual behavior to achieve sublime objectives of Islamic law. The Islamic punishment system is an integrated, developed and live system and the source for security feeling. It is in complete contrast to its projection as imperfect, stagnant and partial. Sorry to say, many sincere people depicted this picture in a terrifying and mutilated manner either following the footsteps of others or due to the ignorance of socio-universal scientific method. At the same time, many vested interest people came out with malice and demolishing objectives. Such things lead to mutilation of Islamic image, propagation of terror and annihilation of the security feeling in term of the execution of Islamic law consciously or unconsciously in the minds of the community. As these approach shook the confidence of the community in the sublimity of their religion, laws and weakened their wills to adopt them in their lives.

These feelings and the understanding of Islamic Penal Code are the product of ideological contemplation of the Quranic text alone but they appeared to me as a result of the scrutiny of the Socio-psychological nature through the responses obtained from the hostel students for the same socio-psychological needs. This scientific scrutiny led to understand that the most faithful, most comprehensive in regard to the legal texts, their objectives and their perception in the issue of Islamic Penal Code

are its socio-psychological meanings in spreading security and tranquility among the people.

Leaving behind the extent of the minuteness of the results achieved after the scrutiny, careful study and the analysis as well as the extent of agreement and disagreement it is important to note that this scrutiny was like a live social scientific experiment. It substantiates the integration of the guidelines of Islamic revelation with systematic scientific partnership, the human nature, the universal norms of creation, knowledge of events with their circumstances and requirements (i.e. the scientific rational Islamic method for knowledge based on the experimental method and not the ideological, imaginary and rational one inherited from the annihilated Greek civilization. The later method has dominated the Muslim mind historically and led to the issues of superstitious battles. These issues turned the Muslim mind from the issue of ascendancy. The issue of ascendancy takes nature as a field of study and practical scientific rational ideology i.e. social sciences and the human being. It considers nature and human being a spot of thinking. They are the addressees of revelation and guidance. Similarly, the method under discussion takes the human wisdom, quest for search, vision and inspiration with its entire means as instruments.

Anyway, the most important result of this vision and socio-scientific contemplation is the commitment to Islamic messages and their objectives. This vision put forward a method to study the objectives of Islamic Penal Code and its presentation style. We think the Muslim community, presently desperately needs this aspect because the system will strengthen the confidence in Islamic law, pacify the people's heart, encourage their morale and remove the feeling of fear. If these feelings prevailed upon the people as evident in the community's condition will paralyze and crush their will power and hidden potentials.

We hope that we would promote a comprehensive method integrating guidelines of revelation with scientific research to understand the nature.

This method scientifically creates the sources of Islamic knowledge in the revelation, wisdom, knowledge and nature and facilitates the comprehension of the concept of ascendancy. That is why it mobilized the International Islamic University Malaysia to adopt it and gradually develop its courses and programmes. We wish its promotion and development with research and scientific accumulation to generate, spread true Islamic knowledge and create true Islamic human social sciences. It appeared from the forerunners that they are enough competent

to produce leading cadres for the community who will be equipped with the innovative scientific wisdom and will be marked with integrity, knowledge, comprehensiveness, and discipline. In the said method revelation guidelines will be assimilated with natural desires on the basis of experimental practical rational and scientific knowledge, which is essential for the formation of Islamic social sciences. These sciences are to be inspired by the revelation guidelines and disclose their objectives and rationality methodologically and scientifically. That will be an active source to renew the energy of the community, restore its position and a suitable leading positive share in the march of human civilization. And finally it will guide the community to march through the narrow lanes of materialism.

A lesson in the procedure

The crux of the matter is that how can the contemplation on socio-psychological scientific study of the student accommodation shed light on the important legal Islamic issues and explain their connotation and objectives as if they are random arbitrary issues. However, with this contemplation these issues became meaningful rules for the human nature and the bases for their social organization.

