

Islam: Crime and Punishment

Justice

The Qur'an describes God as just. Because God is just, justice must be of the highest importance for all Muslims

The Qur'an says that God wants people to treat each other fairly and to establish justice: **"God commands justice, the doing of good...and He forbids all shameful deeds and injustice."** Surah 16:90

Muslims believe that it is part of their role as **vicegerents** of God's creation to behave justly to other people and to ensure that the world is run in a fair way.

Allah commands Muslims to be just that means the unjust must be punished, **"God commands justice and good conduct to all... and he forbids all immorality, bad conduct and oppression"** Surah 16:90

Every Muslim is free to choose good or bad behaviour (**freewill**) and must accept that their actions will affect their relationship with God and the society around them.

Muslims will be judged on Judgement day **"People beware of injustice, for justice shall be darkness on the Day of Judgement"**.

There are many hadith (sayings of the Prophet Muhammad) in which Muhammad is shown as acting justly and telling Muslims to treat everyone justly and equally.

"Stand up firmly for justice, as a witness to God, even as against yourselves or your parents or your kin, and whether it be against rich or poor." Surah 4:35

Shari'ah

For Muslims the fair way to act justly is through Shari'ah, literally "a path to be followed", It is a system of law covering moral, social, economic, political and religious life, based on the Qur'an and the Sunnah and is used by Muslims to make moral decisions. By following the Shari'ah, Muslims can live the way they believe Allah wants them to.

Justice is important to victims of crime as Islam teaches that justice should always be given and as the victim is innocent, justice can only be given when the victim receives justice from the perpetrator. This can be by compensation.

Muslim Aid is an organisation that works to relieve poverty around the world and seeks to secure justice for the poor and oppressed. It has campaigned hard to persuade rich nations to be more generous in giving to the poor and has sought to get rid of oppression in areas of great poverty and deprivation

Crime

- Muslims are against crime because criminal behaviour is breaking the law of God. "**God orders justice, doing good...he forbids what is shameful, blameworthy, and oppressive**". Surah 16:90-92
- it is important to individually try to work against crime, as Muslims believe the Ummah is important and all Muslims have a duty from Allah to care for others as part of this.
- Being involved in crime distracts them from what is important in life- worshipping Allah. Muslims believe that their time is put to better use through living their life as Allah intended.
- They want to follow the example of Muhammad, who taught about the importance of helping others.
- When Allah judges them on the Day of Judgement, Muslims believe their actions will be taken into account as to whether they lived their life as Allah wanted them to. "...**Fulfil the covenant of Allah ...for he knows all that you do.**" Surah16:91)
- Tackling the causes of crime may prevent others from getting into situations associated with crime.
- They are taught that all humans were created by Allah as equals and all deserve equal treatment.

Muslims try to remove the causes of crime:

Poverty - Islam tries to deal with issues of poverty in both a religious and a political way. It tries to remove poverty by:

- banning the use of interest (the poverty of many poor people is made worse by the high interest rates they are charged which can lead them to crime)
- encouraging Muslims to share their wealth
- banning gambling, which can drive people into poverty
- Zakah to help poor Muslims in the UK
- supporting charities such as Muslim Aid and Islamic Relief

Politically, Islam encourages its followers to think carefully about voting and to support policies aimed at removing poverty

Upbringing - Islam tries to help people to be good Muslim parents. Children are a gift from God and, on the Last Day, Muslim parents will be judged by God on how well they have brought up their children. They are expected to teach their children the difference between right and wrong and introduce them to the faith through observing Salah and Ramadan at home,

Drugs and alcohol - Drugs and alcohol should not be a problem for Muslims as they are prohibited (haram) as the Qur'an says that intoxicants are used by Satan to try to keep people from God and from saying their prayers. Muslims must not drink alcohol, and must also have nothing to do with the production or sale of alcohol.

Low self -esteem. No Muslim has a problem with self-esteem as they are the khalifah (Allah's stewards) of God and are given the task of looking after the world in the way God wants. However, being aware that the way you do this is being monitored by God, and that if you do not do it well you will be punished on the Day of Judgement, should mean never having too high an opinion of yourself.

Muslim Chaplains' Association	An organisation which supports Muslim chaplains in helping to prevent Muslim prisoners reoffending after their release from prison.	MOSAIC	An organisation that provides support for Muslim prisoners 6 months before and after their release from prison.
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Attitudes to Good, Evil and Suffering

Good Actions

As Allah created the universe, everything must be **halal** (permitted) unless Allah has specifically said it is not. Good actions are divided into

- **Fard** – actions a Muslim must do to be seen as good, including observing the Five Pillars and obeying Shar'iah law, eg eating only halal food. Performing these actions will be rewarded and not performing them will be punished
- **Mandub** – actions that a Muslim will be rewarded for doing but not punished if they don't do them e.g. Du'ah prayers
- **Mubah**- actions which are permitted because there is nothing about them in the Qur'an or Hadith e.g., watching television. These are neither rewarded nor punished.

