



La-Net

# ISS 304

## Sharī'ah: Al-'Uqūbāt (Penal Codes)



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**Course Code:** ISS 304

**Course Title:** Sharī'ah: Al-'Uqūbāt (Penal Codes)



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**Course Credit Load:** 2 Units (C; LH 30)

- **Series 1:** Islamic Juridical Opinions
- **Series 2:** Competence in Islamic Jurisprudence
- **Series 3:** Rulings on Murder, Theft, Intoxicants and Slander
- **Series 4:** Qur'ānic Chapters on Penal Codes
- **Series 5:** Morality and Relevance of Islamic Regulations

## Series 1: Islamic Juridical Opinions

### *Parts and Sub-Parts*

- 1.1 Concept and Scope of Islamic Juridical Opinions
  - 1.1.1 Meaning of Fatwa and Islamic Juridical Opinion
  - 1.1.2 Fatwa, Fiqh and Qadā': Distinctions and Relationships
  - 1.1.3 Scope and Responsibility of a Juridical Opinion
- 1.2 Sources and Evidences for Juridical Opinions
  - 1.2.1 The Qur'ān and Sunnah as Primary Sources
  - 1.2.2 Ijmā', Qiyās and Other Recognised Legal Methods
  - 1.2.3 Hierarchy, Relevance and Verification of Evidence
- 1.3 Qualifications and Methodology of the Mufti
  - 1.3.1 Knowledge, Integrity and Competence
  - 1.3.2 Understanding the Question, Facts and Context
  - 1.3.3 Reasoning, Scholarly Difference and Formulating an Opinion
- 1.4 Juridical Opinions in Penal Matters
  - 1.4.1 Care and Restraint in Penal Questions
  - 1.4.2 Evidence, Due Process and Legitimate Authority
  - 1.4.3 Academic Application to Al-'Uqūbāt



## Introduction

Islamic juridical opinions provide a structured way of addressing questions of Islamic law through recognised sources and methods of jurisprudence. In the study of al-‘uqūbāt, this skill is especially important because questions concerning criminal conduct, evidence and penalties require careful attention to legal texts, juristic reasoning, facts and legitimate authority.

The aim of this Series is to introduce you to the meaning, sources, limits and methodology of an Islamic juridical opinion. You will also learn why a fatwa should be distinguished from a judicial judgment and why penal questions require particular caution.

We shall begin by examining the meaning and scope of fatwa and its relationship with fiqh and qadā’. Next, we will study the principal sources and methods used in Islamic legal reasoning, including the Qur’ān, Sunnah, ijmā’ and qiyās. We will then consider the knowledge, integrity and reasoning required of a mufti. Finally, we will apply these principles to penal questions, with emphasis on evidence, due process and legitimate authority. These foundations will prepare you for the detailed study of murder, theft, intoxicants and slander in later Series.

## Series Learning Outcomes

Upon completing this Series, you should be able to:

SLO 1.1 define fatwa and distinguish it from fiqh and qadā’,

SLO 1.2 identify and evaluate the principal sources and methods used in forming an Islamic juridical opinion,

SLO 1.3 analyse the qualifications and methodological steps required for responsible juridical reasoning,

SLO 1.4 formulate a basic, evidence-based academic juridical opinion on a defined penal-law question while recognising the limits of private enforcement.



## 1.1 Concept and Scope of Islamic Juridical Opinions

### 1.1.1 Meaning of Fatwa and Islamic Juridical Opinion

A fatwa is a considered answer to a question concerning Islamic law or religious practice, normally given by a qualified scholar or mufti. It is produced through reference to relevant Islamic sources and juristic methods. In this Series, the expression Islamic juridical opinion refers to a reasoned academic conclusion about the ruling of a defined issue, supported by appropriate evidence.

A juridical opinion should therefore not be reduced to a personal preference. The person giving it must identify the question accurately, examine the relevant evidence and explain the reasoning that connects the evidence to the conclusion.

Fill in the blank: A reasoned Islamic legal answer given by a qualified scholar is commonly called a \_\_\_\_\_.

### 1.1.2 Fatwa, Fiqh and Qadā' : Distinctions and Relationships

Fiqh refers to human understanding of practical Islamic rulings derived through juristic reasoning. A fatwa is an opinion or answer concerning a particular legal question, while qadā' refers to judicial adjudication by a judge. These terms are related but should not be treated as identical.

A fatwa is generally advisory rather than a court judgment. A qāḍī's judgment, by contrast, is a judicial decision within the authority and jurisdiction of the court. This distinction is important in penal matters because an individual's possession of religious knowledge does not by itself give that person authority to impose a criminal penalty.



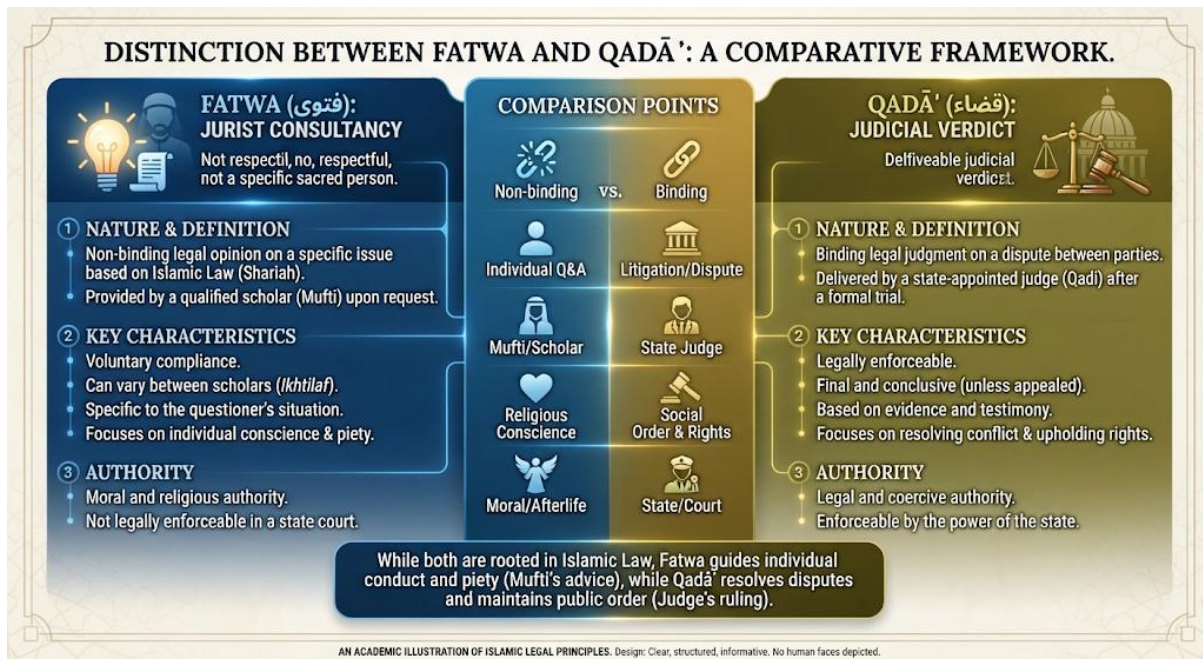


Figure 1.1: Distinction between fatwa and qadā'

### 1.1.3 Scope and Responsibility of a Juridical Opinion

The scope of a juridical opinion depends on the question, the evidence available and the competence of the person giving the opinion. A responsible opinion should state its basis, acknowledge relevant scholarly disagreement where necessary and avoid presenting a contested interpretation as though no other recognised view exists.

In penal matters, this responsibility is even greater. A juridical opinion should not be treated as permission for private individuals to arrest, punish or retaliate against alleged offenders. Questions involving criminal penalties belong within lawful judicial and institutional processes.

Fill in the blank: A fatwa should not be confused with a judicial \_\_\_\_\_.

*Pilot questions 1.1*

1. What is a fatwa?
2. How does fiqh differ from a fatwa?
3. What is the principal distinction between a fatwa and qadā'?



4. Why does a penal question require particular caution?
5. Why should a juridical opinion identify its evidence and reasoning?

