

Q # 09: Define Hadd and Tazir. What is difference between these?

1) Introduction

- In Islamic law there are two kinds of punishments are given by Islamic law which is Hadd and Tazir.
- Tazir refers to punishment for offences at the discretion of the judge
- Hadd refers to punishment for offenses as mentioned in Holy Quran and judge can't change them. In Islamic Law ,aim or objective of such kind of punishments is to reformation of criminal and disgracing them

2) Types of Punishment

Types of punishments are divided into two types

1. Hadd

A. Literal meaning

- Word hadd means limit

B. Definition of Hadd

- Legally Hadd means those punishments whose limit has been defined in the Holy Quran and Hadith

2. Tazir

A. Literal meaning

- Literally means disgracing the criminal for his shameful act

B. Definition of Tazir

- Legally Tazir means those Punishments “where Judge is authorized to fix the nature of punishment which may be fine, death, imprisonment, compensation etc against violation of individual rights.

3) Hadd crimes and punishments

No judge can change or reduce the punishment for these serious crimes because these have been set by ALLAH in Quran. The Hadd crimes are:

1. Murder Punishment

- Death by retaliation(Jawabi Karwae) (by victim's family)
- Compensation (Payment or property)
- Pardon by victims family

2. Apostasy(Inkaar) from Islam Punishment

- Punishment
- Death by Beheading (Sar Kalam Krna)
- Imprisonment until repentance (Toba,Mufi)

3. Robbery Punishment

- Death by beheading (Sar Qalam Krna)
- Cutting off hands or foot
- Imprisonment

4. Theft Punishment

- Cutting of right hand from joint of wrist if theft is committed first time
- As for the thief, male or female, cut off the hands of both from the joint of wrist

5. Adultery Punishment

- Stoning to death for those who are married
- 100 lashes for those who are un-married or bachelors

6. Defamation Punishment

- 80 lashes are defined under Hadd for defamation

7. Alcohol drinking Punishment

- 80 lashes are defined under Hadd for Alchohold Drinking

8. Rebellion Punishment

- Death if Captured by the forces
- Tazir Punishment if surrendered or arrested himself

4) Tazir Crimes and punishments

Judge can fix a punishment on his own discretion against violation of rights of individuals

- Tazir crimes are less serious than the hadd crimes found in the Quran. Tazir punishments vary according to circumstances. Change time to time and place to place. Objective of such punishment is to prevent the society from offender from future. Judges are not bound to make decision on behalf or Precedent ,or later case etc

Some of most common punishments are comes under Tazir crimes:

1. Counseling (Sulaah)
2. Fines
3. Public or private pressure
4. Imprisonment
5. Seizure of property
6. Confinement (nazarbandi) in the home
7. Lashes

5) Difference between Hadd and Tazir

- Being Muslims, it is obligatory (lazmi) for us to accept wholeheartedly all the tenets of Islam. Hadd crimes are crimes against ALLAH's Law. Tazir crimes are crimes against society. Islam has defined two kinds of punishment namely Hadd ,Tazir,. Punishments for Hadood are integral part of Islam which can't be reduced by Judge. In Tazir crimes, judges are authorized to fix the nature of punishment on their own discretion (Sawabaydeed) Following are the some point of distinction between hadd and tazir

1. As to Object

- The object is hadd is prevention of a crime by following the principles laid down in the Quran and limits prescribed by ALLAH
- The object of Tazir is reformation and correction of the offender

2. Procedure

- The procedure of trial in Hadd is complicated
- The procedure of trial in Tazir is Simple, according to some jurists, Judge can judgment on basis of his own knowledge

3. As to Right

- Violation of rights of ALLAH gives raise to Hadood Punishments
- Violation of rights of Individual gives raise to Tazir Punishments

4. Change of Sentence

- The penalty of Hadd can't be commuted
- The penalty of Tazir can be commuted

5. Pardon of Sentence

- Pardon can't be granted in Hadood cases
- Pardon may be granted in Tazir cases

6. Operation of Mistake

- Doubt or mistake can affect the penalty of Hadd cases
- Doubt or mistake can't effect the penalty of Tazir cases

7. Rule of testimony

- The evidence of women is not acceptable in Hadd Cases
- The evidence of women is acceptable in Tazir cases, but the nisab of one man and two women will have to keep in view

8. Standard of evidence

- In hadd ,the standard of evidence is so high as to number, qualification and conditions of witness because any doubt can prevent the implementation of hadd punishment
- In Tazir,Standard of evidence is not so high

9. Mention of Offences

- Some jurists listed seven hadd offences.
 1. Murder
 2. Apostasy from Islam
 3. Robbery
 4. Theft
 5. Adultery
 6. Defamation
 7. Rebellion
 8. Alcohol drinking
- Tazir offences has not been mentioned because they are innumerable (Angint)

10. Discretion

- In Hadd crimes ,judge can't exercise his discretion(Raye/Sawabaydeed)
- In Tazir crimes, Judge can exercise his discretion

11. Replacement

- Hadd punishment can be dealt with under Tazir
- In Tazir the punishment of Hadd can't be enforced

6) Conclusion

- Punishment for Hadd and Tazir is part of Islamic law. Hadd was implemented in Arabic before promulgation (Ishaat) of Islam as Tazir in Pakistan. Islamic law does have separate courts for

Muslims for RELIGIOUS CRIMES. Non-religious courts for other criminal and civil matter.
Objective of Islamic law and courts to secure the people of society from offenders

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