Evil actions

Evil actions are called **haram**, which means that which is forbidden and includes actions which are forbidden in the Quran, Hadith or Shari'ah law (drinking alcohol, gambling, lending money at interest). These are regarded as evil and will be punished by God at the final judgement. Evil is divided into:

- **Moral Evil** - evil caused by humans misusing their freewill e.g , murder, burglary, rape
- **Natural Evil** – suffering not caused by humans, e.g. earthquakes, floods, drought, tsunamis, diseases like cancer

Muslim response as to why people suffer

- ***"It is We who have sent down the Qur'an to thee in stages. Therefore be patient with constancy to the command of thy Lord, and hearken not to the sinner or the ingrate among them"*** Surah 76:23-24. As Allah is so much greater than humans, we cannot accept his motives and must just accept what He does
- Humans have been born with natural instinct to understand between right and wrong and have been given freewill to choose between right and wrong
- The angel Iblis refused to bow down to Adam and was sent out of paradise but was allowed to try to tempt humans to choose wrong until the Day of Judgement, therefore life is a period of testing and temptation
- Evil and suffering test a Muslim's faith. If a Muslim keeps true to their faith, they will be rewarded with eternity in paradise on judgement day
- The faithful should not ask why there is evil and suffering but accept it as God's will knowing that Allah will not ask more of them than they can endure
- Muslims should help those who suffer either by working to remove evil and suffering from the world or by prayer, because helping the suffering and fighting evil will be rewarded by Allah

Non-religious attitudes towards evil and suffering

The existence of Natural Evil makes non religious people reject God's existence as they believe that a good God would not have designed a world with natural evil.

- If God is omnipotent, he must be able to remove evil and suffering

- If God is omnibenevolent he must want to remove evil and suffering since it causes so much unhappiness
- As evil and suffering exists, either God is not omnipotent, or He is not omnibenevolent or he does not exist (Mackie calls this the **Inconsistent Triad**)

Evil and suffering are either the result of humans misusing freewill or the fault of the accidental nature of the universe

Attitudes to Punishment

Those who commit crimes will not only be punished by law but also face the judgement of Allah on the Last Day

In terms of punishment for crimes, Shari'ah law is divided into two general categories.

1. Hadd (or hudud) punishments. These are the punishments **fixed** in the Qur'an and hadith for crimes considered to be against the rights of Allah. E.g.
 - theft, where the punishment is amputation of the offenders hand
 - adultery, where the penalty is death by stoning.

2. Tazir offences are crimes that the **judge** can decide the punishment for.

Most Muslims countries operate a legal system similar to that of Europe.

Until recently Saudi Arabia was the only country using the **hadd** punishments, but now the Taliban and Isis and other areas under **Salafi** control tend to apply these punishments because they are set down in the Qur'an or Sunnah.

- If a victim and perpetrator agree an amount of compensation, this can take the place of punishment **"But if any remission is made by the brother of the slain, then grant any reasonable demand and compensate him with handsome gratitude."** Surah 2:178
- Justice and punishment should be given equally to Muslims and non-Muslims, although it is preferable for non-Muslims to use their own legal systems

Punishment should be appropriate to the crime committed. **"And We ordained for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth..."** Surah 5:44

- Muslims believe that offenders need to be given the opportunity to change their behaviour and therefore punishment will allow them to do this. Muslims believe Allah is merciful and forgiving (**al-Ghafir**)
- Muslims do follow some principles of situation ethics by taking into account the reason behind why a crime was committed e.g. being forced to steal because of poverty.

Aim of Punishment	Muslim Teaching
Protection	Part of a Muslim's responsibility as vicegerents is to ensure people live in a stable and secure society.
Deterrence	<i>"As to the thief male or female, cut off his or her hands: a punishment by way of example, from God of their crime"</i> Surah 5:41
Reform	<i>"The recompense for an injury is an injury equal thereto in degree: but if a person forgives and makes retribution, his reward is due from God"</i> Surah 42:40

Retribution	<p>"And we ordained for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth" Surah 5:44-46</p> <p>"God commands justice ... He instructs you that ye may receive admonition" Surah 16:90</p>
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Forgiveness

Allah is merciful and forgiving. One name given to Allah is 'the compassionate and merciful' showing Allah forgives people and Muslims believe they should try to do this too.