## 1.2 Sources and Evidences for Juridical Opinions

### 1.2.1 The Qur'ān and Sunnah as Primary Sources

The Qur'ān is the foundational revealed source for Islamic law, while the Sunnah of the Prophet Muhammad provides guidance on belief, worship, conduct and legal matters. A juridical opinion must therefore begin by identifying whether the question is directly addressed by relevant revealed texts and by examining those texts in their proper context.

The Qur'ān also establishes a method of referring disputed matters back to Allah and His Messenger. Sūrah al-Nisā' (4:59) instructs believers that when they disagree over a matter, they should refer it to Allah and the Messenger. This provides an important principle for disciplined legal reasoning.

Fill in the blank: The two primary revealed sources considered in Islamic legal reasoning are the Qur'ān and the \_\_\_\_\_.

### 1.2.2 Ijmā', Qiyās and Other Recognised Legal Methods

Where a question is not settled by an explicit text, jurists may use recognised methods of legal reasoning. Ijmā' refers to scholarly consensus in the technical sense recognised by jurists, while qiyās involves extending a ruling from an established case to a new case because of a shared effective cause. The precise scope and conditions of these methods have been discussed differently across schools of jurisprudence.

Other juristic principles may also be relevant depending on the school and the issue under consideration. A student should therefore distinguish between the revealed sources themselves and the methodological tools used by jurists to derive or apply rulings.



### 1.2.3 Hierarchy, Relevance and Verification of Evidence

Good juridical reasoning requires more than collecting quotations. You should verify the authenticity and relevance of evidence, examine how jurists have understood it, consider whether another text qualifies or limits the ruling and identify whether the issue is one on which recognised schools differ.

In practice, a student should avoid relying on unattributed social-media statements or isolated quotations. The evidence should be traceable to reliable primary texts or recognised scholarly works, and the conclusion should not exceed what the evidence can support.

Fill in the blank: A legal conclusion should be based on verified evidence rather than an isolated personal \_\_\_\_\_.

#### *Pilot questions 1.2*

1. Name the two primary revealed sources of Islamic law.
2. What does Sūrah al-Nisā' 4:59 teach about resolving disputes?
3. Define ijma' in the technical sense used in Islamic jurisprudence.
4. What is qiyās?
5. Why should legal evidence be verified before it is used in a juridical opinion?

## 1.3 Qualifications and Methodology of the Mufti

### 1.3.1 Knowledge, Integrity and Competence

A person who gives a juridical opinion needs appropriate knowledge of the Qur'ān, Sunnah, Arabic and the principles of Islamic jurisprudence, together with the ability to understand the particular issue being asked. Knowledge alone is not sufficient. Integrity, honesty and awareness of one's limits are also essential because an inaccurate opinion can mislead the person who seeks guidance.



The Qur'ān directs those who do not know to ask people of knowledge. Sūrah al-Nahl (16:43) therefore supports the principle that questions requiring specialist knowledge should be referred to appropriately qualified people.

Fill in the blank: A person who lacks the necessary knowledge should refer a difficult juridical question to a qualified person of \_\_\_\_\_.

### 1.3.2 Understanding the Question, Facts and Context

A sound opinion begins with a sound understanding of the question. The mufti should determine what actually happened, identify facts that may affect the ruling and distinguish relevant facts from assumptions. Ambiguous or incomplete information can produce an incorrect conclusion even when the legal principle itself is sound.

For example, a question about an alleged offence should not be answered merely from the accusation. The relevant facts, evidentiary circumstances and legal context must first be established by the competent authority. This is particularly important in penal matters.

### 1.3.3 Reasoning, Scholarly Difference and Formulating an Opinion

After clarifying the question, the mufti identifies relevant evidence, applies appropriate legal principles and considers recognised juristic interpretations. Where legitimate disagreement exists, the opinion should represent that disagreement accurately and explain why a particular view is preferred, where a preference is appropriate.

The final answer should be clear, proportionate and connected to the evidence. It should also state important qualifications where the ruling depends on facts that have not been established. This approach helps prevent certainty from being claimed where the evidence or circumstances do not justify it.



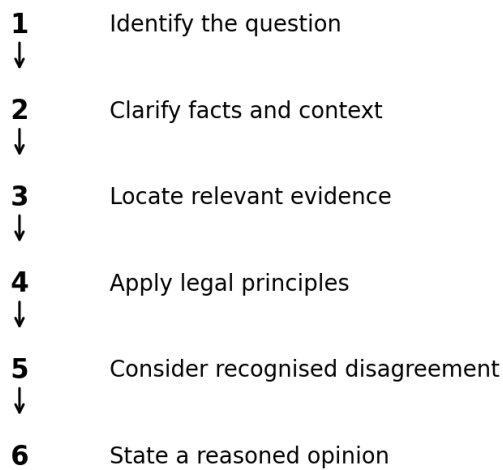


Figure 1.2: Basic sequence for forming a juridical opinion

Fill in the blank: Before applying a legal ruling, the jurist should first clarify the legal question, relevant facts and \_\_\_\_\_.

*Pilot questions 1.3*

1. Mention three areas of knowledge relevant to responsible juridical reasoning.
2. Why is integrity important when giving a juridical opinion?
3. Why must the facts of a case be clarified before a ruling is formulated?
4. How should recognised scholarly disagreement be handled in a juridical opinion?
5. What danger arises when a person gives a ruling beyond the limits of the available evidence?



## 1.4 Juridical Opinions in Penal Matters

### 1.4.1 Care and Restraint in Penal Questions

Penal questions require particular care because they concern the protection of life, property, reputation and public order. A student of Sharī'ah should therefore distinguish between learning the rules of al-'uqūbāt and claiming authority to enforce them.

A juridical opinion on a penal issue should be framed around the applicable legal principles, the relevant evidence and the recognised conditions of the ruling. It should not encourage vigilantism, retaliation or punishment by private individuals.

Fill in the blank: The study of penal rulings does not by itself give a private individual authority to \_\_\_\_\_ them.

### 1.4.2 Evidence, Due Process and Legitimate Authority

Penal rulings cannot responsibly be separated from evidentiary standards and judicial procedure. Allegations must not automatically be treated as established facts. The distinction between an accusation, proof and a judicial finding is therefore essential when discussing penal law.

A student should also recognise that the implementation of criminal penalties involves legitimate judicial and governmental authority within the legal system concerned. An academic discussion of Sharī'ah penal rules should not be presented as a personal instruction to carry out a punishment.

### 1.4.3 Academic Application to Al-'Uqūbāt

In later Series, you will study the Islamic rulings relating to murder, theft, intoxicants and qadhf. The methodological foundation developed here will help you read those rulings carefully: identify the source, understand the legal principle, examine the conditions and evidentiary requirements, note recognised juristic differences and distinguish the academic ruling from its institutional implementation.



For example, when studying a penal ruling, you should ask: What is the source of the ruling? What conduct does it address? What conditions must be established? What evidence is required? Which authority is responsible for adjudication? These questions encourage disciplined jurisprudential analysis rather than unsupported assertion.

Fill in the blank: In studying al-‘uqūbāt, the student should distinguish an accusation from established \_\_\_\_\_.

*Pilot questions 1.4*

1. Why do penal questions require particular caution?
2. Why should an accusation not automatically be treated as an established fact?
3. What is the importance of legitimate authority in the implementation of penal rulings?
4. State two questions a student should ask when analysing a penal ruling.
5. Why is the distinction between studying a penal ruling and enforcing it important?



## Series Summary

This Series has introduced you to Islamic juridical opinions as reasoned responses to questions of Islamic law. You began by examining the meaning of fatwa and distinguishing it from fiqh and qadā'. You then studied the Qur'ān and Sunnah as primary revealed sources and considered ijma', qiyās and other recognised methods of juristic reasoning.

Next, you examined the knowledge, integrity and methodological care expected in responsible juridical reasoning, including the need to clarify facts and recognise legitimate scholarly disagreement. Finally, you considered why penal questions require special caution, particularly with regard to evidence, due process and legitimate authority.

You should now be able to define fatwa and distinguish it from related concepts (SLO 1.1), evaluate the principal sources and methods used in juridical reasoning (SLO 1.2), analyse the requirements for responsible juridical reasoning (SLO 1.3), and formulate a basic academic juridical opinion while recognising the limits of private enforcement (SLO 1.4).