Similarly, the writer wants to formulate an Islamic scientific method, exercise it, promote it and practically generalize it in the study of different aspects of social life in the Muslim community to achieve the reality of the human ascendancy, to reconstruct the Muslim community and to restore its potentials and its desire for ascendancy. He also likes to look into the contemporary circumstances for the entire stable Islamic messages and to understand them properly in the light of integrated, systematic, comprehensive, scientific Islamic method. This method contains the texts of scientific legal studies of nature in the light of contemporary events, their possibilities and challenges so that Islam, the Islamic law and its stable messages can function as lamps of reality, practicality, idealism and guidance for the community and the human

being. As a result a generous, cultured human civilization will prosper in the human world once again.

The confusion, in the first stage, is not that what is changing and what is stable, but the most important thing is that how to understand and present what is stable and how to address the community, how the human nature will achieve it and what is the message for the community in its leadership and guidance for the march of generous, cultured human civilization.

The significance of this experiment before the writer is that its best fruits in the form of graduates of the aforesaid university have started coming up. Their achievements lay in the successful practical live experiment, which embodied the benefits of comprehensive Islamic scientific method and its dynamism. This method started marching towards the unification of sources of Islamic knowledge and the achievement of methodological scientific integrity. The expected benefit is the demand of the human being for guided comprehensive knowledge and construction of a powerful society based on justice and peace.

Appendix **New Pattern for the planning of university Hostel**

We wish the universities and other academic institutions derive the benefit from the study that has been winded up in regard to the betterment of university student hostel to achieve merits in the border and to satisfy his needs in the collective friendship and the moral chastity without much addition to the expense.

The above analysis explained that the suitable number for student's accommodation that can provide the sound environment for integrated social interaction and safeguard the morality is four. Now we have to know how can we equip each student with such qualities while he is in the company of other three and how to diffuse the conflict and dispute resulting in an accommodation common to a group of students.

It is possible to overcome this problem and achieve the individuality and collectivity in a room at one point of time. That is with a slight change in the room management as; it is possible to create four independent areas with all amenities, freedom and control so that no dispute should arise on

the use of amenities at any point of time in day and night. Nevertheless, no single area out of four should be separated or its door be closed facing to the roommates. Such arrangement will facilitate interaction; promote the bond of friendship, fraternity, solidarity and cooperation among them. Similarly it will reduce the causes of dispute and negative friction among them. And it will be possible without any expansion in the room's size.

We have to think of a spacious single room partitioned in four equal parts where two chambers out of four are erected in length with providing

spacious way before other two chambers to facilitate peeping into the wide space through windows.

Thereby, whoever enters the room he will face four chambers, each of them with a cot under a cutting shadow and a cupboard at the cutting edge. By the side of the window there will be a student table. This arrangement, we observe in the diagram attached provides each student a unit exclusively for him which he can use any time in the day or night without disturbing his roommates. Thus, if the student's quality can be achieved through establishing independent units the collectivity also can be achieved, as doors will not be made to separate students from one another, weaken cooperation and solidarity being partners in one room.

This slight modification became possible in the designing of a room so that each student can enjoy his freedom and retain his merit in one accommodation with his full control on his specific area without being deprived of the company of other partners.

Perhaps the drawing of the chambers will explain the picture of its formation and socio-psychological qualities resulted upon.

We advise the educationists to have an acquaintance with architectural designs of the International Islamic University, Malaysia to add to the benefits achieved by this Islamic architecture in perfection and beauty and in other dimensions, which have no precedence in the past. This arrangement is perfect in a sense it is easy to use and creates the Islamic qualities, particularly related to purity and ablution.

Except Him we have no way out. He is the guide who guides to the truth

1. Piece of writing

This piece of writing takes up one of the stable messages of Islam (the controversial Islamic law), i.e. Islamic Penal Code for study and analysis. It finds out, in the light of a method integrating Quranic knowledge with universal learning, different shortcomings of contemporary Islamic messages. These messages failed to realize the essence of Islamic law, understand the Quranic meanings, which have been offering a system responding to the human nature and their needs for social security with all kindness and care for their weakness.

We hope that this model would be a catalyst for the thinkers and the scholars to take up the intellectual reform boldly and seriously and look into the contemporary Islamic messages with their stability and universal vision to activate the potentials of the community and revive the zeal for ascendancy.

Outlay of University student Hostel (First stage)
Islamic University of Malaysia

Fig.1

Fig.2

Fig.3

Fig.4

1 2 3 4

Entrance of the room

Cupboard Office