'In the name of God the Compassionate, the Merciful'. (Bismillah)

If anyone does evil or wrongs his own soul, but afterwards seeks God's forgiveness, he will find Him most forgiving and merciful.' Surah 4:110

- Muhammad taught that people should try to forgive those who have wronged them or offended them. Islam is a religion of peace and submission to Allah and ideas of forgiveness support this.
- There are many examples in the Qur'an where it says that a life can be taken for a life, supporting capital punishment. However, it also says that if a killer is forgiven by the victim's family and can pay compensation to the family, their life can be spared.
- There are some actions in Islam that display examples of forgiveness: Hajj is one of these. During Hajj Muslims stand on Mount Arafat and ask for forgiveness from Allah. Hajj is the fifth Pillar of Islam and a duty for all Muslims to complete once in their lifetime where ever possible. Muslims believe that through enduring this difficult pilgrimage and repenting for their sins, Allah will forgive them, showing how important forgiveness is.
- Muslims believe that on the Day of Judgement, they will stand in front of Allah and be judged on their actions on Earth. Muslims believe that if a person is truly sorry and repents for their sins, Allah forgive them.

Sources of Authority

But if ye forgive and overlook and cover up their faults, verily God is oft-forgiving, most Merciful. **Surah 64:14**

.....but if a person forgives and makes reconciliation, his reward is due from Allah.... **Surah 42:40**

Be forgiving and control yourself in the face of provocation; give justice to the person who was unfair and unjust to you; give to the one who did not help you when you were in need, and keep fellowship with the one who did not care about you.

Hadith

Restorative justice

Restorative justice brings those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward

- Restorative justice is used with offenders to help them **understand** the impact their actions have on victims, their families and the wider community.
- The offender and victim can speak and share their thoughts hopefully leading to **reconciliation**, where relationships can be restored.
- Restorative justice is a reasonable idea within Islam and **complements** traditional Islamic teachings of peace, forgiveness and justice

Treatment of Criminals

The **Universal Declaration of Human Rights** sets out the key human rights every human being should have the right to universally:

- The right to freedom from torture and degrading treatment.
- The right to have a fair trial.
- The right to be free.
- The right to freedom of thought - no one can be punished for their ideas and beliefs.
- The right to freedom of expression - this means people can say what they think, but only if they do not break other human right laws e.g. religious tolerance.

Many Muslims support **severe punishments** such as caning and capital punishment. They believe this type of punishment has a purpose, to **deter** crime from being committed in the future and allows a victim to receive full **retribution**.

However, **Muslims believe that criminals should be treated fairly** whilst waiting for their trial, once they have been convicted and when they are punished as Everyone was created by Allah and therefore deserves respect

- They have a right to a fair trial:
 - A person should be considered to be innocent until they are proven guilty.
 - They should have fair representation as well as the right to put forward their account of events.
- Muslims should be merciful towards prisoners - '*They are those who ...feed the poor, the orphan and the captive for the love of Allah...*' Surah 76:1-12

Islam teaches that justice is important both for the victim of a crime and the person accused of committing it. It must be proven that a person committed a crime before a punishment is set.

Use of torture

Torture is acceptable	Torture isn't acceptable
- The torture of criminals is permitted if they are hiding a secret which will harm the innocent (for example, the location of a bomb)	- Muslims believe that everyone was created by Allah and therefore deserve respect. Do not torture the creation Allah... (Al- Adab Al- Mufrad)

<ul style="list-style-type: none"> - In the time of Muhammad there are suggestions that torture was allowed for the purpose of interrogation - The Qur'an suggests that severe forms of punishment involving pain and suffering could be used. 	<ul style="list-style-type: none"> - The Cairo Declaration on Human Rights in 1990, stated that no one should be subjected to arbitrary arrest, torture, maltreatment or indignity - There are several hadith of the Prophet Muhammad which condone the use of torture 'Verily Allah will torture those who torture people in this world'
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Treatment of Criminals (cont)

Trial by Jury

- Islamic states which use Western-type legal systems have fair trials where the accused is tried in open court with a defence lawyer. They have a jury, where twelve people decide whether the accused is guilty. A judge makes sure everything is done fairly and decides on what the punishment should be given if the accused is found guilty.
- However, Muslim countries operating **Shari'ah** legal systems do not use a jury or prosecutors and sometimes not even defence lawyers. Crimes against God's law (including drinking alcohol, lending with interest, committing adultery) are prosecuted by state as **hadd** crimes, and all other criminal matters are treated as disputes between individuals, with an Islamic judge deciding the outcome based on Shari'ah.

Atheist and Humanist view

human rights are hugely important eg, Humanists teach that you should 'treat others as you would like to be treated' which is a key principle in Christianity.