## Glossary of Terms

- ☐ Fatwa: A reasoned answer or juridical opinion on a question of Islamic law, normally issued by a qualified scholar.
- ☐ Fiqh: Human understanding of practical Islamic rulings derived through juristic reasoning.
- ☐ Qadā': Judicial adjudication or judgment issued by a competent judge within the relevant authority and jurisdiction.
- ☐ Qāḍī: A judge who adjudicates legal disputes within a recognised judicial authority.
- ☐ Mufti: A qualified scholar who gives fatwas or juridical opinions.
- ☐ Ijma': Scholarly consensus in the technical sense recognised within Islamic jurisprudence.
- ☐ Qiyās: Analogical reasoning that extends a known ruling to a new case because of a shared effective cause.



- ☐ Ijtihād: Disciplined juristic effort to derive or apply rulings through recognised legal methodology.
- ☐ Dalīl: Evidence or proof used to support a legal or theological conclusion.
- ☐ Al-‘Uqūbāt: The branch of Islamic jurisprudence dealing with penal matters and prescribed or other legal penalties.
- ☐ Qadhf: The offence of falsely accusing a chaste person of unlawful sexual intercourse, discussed in Islamic penal jurisprudence.

## Concept Check Questions 1

### Objective Questions

1. Which term refers to a juridical opinion given by a qualified scholar? (Linked to SLO 1.1)
2. Which concept refers to judicial adjudication by a competent judge? (Linked to SLO 1.1)
3. Which of the following is a recognised method of juristic reasoning? (Linked to SLO 1.2)
4. Why is clarification of facts essential before formulating a juridical opinion? (Linked to SLO 1.3)
5. Which principle is especially important when discussing the implementation of penal rulings? (Linked to SLO 1.4)

### Short-Answer Questions

6. Explain the distinction between fatwa, fiqh and qadā’. (Linked to SLO 1.1)
7. Explain the roles of the Qur’ān, Sunnah, ijmā’ and qiyās in Islamic legal reasoning. (Linked to SLO 1.2)
8. Analyse why knowledge, integrity and careful fact-finding are necessary for responsible juridical reasoning. (Linked to SLO 1.3)



9. Explain why a student of al-‘uqūbāt must distinguish an academic juridical opinion from private enforcement. (Linked to SLO 1.4)

#### Long-Answer Questions

10. Analyse the steps that should be followed when formulating a reasoned Islamic juridical opinion on a defined issue. (Linked to SLO 1.3)

11. Evaluate the importance of evidence, due process and legitimate authority when applying Islamic penal rules. (Linked to SLO 1.4)

#### Answers to Concept Check Questions 1

##### Objective Questions

1. Fatwa.
2. Qadā’.
3. Qiyās.
4. Because an incorrect understanding of the facts can lead to an incorrect application of an otherwise relevant legal principle.
5. Legitimate judicial and institutional authority.

##### Short-Answer Questions

6. Fiqh is the broader human understanding of practical Islamic rulings through juristic reasoning; a fatwa is a reasoned answer to a particular legal question; qadā’ is judicial adjudication by a competent judge.
7. The Qur’ān and Sunnah provide the primary revealed foundations. Ijmā’ and qiyās are recognised juristic methods used within the conditions and approaches of Islamic legal schools.



8. Knowledge enables the jurist to identify and interpret relevant evidence, integrity supports honest and responsible judgment, and careful fact-finding prevents a ruling from being applied to an incorrectly understood case.

9. Studying a rule does not itself confer judicial or executive authority. Penal implementation involves evidence, procedure and legitimate institutional authority, so private individuals should not treat a juridical discussion as permission to punish others.

### Long-Answer Questions

10. Basic response: The process begins by identifying the question, clarifying the facts and context, locating relevant evidence, applying appropriate legal principles, considering recognised scholarly disagreement and stating a reasoned conclusion. Value-added response: The opinion should also distinguish established facts from allegations, identify any qualifications or conditions affecting the ruling and avoid claiming certainty beyond the evidence.

11. Basic response: Evidence determines whether the relevant conditions of a ruling are established, due process protects against decisions based on unsupported allegations, and legitimate authority ensures that judicial penalties are handled through proper institutions. Value-added response: These safeguards are particularly important in penal matters because errors can affect life, property, liberty and reputation. Academic study should therefore distinguish the formulation of a legal opinion from its institutional implementation.

### Answers to Pilot Questions 1

#### Part 1.1

1. A fatwa is a reasoned answer or juridical opinion concerning an issue of Islamic law.
2. Fiqh is the broader human understanding of practical Islamic rulings, while a fatwa is an opinion addressing a particular question.
3. A fatwa is generally advisory, whereas qadā' is judicial adjudication by a competent judge within the relevant authority.



4. Penal questions can affect life, property, reputation and public order and therefore require careful evidence, procedure and authority.

5. Evidence and reasoning allow the reader to assess the basis and limits of the conclusion.

## Part 1.2

1. The Qur'ān and Sunnah.

2. It directs believers, when they disagree over a matter, to refer it to Allah and the Messenger.

3. Ijmā' is scholarly consensus in the technical sense recognised by Islamic jurisprudence.

4. Qiyās is analogical reasoning that extends a known ruling to a new case because of a shared effective cause.

5. Verification helps prevent the use of unreliable, irrelevant or misunderstood evidence.

## Part 1.3

1. Relevant areas include the Qur'ān, Sunnah, Arabic and the principles of Islamic jurisprudence.

2. Integrity helps ensure that the opinion is given honestly and responsibly rather than according to personal interest.

3. The ruling may depend on facts, circumstances or conditions that cannot be determined from an incomplete question.

4. It should be acknowledged accurately, with the preferred view and its reasoning explained where appropriate.

5. It may produce an unsupported or incorrect ruling and mislead the person seeking guidance.

## Part 1.4



1. Because penal questions can affect life, property, reputation and public order and require careful evidence and procedure.
2. An accusation is only an allegation until the relevant facts and evidence are properly established.
3. It ensures that implementation is handled through competent judicial or institutional processes rather than private action.
4. Examples include: What evidence is required? What conditions must be established? Which authority is responsible for adjudication?
5. It prevents students from confusing academic knowledge of a rule with authority to enforce a criminal penalty.



## References and Attributions 1

### Primary Sources:

- o The Qur'ān, Sūrah al-Nisā' (4:59), on referring disputes to Allah and the Messenger.
- o The Qur'ān, Sūrah al-Naḥl (16:43), on asking people of knowledge when one does not know.

### Secondary Sources:

- o Hallaq, W. B. (1997). A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. Cambridge University Press.
- o Kamali, M. H. (2003). Principles of Islamic Jurisprudence (3rd ed.). Islamic Texts Society.
- o Weiss, B. G. (1998). The Spirit of Islamic Law. University of Georgia Press.
- o DeLorenzo, Y. T. (2000). The Fiqh Councilor in North America. In Y. Y. Haddad & J. L. Esposito (Eds.), Muslims on the Americanization Path? Oxford University Press.

### Illustrations:

- o Figure 1.1: Distinction between fatwa and qadā'. Created for this SLM as an original educational diagram.
- o Figure 1.2: Basic sequence for forming a juridical opinion. Created for this SLM as an original educational diagram.

### General Attribution:

- o The Series uses Qur'ānic references and recognised works on Islamic legal theory to explain the concepts of fatwa, fiqh, qadā' and juristic reasoning. The distinction between a generally advisory fatwa and a judicial judgment is supported by the Oxford Academic discussion cited above.



