

Contents

I.	Introduction	1
----	--------------	---

PART ONE: *Shariah Perspectives*

II.	Islamic Criminal Justice: An Overview	17
III.	<i>Hudūd</i> in the Qur'an, Sunnah, and Fiqh	21
	<i>Hudūd</i> in the Qur'an	21
	Repentance (<i>Tawbah</i>) and Reform (<i>Iṣlāḥ</i>) in the Qur'an	27
	Juristic Views on Repentance	32
	<i>Hudūd</i> in the Sunnah	41
	<i>Hadd</i> (Limit) and <i>Ḥaqq</i> (Right) in the Juristic Expositions of Fiqh	49
	Legal Maxims on <i>Hudūd</i>	58
IV.	Prescribed <i>Hudūd</i> Crimes	60
	Preliminary Remarks	60
V.	<i>Zinā</i> (Adultery and Fornication)	63
	Meaning and Attributes of <i>Zinā</i>	63
	Proof of Adultery by Witnesses and Confession	65
	Issues over Rape, Its Evidence, and Proof	67
	Definition of a Guarded Person (<i>Muḥṣan</i>)	74
	Issues over Stoning, Banishment, Doubtful hadiths, and Abrogation	77
	Modern Opinion on Stoning (<i>Rajm</i>)	84
	Homosexuality, Incest, and Lesbianism (<i>Liwāṭ</i> , <i>Zinā bi'l-maḥārim</i> , <i>Siḥāq</i>)	90

VI.	Theft (<i>Sariqah</i>)	96
	Theft from Relatives	97
	Issues over the Quorum (<i>Nisāb</i>)	98
	Issues over Safekeeping (<i>Hirz</i>) and Ownership (<i>Milkiyyah</i>)	102
	Proof and Punishment of Theft	105
	Repentance and Its Impact on the Punishment of Theft	107
VII.	Banditry and Terrorism (<i>Hirābah</i> , also <i>Qat' al-Tarīq</i>)	111
	Definition and Meaning of <i>Hirābah</i>	112
	<i>Hirābah</i> in the Qur'an and Sunnah	113
	A Fiqh Discourse on <i>Hirābah</i>	115
	Punishment of <i>Hirābah</i>	118
	Repentance in <i>Hirābah</i>	121
	Suicide and Suicide Bombing	122
	Terrorism Then and Now: A Survey of Contemporary Opinion and Research	127
	Muslim Responses to Global Terrorism	132
	<i>Hirābah</i> in the Qur'an Revisited	137
VIII.	Issues over Apostasy (<i>Riddah</i>)	141
	Review of the Source Evidence on Apostasy	142
	Juristic Opinion on Apostasy	145
	Apostasy in Malaysia: An Overview	147
IX.	Slanders Accusation (<i>Qadhf</i>)	150
X.	Issues over Wine Drinking (<i>Shurb</i>)	157
XI.	Enforcement of <i>Hudūd</i> Punishments: Procedural Constraints	166
XII.	The Philosophy of <i>Hudūd</i>	176
	Deterrence and Expiation in <i>Hudūd</i>	177
	Retribution and Retaliation	181
	Rehabilitation and Reform	183
XIII.	Discretionary Punishment of <i>Ta'zīr</i>	186
XIV.	Judicious Policy (<i>Siyāsah Shar'īyyah</i>)	195
XV.	Just Retaliation (<i>Qisās</i>)	201

XVI.	Blood Money and Financial Compensation (<i>Diya</i>) Retaliation and Blood Money in Modern Law: An Overview	213 218
XVII.	Doubt (<i>Shubha</i>) and Its Impact on Punishment	225
XVIII.	Islam as a Total System	231

PART TWO: *Islamic Criminal Law in Malaysia*

	Introductory Remarks	241
XIX.	Hudud Bill of Kelantan 1993: Issues in Rape and <i>Zinā</i> , Witnesses, and Confession	243
XX.	Hudud and <i>Qiṣāṣ</i> Bill of Terengganu 2002	248
XXI.	Problematics of the Hudud Bills Constitutional Issues	253
	Position of Non-Muslims	257
XXII.	The <i>Hudūd</i> Debate Continued: Update 2012–2017	260

PART THREE: *Islamic Criminal Law in
Other Muslim Countries*

XXIII.	Introductory Remarks Early Reforms in Ottoman Turkey, India, and Egypt	269 269
	The Indian Penal Code 1860	271
	Islam in Central Asia	272
	Iran and Afghanistan	273
XXIV.	<i>Qanun Jinayat</i> of Aceh, Indonesia Qanun Jinayat Goes to the Supreme Court	276 281
XXV.	Shariah Penal Code in the Islamic Sultanate of Brunei Darussalam	284
XXVI.	Islamic Criminal Law in Saudi Arabia	288

XXVII.	Shariah Punishments in the Islamic Republic of Afghanistan	295
XXVIII.	Shariah Punishments in the Islamic Republic of Pakistan	301
XXIX.	Shariah Punishments in the Islamic Republic of Iran	306
XXX.	Islamic Criminal Law in Republic of Nigeria	310
XXXI.	Shariah Punishments in Republic of Sudan	315
XXXII.	Shariah Punishments in the Islamic Republics of Mauritania and Maldives, and Islamic State of Yemen	321
	Islamic Republic of Maldives	323
	Islamic State of Yemen	325
XXXIII.	Shariah Punishments in Libya, the United Arab Emirates, and Qatar	329
	Libya	329
	United Arab Emirates	330
	Qatar	332
XXXIV.	Conclusion and Recommendations	334
	Pertaining to <i>Zinaā</i> and Rape	338
	Theft (<i>Sariqah</i>)	339
	<i>Hiraābah</i> , Banditry, and Terrorism	340
	Consumption of Liquor	341
	Slandorous Accusation (<i>Qadhf</i>)	342
	Retaliation and Blood Money (<i>Qiṣaās and Diya</i>)	343
	Judicious Policy (<i>Siyaāsah</i>) and Deterrent Punishment (<i>Ta'zīr</i>)	344
	<i>Acknowledgments</i>	347
	<i>Appendix</i>	349
	<i>Schedule I (attached to Section 53)</i>	363
	<i>Notes</i>	365
	<i>Glossary</i>	405
	<i>References</i>	411
	<i>Index</i>	423