Humanists believe that criminals should be treated justly and by that they mean:-

- Criminals should have a fair trial.
- Criminals should be allowed legal help to defend themselves.
- They should be treated humanely while in custody.
- Any punishment should be proportionate to the crime.
- Criminals should never be subjected to torture.

Humanists also believe that by treating criminals humanely it helps to ensure that innocent suspects are treated fairly. When deciding on the best punishment for a criminal convicted of a crime, humanists have to think about the purpose and usefulness of punishment.

Reforming Criminals is more important	Punishing Criminals is more important
<ul style="list-style-type: none"> - Muslims believe Allah is merciful and forgiving (al-Ghafir) and so should they be. - Muslim Chaplains association working towards the resettlement of prisoners and the prevention of reoffending upon release. - Work of Mosaic with offenders to help them prepare for life outside prison, so that they don't re-offend - reoffending rate is 20% lower - On the day of judgment, those who have done wrong will be punished - <i>"All those who have rejected faith and falsely denied Our signs and symbols ... shall be brought to punishment"</i> Surah 30:14-16 so should try and help other Muslims change their ways so they don't go to Hell 	<ul style="list-style-type: none"> - Retribution is important , a criminal should pay for their crime - <i>"And we ordained for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth"</i> Surah 5:44-46 - Imprisoning criminals protects society, which in turn will create a more stable society and prevent further crimes. This is part of Muslim's responsibility as vicegerents. - Punishing criminals acts as deterrence to others <i>"As to the thief male or female, cut off his or her hands: a punishment by way of example, from God of their crime"</i> Surah 5:41 - Shariah Law has strict rules to ensure everyone is treated fairly. These should be followed - Allah commands that crimes are punished - <i>"God commands justice ... He instructs you that ye may receive admonition"</i> Surah 16:90

Capital Punishment

Islam in principle is in favour of capital punishment for some crimes although there are a small number of Muslims who are in favour of abolishing it.

Why would Muslims support capital punishment?	Why are Muslims against capital punishment?
<ul style="list-style-type: none"> • The Qur'an says that the death penalty can be used for some crimes - murder, adultery and apostasy (someone working against Islam) • <i>"The punishment of those who wage war against God an His Apostle and strive with might and main for mischief through the land is execution, or crucifixion"</i> Surah 5:36 • <i>"Take not life, which God hath made sacred, except by way of justice and the law"</i> Surah 6:151 • Shari'ah law agrees with the Qur'an and in countries where shari'ah law is used, the death penalty can be used. • According to the Qur'an the death penalty can only be used as a last resort, which removes the concern of some that innocent people could be put to death. • Muhammad made statements suggesting he agreed with the death penalty. "It is not permissible to take the life of a Muslim who bears testimony ..., but in one of the three cases: the married adulterer, a life for 	<ul style="list-style-type: none"> • The scholars of Shari'ah law do not agree on the rules of how and when the death penalty should be used, so some Muslims feel it may not be applied fairly. • Capital punishment is recommended by the Qur'an, but not compulsory, there are other option available for the punishment of offenders • Muslims also believe in the sanctity of life, peace and forgiveness which are seen to conflict with the death penalty. • There is a possibility that the wrong person is convicted and executed, therefore is not justice and goes against teaching in the Qur'an "Take not life, which God hath made sacred, except by way of justice and the law" Surah 6:151 • Shar'iah law says that in certain circumstances, the family of a murder victim can accept money from the murdered rather than requiring the death sentence

*life, and the deserter of his Din (Islam),
abandoning the community"*

- When Muhammad was the ruler of Medina, he sentenced people to death for committing murder.

Types of Exam Questions

	<u>Mark</u>	<u>Skills</u>	<u>Requirements</u>	<u>Example Question</u>
A	3	AO1 - knowledge	3X one sentence answers	<u>State three</u> aims of punishment
B	4	AO1 - knowledge	2 reasons Development of each reason (could be a quote or example) (PE) Reason and development MUST link	<u>Explain two reasons</u> why Muslims work to end the cause of crime.
C	5	AO1 & 2 - knowledge and application	2 PEEL paragraphs in depth Evidence from Wisdom/Source of Authority Give examples.	<u>Explain two reasons</u> why some Muslims support capital punishment In your answer you must refer to a source of moral wisdom and authority.
D	12	AO2 - application	3 PEEL paragraphs, explaining different views on this statement Para 1: Religious point of view Para 2: Religious OR humanist/atheist Para 3: Conclusion (which argument do you think is the most convincing and least convincing) -"I think..." - Quotes and examples needed.	"Criminals should always be treated mercifully". Evaluate this statement considering arguments for and against. In your response you should: - refer to religious teaching , - refer to non-religious points of view /refer to different religious points of view/ relevant ethical arguments - reach a justified conclusion.