## Series 2: Competence in Islamic Jurisprudence

### *Parts and Sub-Parts*

- 2.1 Foundations of Islamic Jurisprudence
  - 2.1.1 Meaning and Scope of Fiqh and Uṣūl al-Fiqh
  - 2.1.2 Sources of Islamic Law
  - 2.1.3 Relationship Between Sharī‘ah, Fiqh and Uṣūl al-Fiqh
- 2.2 Juristic Reasoning and Interpretation
  - 2.2.1 Ijtihād and Taqlīd
  - 2.2.2 Qiyās and the Effective Cause
  - 2.2.3 Interpreting Texts and Applying Legal Principles
- 2.3 Scholarly Difference and Selection of Legal Opinions
  - 2.3.1 Causes of Juristic Disagreement
  - 2.3.2 Recognised Schools and Diversity of Opinions
  - 2.3.3 Criteria for Evaluating Competing Opinions
- 2.4 Applying Jurisprudence to Contemporary Questions
  - 2.4.1 Facts, Circumstances and Legal Classification
  - 2.4.2 Application of Principles to New Cases
  - 2.4.3 Limits of Personal Legal Judgment



## Introduction

Competence in Islamic jurisprudence requires more than memorising individual rulings. It involves understanding the sources of Islamic law, the principles used by jurists, the causes of legitimate disagreement and the disciplined application of those principles to particular questions. In the study of al-‘uqūbāt, this competence helps you examine penal rulings carefully rather than treating isolated statements as complete legal answers.

The aim of this Series is to develop your foundational competence in Islamic jurisprudence and to show how jurists move from evidence and legal principles to reasoned conclusions. You will also learn how to recognise legitimate differences among jurists and how factual circumstances affect the application of a ruling.

We shall begin with the meaning and scope of fiqh and uṣūl al-fiqh and their relationship with Sharī‘ah. Next, we will examine ijtihād, taqlīd, qiyās and the interpretation of legal texts. We will then study the causes of juristic disagreement and ways of evaluating recognised opinions. Finally, we will consider how jurisprudential principles may be applied to contemporary questions while respecting the limits of personal legal judgment.

## Series Learning Outcomes

Upon completing this Series, you should be able to:

SLO 2.1 explain the relationship among Sharī‘ah, fiqh and uṣūl al-fiqh,

SLO 2.2 analyse basic methods of juristic reasoning, including ijtihād and qiyās,

SLO 2.3 evaluate recognised causes of juristic disagreement and distinguish legitimate scholarly diversity from unsupported claims,

SLO 2.4 apply basic jurisprudential principles to a defined academic case while identifying the limits of personal legal judgment.



## 2.1 Foundations of Islamic Jurisprudence

### 2.1.1 Meaning and Scope of Fiqh and Uṣūl al-Fiqh

Fiqh refers to human understanding of practical Islamic rulings through juristic reasoning. Uṣūl al-fiqh refers to the principles and methods used to derive and interpret such rulings from recognised sources. Sharīʿah, in a broader sense, refers to the divinely ordained path and guidance of Islam. These terms are connected, but they should not be treated as identical.

Fill in the blank: The principles and methods used to derive and interpret practical Islamic rulings are studied under uṣūl al-\_\_\_\_\_.

### 2.1.2 Sources of Islamic Law

The Qurʾān and Sunnah constitute the primary revealed sources of Islamic law. Jurists also employ recognised methods such as ijmāʿ and qiyās, subject to their conditions and the approaches of particular schools. Competence requires you to distinguish a source of law from a method used to derive or apply a ruling.

Fill in the blank: The Qurʾān and the \_\_\_\_\_ are the two primary revealed sources of Islamic law.

### 2.1.3 Relationship Between Sharīʿah, Fiqh and Uṣūl al-Fiqh

Sharīʿah provides the divine framework of Islamic guidance, while fiqh represents human juristic understanding of practical rulings. Uṣūl al-fiqh supplies methodological principles for deriving and interpreting those rulings. Because fiqh is a human juristic endeavour, differences can arise among qualified scholars.

Fill in the blank: Fiqh represents human \_\_\_\_\_ of practical Islamic rulings.

*Pilot questions 2.1*

1. Define fiqh.
2. What is uṣūl al-fiqh?



3. Distinguish Shari‘ah from fiqh.
4. Name the two primary revealed sources of Islamic law.
5. Why can qualified jurists differ in their understanding of practical rulings?

## 2.2 Juristic Reasoning and Interpretation

### 2.2.1 Ijtihād and Taqlīd

Ijtihād is disciplined juristic effort to derive or apply a ruling through recognised legal methodology. It is not simply personal preference. Taqlīd, in contrast, refers broadly to following a qualified authority or established juristic position without independently performing the full process of ijtihād. Both concepts have detailed technical discussions across the schools.

Fill in the blank: Disciplined juristic effort to derive or apply a ruling is called \_\_\_\_\_.

### 2.2.2 Qiyās and the Effective Cause

Qiyās is analogical reasoning in which a ruling established for a known case is extended to a new case because both share a relevant effective cause, or ‘illah. Valid analogy depends on identifying the original case, established ruling, new case and effective cause according to recognised jurisprudential rules.

Fill in the blank: The effective cause underlying a legal analogy is called the \_\_\_\_\_.

### 2.2.3 Interpreting Texts and Applying Legal Principles

Legal texts must be read in context and alongside relevant evidence. A competent analysis considers the wording of the text, its context, the relationship with other evidence and established principles of interpretation. It should distinguish what a text directly establishes from what a jurist derives through reasoning.

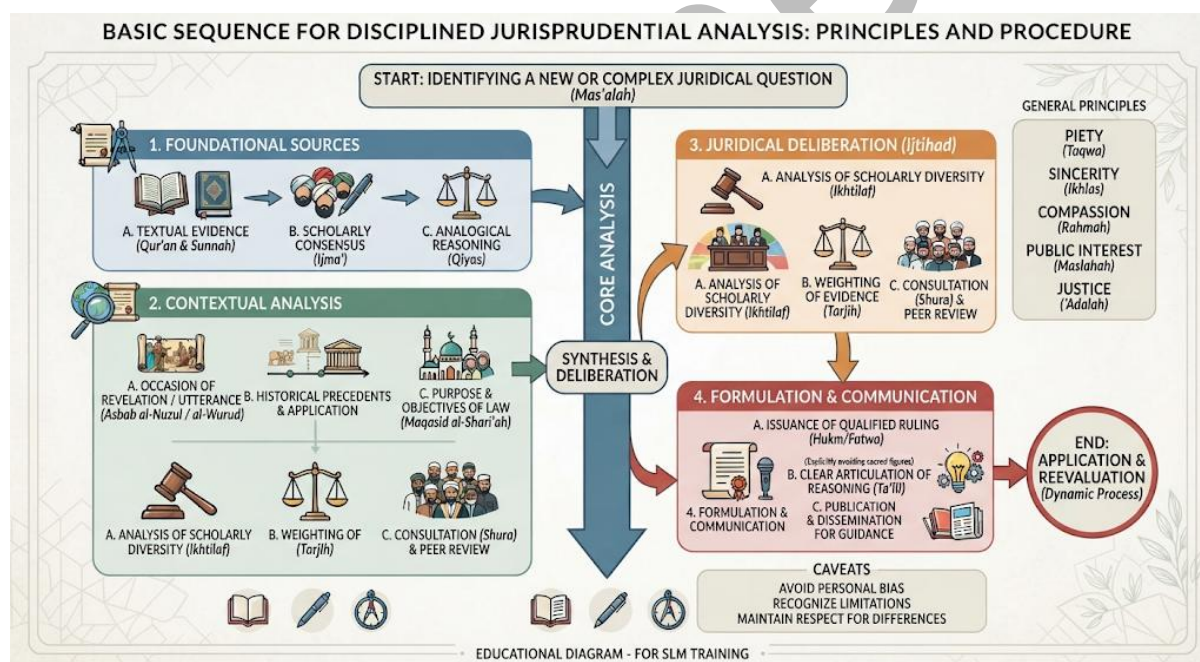
Fill in the blank: A legal text should be interpreted with attention to its wording, context and relevant \_\_\_\_\_.



Figure 2.1: Basic sequence for disciplined jurisprudential analysis

### Pilot questions 2.2

1. What is ijtihād?
2. Distinguish ijtihād from taqlīd.
3. Define qiyās.
4. What is meant by the ‘illah in qiyās?
5. Why must legal texts be interpreted with their context and related evidence?



## 2.3 Scholarly Difference and Selection of Legal Opinions

### 2.3.1 Causes of Juristic Disagreement

Qualified jurists may disagree for identifiable methodological reasons. These can include differences in interpreting a text, assessing a report, understanding the scope of a general statement, or accepting and applying a particular legal principle. Disagreement therefore does not automatically mean that one side is acting without evidence.



Fill in the blank: Differences among qualified jurists may arise from differences in legal \_\_\_\_\_.

### 2.3.2 Recognised Schools and Diversity of Opinions

The established schools of Islamic jurisprudence developed systematic approaches to legal reasoning. Their differences can occur in substantive rulings and in methods of reasoning. A student should therefore avoid presenting one recognised school position as though no legitimate juristic alternative exists.

Fill in the blank: A recognised school of Islamic jurisprudence develops a systematic approach to legal \_\_\_\_\_.

### 2.3.3 Criteria for Evaluating Competing Opinions

When comparing recognised opinions, you should identify the evidence relied upon, the method of reasoning, the relevant conditions and the strength of the argument within its jurisprudential framework. You should not select an opinion merely because it is easier or more convenient. Where you lack the competence to determine a disputed issue, referral to qualified scholarship is appropriate.

Fill in the blank: Competing juridical opinions should be evaluated through their evidence, methodology and relevant \_\_\_\_\_.

#### *Pilot questions 2.3*

1. Mention two causes of juristic disagreement.
2. Why should recognised schools of jurisprudence be studied comparatively?
3. Does juristic disagreement necessarily mean that one side has no evidence? Explain.
4. State two criteria for evaluating competing juridical opinions.
5. Why should convenience alone not determine the choice of a legal opinion?



## 2.4 Applying Jurisprudence to Contemporary Questions

### 2.4.1 Facts, Circumstances and Legal Classification

Applying jurisprudence begins with accurate description of the case. The same general legal principle may have different consequences depending on facts, circumstances and legal classification. You should identify what conduct occurred, which legal category may apply and which facts remain uncertain before attempting to state a ruling.

Fill in the blank: Before applying a ruling, the facts of the case should be accurately \_\_\_\_\_.

### 2.4.2 Application of Principles to New Cases

New situations may require application of established principles rather than a search for an identical historical example. The analyst must identify the relevant principle, establish whether its conditions are present and determine whether the chosen legal method is valid. Jurisprudential competence therefore involves reasoning as well as knowledge of rules.

Fill in the blank: Applying an established principle to a new case requires careful legal \_\_\_\_\_.

### 2.4.3 Limits of Personal Legal Judgment

Academic competence does not mean that every student is qualified to issue binding legal judgments. You may analyse a case for educational purposes while recognising the need to consult qualified scholars and competent legal authorities on questions requiring specialist judgment or institutional action. This distinction is especially important in penal matters.

Fill in the blank: Academic analysis should not be confused with the authority to issue a \_\_\_\_\_ legal judgment.

*Pilot questions 2.4*

1. Why must the facts of a case be clarified before applying a ruling?
2. What is meant by applying an established principle to a new case?



3. Why is legal classification important?
4. Why should a student recognise the limits of personal legal judgment?
5. Why is this distinction especially important in penal matters?



## Series Summary

This Series has developed the foundations of competence in Islamic jurisprudence. You examined the meanings and relationships of Sharī‘ah, fiqh and uṣūl al-fiqh, followed by the principal sources and recognised methods of legal reasoning. You then studied ijtihād, taqlīd, qiyās and careful interpretation of legal texts.

You also examined why qualified jurists may disagree, how recognised schools contribute to legitimate diversity and how competing opinions may be evaluated through evidence and methodology. Finally, you considered the importance of facts, legal classification and the limits of personal legal judgment when applying jurisprudence to new questions.

You should now be able to explain the relationship among Sharī‘ah, fiqh and uṣūl al-fiqh (SLO 2.1), analyse basic methods of juristic reasoning (SLO 2.2), evaluate recognised causes of juristic disagreement (SLO 2.3), and apply basic jurisprudential principles to an academic case while recognising the limits of personal judgment (SLO 2.4).

## Glossary of Terms

- ☐ Sharī‘ah: The divinely ordained path and guidance of Islam.
- ☐ Fiqh: Human understanding of practical Islamic rulings through juristic reasoning.
- ☐ Uṣūl al-fiqh: Principles and methods used to derive and interpret practical Islamic rulings.
- ☐ Ijtiḥād: Disciplined juristic effort to derive or apply a ruling through recognised legal methodology.
- ☐ Taqlīd: Following a qualified authority or established juristic position without independently performing the full process of ijtiḥād.
- ☐ Qiyās: Analogical reasoning that extends an established ruling to a new case because of a shared effective cause.
- ☐ ‘Illah: The effective cause that connects an established ruling with a new case in valid qiyās.



- Ijmā‘: Scholarly consensus in the technical sense recognised by Islamic jurisprudence.
- Legal classification: Determining the legal category into which a particular act or case falls for purposes of applying relevant principles.
- Juristic disagreement: A difference among qualified scholars arising from recognised differences in evidence, interpretation or legal methodology.



## Concept Check Questions 2

### Objective Questions

1. Which term refers to human understanding of practical Islamic rulings? (Linked to SLO 2.1)
2. Which term refers to the principles used to derive and interpret practical rulings? (Linked to SLO 2.1)
3. Which method extends an established ruling to a new case through a shared effective cause? (Linked to SLO 2.2)
4. Which factor can legitimately contribute to juristic disagreement? (Linked to SLO 2.3)
5. What should be clarified before applying a jurisprudential principle to a case? (Linked to SLO 2.4)

### Short-Answer Questions

6. Explain the relationship among Sharī'ah, fiqh and uṣūl al-fiqh. (Linked to SLO 2.1)
7. Explain how qiyās operates in basic jurisprudential reasoning. (Linked to SLO 2.2)
8. Analyse why legitimate juristic disagreement should be distinguished from unsupported personal claims. (Linked to SLO 2.3)
9. Explain why facts and legal classification are important when applying jurisprudence to a new case. (Linked to SLO 2.4)

### Long-Answer Questions

10. Analyse how evidence, legal methodology and interpretation contribute to the formation of a competent jurisprudential opinion. (Linked to SLO 2.2)
11. Evaluate the importance of recognising juristic disagreement and the limits of personal legal judgment in the study of Islamic penal law. (Linked to SLO 2.4)



## Answers to Concept Check Questions 2

### Objective Questions

1. Fiqh.
2. Uṣūl al-fiqh.
3. Qiyās.
4. Differences in evidence, interpretation or recognised legal methodology.
5. The facts, circumstances and legal classification of the case.

### Short-Answer Questions

6. Sharī'ah refers broadly to divine Islamic guidance; fiqh is human juristic understanding of practical rulings; uṣūl al-fiqh provides principles and methods for deriving and interpreting those rulings.
7. Qiyās identifies an established ruling, an original case, a new case and a shared effective cause. Where the conditions of valid analogy are satisfied, the ruling may be extended to the new case.
8. Qualified disagreement may arise from recognised differences in evidence, interpretation or methodology. Unsupported personal claims lack the disciplined evidentiary and methodological basis expected of jurisprudence.
9. The applicable ruling may depend on what actually occurred and which legal category the conduct falls into. Incorrect facts or classification can therefore lead to an incorrect application of a legal principle.

### Long-Answer Questions

10. Basic response: Competent jurisprudential reasoning identifies relevant evidence, applies recognised legal principles and interprets the evidence in context. Value-added response: It also distinguishes primary sources from juristic methods, considers relevant qualifications



and conditions, and acknowledges recognised scholarly differences where they affect the conclusion.

11. Basic response: Recognising juristic disagreement prevents students from treating one recognised view as the only possible view, while recognising limits of personal judgment prevents unsupported legal conclusions. Value-added response: This is particularly important in penal law because application involves factual findings, evidentiary requirements, procedure and legitimate authority, not merely knowledge of an abstract ruling.

## Answers to Pilot Questions 2

### Part 2.1

1. Human understanding of practical Islamic rulings through juristic reasoning.
2. The principles and methods used to derive and interpret practical Islamic rulings.
3. Sharī'ah refers broadly to divine Islamic guidance, while fiqh is human juristic understanding of practical rulings.
4. The Qur'ān and Sunnah.
5. They may differ in interpreting evidence, assessing reports or applying recognised legal principles.

### Part 2.2

1. Disciplined juristic effort to derive or apply a ruling through recognised legal methodology.
2. Ijtihād involves juristic reasoning, while taqlīd broadly involves following a qualified authority or established position without independently performing the full ijtiḥād process.
3. Analogical reasoning that extends an established ruling to a new case because of a shared effective cause.
4. The relevant effective cause that connects the established ruling to the new case.



5. Context and related evidence help determine the proper meaning, scope and application of a legal text.

### Part 2.3

1. Differences in interpretation of texts and assessment of evidence.
2. Comparative study helps students understand systematic juristic methods and legitimate diversity of opinions.
3. No. Qualified disagreement can arise from recognised differences in evidence, interpretation or methodology.
4. The evidence relied upon and the method of legal reasoning.
5. A legal opinion should be evaluated by evidence and recognised methodology, not convenience alone.

### Part 2.4

1. The ruling may depend on the actual facts and circumstances.
2. It means identifying the relevant established principle and determining whether its conditions apply to the new case.
3. It identifies the legal category to which the conduct belongs and therefore affects which principles may apply.
4. A student may analyse a case academically without possessing the competence or institutional authority to issue a binding judgment.
5. Penal matters can affect life, property, reputation and public order and require careful evidence, procedure and legitimate authority.



## References and Attributions 2

### Primary Sources:

- o The Qur'ān, Sūrah al-Nisā' (4:59), on referring disputes to Allah and the Messenger.
- o The Qur'ān, Sūrah al-Naḥl (16:43), on asking people of knowledge when one does not know.

### Secondary Sources:

- o Hallaq, W. B. (1997). A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. Cambridge University Press.
- o Kamali, M. H. (2003). Principles of Islamic Jurisprudence (3rd ed.). Islamic Texts Society.
- o Weiss, B. G. (1998). The Spirit of Islamic Law. University of Georgia Press.

### Illustrations:

- o Figure 2.1: Basic sequence for disciplined jurisprudential analysis. Created as an original educational diagram for this SLM.

### General Attribution:

- o The Series uses Qur'ānic references and recognised works on Islamic legal theory to explain jurisprudential concepts. The discussion is presented for academic learning and does not confer judicial or enforcement authority on the learner.



## Series 3: Rulings on Murder, Theft, Intoxicants and Slander

### *Parts and Sub-Parts*

- 3.1 Murder and Homicide in Islamic Jurisprudence
  - 3.1.1 Meaning and Classification of Homicide
  - 3.1.2 Qisās and Diyah
  - 3.1.3 Conditions and Procedural Safeguards
- 3.2 Theft and Its Juridical Ruling
  - 3.2.1 Meaning of Theft and Its Legal Classification
  - 3.2.2 Ḥadd of Theft and Its Conditions
  - 3.2.3 Evidence, Doubt and Safeguards
- 3.3 Intoxicants and Qadhḥ
  - 3.3.1 Prohibition of Intoxicants
  - 3.3.2 Juridical Treatment of Intoxicant Offences
  - 3.3.3 Qadhḥ and Protection of Honour
- 3.4 Comparative Application of Penal Rulings
  - 3.4.1 Identifying the Offence and Applicable Rule
  - 3.4.2 Evidence, Conditions and Legal Classification
  - 3.4.3 Authority and Limits of Application



## Introduction

This Series examines selected Islamic jurisprudential rulings concerning murder, theft, intoxicants and qadhf. The purpose is not simply to memorise penalties, but to help you identify the legal classification of an offence, the relevant conditions, the evidentiary requirements and the safeguards discussed by jurists. These distinctions are essential because a legal rule cannot be applied accurately without considering its conditions and the facts of a case.

The aim of the Series is to enable you to explain the principal jurisprudential treatment of the four offences named in the course content and to analyse how conditions, evidence and legal authority affect their application. Particular care is required in penal jurisprudence because serious consequences make accurate legal classification and procedural safeguards indispensable.

We shall begin with murder and homicide, including the distinctions among types of homicide and the concepts of qisās and diyah. We will then examine theft, its classification and the conditions associated with the ḥadd ruling. Next, we will consider the prohibition and juridical treatment of intoxicants and the rules concerning qadhf, with emphasis on protection of honour and evidentiary requirements. Finally, we will bring these themes together by applying a structured method of identifying offences, rules, conditions, evidence and authority.

## Series Learning Outcomes

Upon completing this Series, you should be able to:

SLO 3.1 classify major forms of homicide recognised in Islamic jurisprudence,

SLO 3.2 explain the concepts of qisās and diyah and analyse their conditions,

SLO 3.3 explain the principal rulings relating to theft, intoxicants and qadhf, including relevant conditions and evidentiary safeguards,

SLO 3.4 analyse a defined academic case by identifying the offence, applicable rule, conditions, evidence and limits of lawful authority.



## 3.1 Murder and Homicide in Islamic Jurisprudence

### 3.1.1 Meaning and Classification of Homicide

Islamic jurisprudence distinguishes forms of unlawful killing according to the nature of the act and the circumstances in which death occurs. Classical jurists commonly discuss intentional killing (‘amd), quasi-intentional killing (shibh al-‘amd) and accidental killing (khaṭa’), although the detailed classifications and legal consequences can differ among schools. The distinction matters because the applicable legal consequences are not identical in every case.

Fill in the blank: Accidental killing is commonly referred to in Arabic jurisprudential terminology as \_\_\_\_\_.

### 3.1.2 Qisās and Diyah

Qisās refers to a legally regulated form of retaliation for certain intentional offences against life or bodily integrity, while diyah refers to financial compensation prescribed or agreed in cases recognised by Islamic law. Qur’ān 2:178 addresses qisās in cases of killing and also mentions remission and compensation. These concepts must be understood within their juridical conditions rather than as permission for private retaliation.

Fill in the blank: Financial compensation in cases of unlawful killing is commonly called \_\_\_\_\_.

### 3.1.3 Conditions and Procedural Safeguards

Penal rules are not applied simply because an allegation has been made. Juristic discussions consider the circumstances of the act, the identity and status of the parties, the available evidence and the applicable legal conditions. In a modern academic discussion, you should also distinguish knowledge of a classical rule from the authority to adjudicate or enforce it. Private individuals do not acquire a right of retaliation merely by studying the rule.

Fill in the blank: A valid penal determination requires attention to the facts, evidence and legal \_\_\_\_\_ of the case.



1. Name the three commonly discussed classifications of homicide.
2. What is qisās?
3. What is diyah?
4. Why does the classification of homicide matter?
5. Why does studying a penal ruling not give a private individual authority to enforce it?

## 3.2 Theft and Its Juridical Ruling

### 3.2.1 Meaning of Theft and Its Legal Classification

Theft, or sariqah, has a specific technical meaning in Islamic jurisprudence and should not be confused with every form of unlawful taking. Jurists discuss the nature of the property, the manner of taking, the place from which it was taken and other conditions when determining whether the technical offence of sariqah has occurred. Other forms of unlawful appropriation may fall under different legal classifications.

Fill in the blank: The technical Arabic term commonly used for theft is \_\_\_\_\_.

### 3.2.2 Ḥadd of Theft and Its Conditions

The Qur'ān states a ḥadd ruling for theft in Sūrah al-Mā'idah (5:38). Classical jurists, however, did not treat the verse as authorising punishment for every allegation of stealing. They discussed conditions concerning the property, its protection, the manner of taking, the value threshold and other circumstances. The exact formulation of these conditions varies among schools, so a careful student should avoid presenting one school's detailed conditions as universally identical.

Fill in the blank: The Qur'ānic passage addressing the ḥadd of theft is found in Sūrah al-\_\_\_\_ (5:38).



### 3.2.3 Evidence, Doubt and Safeguards

Penal jurisprudence places importance on reliable proof and on avoiding punishment where the legal conditions are not established. Classical jurists discussed evidentiary standards, doubts and circumstances that prevent application of a ḥadd. Therefore, an accusation alone is not equivalent to a proven technical offence. You should distinguish the moral wrongfulness of an act from the narrower question of whether a particular ḥadd is legally established.

Fill in the blank: A doubtful or unproven case should not be treated as though the legal conditions for a ḥadd have been fully \_\_\_\_\_.

*Pilot questions 3.2*

1. What is sariqah?
2. Where in the Qur'ān is the ḥadd of theft mentioned?
3. Why is every unlawful taking not automatically treated as the technical offence of sariqah?
4. Mention two areas considered by jurists when examining theft.
5. Why is an accusation not equivalent to a proven ḥadd offence?

## 3.3 Intoxicants and Qadhf

### 3.3.1 Prohibition of Intoxicants

The Qur'ān prohibits khamr and other intoxicating substances and directs believers to avoid them. Sūrah al-Mā'idah (5:90-91) describes intoxicants and gambling as abominations from the work of Satan and explains their harmful effects on remembrance of Allah and social relations. Islamic jurisprudence consequently treats intoxicants as prohibited, while the detailed legal classification and punishment of particular cases have been discussed by jurists.

Fill in the blank: Sūrah al-Mā'idah (5:90-91) commands believers to avoid \_\_\_\_\_ and gambling.



### 3.3.2 Juridical Treatment of Intoxicant Offences

The legal treatment of intoxication has been discussed in the Sunnah and by the jurists. Classical discussions include the nature of the substance, the act of drinking or consuming it, proof of the offence and the prescribed or discretionary sanction recognised by a particular legal framework. The exact details should therefore be presented with attention to juristic differences rather than as a single undifferentiated rule.

Fill in the blank: A discretionary sanction in Islamic jurisprudence is known as \_\_\_\_\_.

### 3.3.3 Qadhf and Protection of Honour

Qadhf refers to falsely accusing a chaste person of unlawful sexual intercourse. The Qur'ān prescribes a ḥadd for qadhf and requires four witnesses for the relevant accusation in Sūrah al-Nūr (24:4). The rule protects personal honour and discourages reckless accusations. The technical offence should be distinguished from general criticism, insult or other forms of defamatory speech, which may have different legal classifications.

Fill in the blank: The Qur'ānic requirement for four witnesses in the relevant accusation appears in Sūrah al-\_\_\_\_\_ (24:4).

Figure 3.1: Study framework for selected Islamic penal rulings

#### *Pilot questions 3.3*

1. What does the Qur'ān say about intoxicants?
2. What is ta'zīr?
3. What is qadhf?
4. What evidentiary requirement is stated in Sūrah al-Nūr (24:4) for the relevant accusation?
5. Why is qadhf important in the protection of honour?



## 3.4 Comparative Application of Penal Rulings

### 3.4.1 Identifying the Offence and Applicable Rule

A sound academic analysis starts by identifying the conduct and the relevant offence. You should ask what happened, what legal category may describe it and which rule is potentially relevant. This prevents a common error in penal law: moving directly from an accusation to a punishment without first establishing the legal classification and conditions.

Fill in the blank: The first stage of a sound penal-law analysis is to identify the relevant legal \_\_\_\_\_.

### 3.4.2 Evidence, Conditions and Legal Classification

After classification, examine the conditions and evidence required by the applicable rule. For example, the technical ḥadd of theft requires conditions beyond the simple fact that property was taken, while qadhf has specific evidentiary requirements. In homicide, the classification of the killing affects the legal consequences. You should therefore test the facts against the elements and conditions of the relevant rule.

Fill in the blank: Evidence must be assessed against the legal elements and \_\_\_\_\_ of the applicable rule.

### 3.4.3 Authority and Limits of Application

Knowledge of a classical penal ruling is different from authority to implement it. In a structured legal system, adjudication and enforcement belong to the competent authority under the applicable law and procedure. This distinction is essential in academic study because students should analyse the jurisprudence without assuming personal authority to punish, retaliate or enforce a penalty.

Fill in the blank: The implementation of a penal ruling belongs to the competent legal \_\_\_\_\_, not to private individuals.



*Pilot questions 3.4*

1. What should be identified first in a penal-law analysis?
2. Why must the conditions of a ruling be examined?
3. Give one example showing why legal classification matters.
4. Who has authority to implement a penal ruling?
5. Why should private retaliation be distinguished from academic study of qisās?



## Series Summary

This Series examined selected Islamic jurisprudential rulings concerning murder, theft, intoxicants and qadhf. You first studied the classification of homicide and the concepts of qisās and diyah, with attention to conditions, evidence and the distinction between studying a ruling and possessing authority to apply it.

You then examined theft and the conditions associated with its technical ḥadd ruling, including the importance of evidence and the distinction between an allegation and a legally established offence. The Series also considered the prohibition of intoxicants and the juristic treatment of intoxicant offences, followed by qadhf and its evidentiary safeguards under Sūrah al-Nūr (24:4).

Finally, you learned a structured approach to penal-law analysis: identify the offence, determine the applicable rule, examine its conditions and evidence, and recognise the competent authority. You should now be able to classify major forms of homicide (SLO 3.1), explain qisās and diyah (SLO 3.2), explain the principal rulings on theft, intoxicants and qadhf (SLO 3.3), and analyse a defined academic case while respecting the limits of lawful authority (SLO 3.4).

## Glossary of Terms

- ‘Amd: Intentional killing in the terminology commonly used in classical Islamic jurisprudence.
- Ḥadd: A legally prescribed penal sanction discussed in Islamic jurisprudence for specified offences.
- Ḥamr/Khamr: Intoxicating substance prohibited in Islamic sources; the term is also used in juristic discussions of intoxicants.
- Dīyah: Financial compensation prescribed or agreed in recognised cases involving unlawful killing or bodily injury.
- Ijtihād: Disciplined juristic effort to derive or apply a ruling through recognised legal methodology.



- ☐ Qadhf: False accusation of a chaste person of unlawful sexual intercourse, subject to specific Qur'ānic rules.
- ☐ Qisās: Legally regulated retaliation for certain intentional offences against life or bodily integrity.
- ☐ Sariqah: Technical jurisprudential term for theft subject to specified legal conditions.
- ☐ Shibh al-'amd: Quasi-intentional killing in classical classifications of homicide.
- ☐ Ta'zīr: Discretionary punishment or corrective sanction determined within a recognised legal framework for offences not subject to a fixed ḥadd in the particular case.
- ☐ Khaṭa': Accidental killing in the commonly used classical classification of homicide.

### Concept Check Questions 3

#### Objective Questions

1. Which term refers to financial compensation in recognised cases of unlawful killing or injury? (Linked to SLO 3.2)
2. Which Qur'ānic chapter contains the verse addressing the ḥadd of theft? (Linked to SLO 3.3)
3. Which term describes false accusation of a chaste person of unlawful sexual intercourse? (Linked to SLO 3.3)
4. What should be examined before a penal ruling is applied to a case? (Linked to SLO 3.4)
5. Which form of killing is commonly classified as khaṭa'? (Linked to SLO 3.1)

#### Short-Answer Questions

6. Distinguish qisās from diyah. (Linked to SLO 3.2)
7. Explain why the ḥadd of theft cannot be established merely by alleging that property was taken. (Linked to SLO 3.3)



8. Explain the significance of the four-witness requirement in the Qur'ānic rule on qadhf.  
(Linked to SLO 3.3)

9. Explain why classification, conditions and evidence must be considered together in penal-law analysis. (Linked to SLO 3.4)

#### Long-Answer Questions

10. Analyse how the classification of homicide affects the juristic discussion of qisās and diyah, paying attention to conditions and evidence. (Linked to SLO 3.1 and SLO 3.2)

11. Evaluate the importance of legal conditions, evidentiary safeguards and competent authority in the study of Islamic penal rulings. (Linked to SLO 3.3 and SLO 3.4)

### Answers to Concept Check Questions 3

#### Objective Questions

1. Diyah.
2. Sūrah al-Mā'idah.
3. Qadhf.
4. The facts, legal classification, conditions and evidence relevant to the rule.
5. Accidental killing.

#### Short-Answer Questions

6. Qisās is a legally regulated form of retaliation for certain intentional offences against life or bodily integrity. Diyah is financial compensation prescribed or agreed in recognised cases.
7. Jurists discuss specific conditions concerning the property, manner of taking, protection of the property, value and other circumstances. An allegation alone therefore does not establish the technical offence or its ḥadd.



8. The requirement protects honour by making the serious accusation subject to a demanding evidentiary standard. It discourages reckless accusations and distinguishes the technical offence of qadhf from ordinary insulting or defamatory speech.

9. Classification identifies the relevant offence, conditions determine whether the rule applies, and evidence establishes whether the facts required by the rule are proven. Ignoring any of these can lead to an incorrect legal conclusion.

### Long-Answer Questions

10. Basic response: Classical jurisprudence distinguishes intentional, quasi-intentional and accidental killing, and these classifications affect whether and how qisās, diyah and other consequences are discussed. Value-added response: A careful analysis considers the nature of the act, intention, circumstances, evidence and the conditions recognised by the relevant school or legal framework rather than assuming every death has the same legal consequence.

11. Basic response: Penal rules require more than an allegation. Their application depends on legal conditions, reliable evidence and competent authority. Value-added response: These safeguards prevent an abstract rule from being detached from the facts and procedure of a case, and they also distinguish academic knowledge of Islamic jurisprudence from private enforcement or retaliation.

### Answers to Pilot Questions 3

#### Part 3.1

1. Intentional (‘amd), quasi-intentional (shibh al-‘amd) and accidental (khaṭa’) killing.
2. A legally regulated form of retaliation for certain intentional offences against life or bodily integrity.
3. Financial compensation prescribed or agreed in recognised cases of unlawful killing or bodily injury.
4. Because different classifications have different legal consequences and conditions.



5. Because adjudication and enforcement require competent legal authority and procedure; study alone does not confer that authority.

### Part 3.2

1. Sariqah is the technical jurisprudential term for theft subject to specified legal conditions.
2. Sūrah al-Mā'idah (5:38).
3. Because technical sariqah has specific elements and conditions; other unlawful takings may fall under different classifications.
4. The nature and value of the property, and the manner and place of taking.
5. Because the technical offence and its conditions must be established through the applicable evidence and legal process.

### Part 3.3

1. The Qur'ān commands believers to avoid intoxicants and gambling in Sūrah al-Mā'idah (5:90-91).
2. A discretionary punishment or corrective sanction within a recognised legal framework.
3. False accusation of a chaste person of unlawful sexual intercourse.
4. Four witnesses.
5. It establishes a demanding evidentiary safeguard against reckless accusations and protects personal honour.

### Part 3.4

1. The relevant conduct and legal offence or classification.
2. Because the rule may apply only when its specific conditions are satisfied.
3. The classification of a killing affects whether the juristic discussion concerns intentional, quasi-intentional or accidental killing and the corresponding consequences.



4. The competent legal authority under the applicable law and procedure.

5. Qisās is a regulated legal concept; it does not authorise individuals to carry out private retaliation.



## References and Attributions 3

### Primary Sources:

- o The Qur'ān, Sūrah al-Baqarah (2:178), on qisās and remission or compensation in cases of killing.
- o The Qur'ān, Sūrah al-Mā'idah (5:38), on the prescribed ruling for theft.
- o The Qur'ān, Sūrah al-Mā'idah (5:90-91), on intoxicants and gambling.
- o The Qur'ān, Sūrah al-Nūr (24:4), on qadhf and the requirement of four witnesses.
- o The Qur'ān, Sūrah al-Nisā' (4:92), on accidental killing and diyah.

### Secondary Sources:

- o Kamali, M. H. (2008). Shari'ah Law: An Introduction. Oneworld Publications.
- o Kamali, M. H. (2003). Principles of Islamic Jurisprudence (3rd ed.). Islamic Texts Society.
- o Hallaq, W. B. (1997). A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. Cambridge University Press.

### Illustrations:

- o Figure 3.1: Study framework for selected Islamic penal rulings. Created as an original educational diagram for this SLM.

### General Attribution:

- o Qur'ānic references are used as primary textual sources. Secondary works are cited for jurisprudential concepts and methodology. The Series is presented for academic study and does not confer private judicial or enforcement authority.



## Series 4: Qur'ānic Chapters on Penal Codes

### *Parts and Sub-Parts*

- 4.1 Selected Passages from Sūrah al-Nūr
  - 4.1.1 Qadhf and the Protection of Honour: Sūrah al-Nūr 24:4-5
  - 4.1.2 Modesty and Guarding Chastity: Sūrah al-Nūr 24:30-31
  - 4.1.3 Privacy, Social Conduct and Family Life: Sūrah al-Nūr 24:58-60
- 4.2 Selected Passages from Sūrah al-Aḥzāb
  - 4.2.1 Public Modesty and Sūrah al-Aḥzāb 33:59
  - 4.2.2 Responsible Speech and Conduct: Sūrah al-Aḥzāb 33:69-71
  - 4.2.3 Moral Responsibility and Obedience: Sūrah al-Aḥzāb 33:36-39
- 4.3 Penal and Moral Themes in the Selected Passages
  - 4.3.1 Protection of Honour, Chastity and Reputation
  - 4.3.2 Evidence, Restraint and Social Responsibility
  - 4.3.3 Relationship Between Legal Rules and Moral Conduct
- 4.4 Guided Interpretation of the Selected Qur'ānic Passages
  - 4.4.1 Reading Verses in Context
  - 4.4.2 Connecting Textual Guidance with Jurisprudential Principles
  - 4.4.3 Applying the Lessons to Academic Case Analysis



## Introduction

The Qur'ān provides foundational guidance for Islamic law and morality. In this Series, attention is given to selected passages from Sūrah al-Nūr and Sūrah al-Aḥzāb, as required by the course content. The selected passages address qadhf, protection of honour, modesty, privacy, responsible conduct and moral responsibility. They therefore provide a wider context for understanding penal regulations and the values that accompany them.

The aim of this Series is to help you examine selected Qur'ānic passages carefully, identify their principal guidance and relate the passages to the jurisprudential and moral themes of al-'uqūbāt. The Series does not treat every verse in either Sūrah as a penal-code provision. Instead, it distinguishes direct penal guidance from broader moral and social guidance.

We shall begin with selected passages from Sūrah al-Nūr, including the rule on qadhf in verses 24:4-5 and passages concerning modesty, chastity and privacy. We will then study selected passages from Sūrah al-Aḥzāb, including 33:59 and passages on responsible conduct and obedience. Finally, we will draw together the penal and moral themes and use a contextual method to guide interpretation and academic case analysis.

## Series Learning Outcomes

Upon completing this Series, you should be able to:

SLO 4.1 identify the principal guidance in selected passages of Sūrah al-Nūr and Sūrah al-Aḥzāb,

SLO 4.2 explain the relationship between the selected Qur'ānic passages and themes of honour, chastity, privacy, evidence and responsible conduct,

SLO 4.3 analyse how Qur'ānic moral guidance complements the study of Islamic penal regulations,

SLO 4.4 interpret a selected passage in its immediate context and apply its lesson to a defined academic case without extending the text beyond what it establishes.



## 4.1 Selected Passages from Sūrah al-Nūr

### 4.1.1 Qadhf and the Protection of Honour: Sūrah al-Nūr 24:4-5

Sūrah al-Nūr 24:4 addresses those who accuse chaste women and do not produce four witnesses. It establishes a serious evidentiary safeguard against a grave accusation affecting personal honour. Verse 24:5 then refers to repentance and reform after the prescribed consequence. In studying these verses, distinguish the Qur'ānic text itself from later juristic discussion about its detailed legal application.

Fill in the blank: Sūrah al-Nūr 24:4 requires \_\_\_\_\_ witnesses for the relevant accusation.

### 4.1.2 Modesty and Guarding Chastity: Sūrah al-Nūr 24:30-31

Sūrah al-Nūr 24:30-31 instructs believing men and women to lower their gaze and guard their chastity, with further guidance concerning modest conduct and dress. These verses show that the Qur'ānic treatment of sexual morality is not limited to penal rules. Moral prevention, personal discipline and social conduct are also emphasised.

Fill in the blank: Sūrah al-Nūr 24:30-31 links lowering the gaze with guarding one's \_\_\_\_\_.

### 4.1.3 Privacy, Social Conduct and Family Life: Sūrah al-Nūr 24:58-60

Sūrah al-Nūr 24:58-60 contains guidance concerning privacy within domestic life and appropriate conduct in relation to private times. The passage illustrates that Qur'ānic regulation of social life includes preventative ethical guidance as well as rules concerning offences. A study of al-'uqūbāt is therefore strengthened by understanding the moral environment in which legal rules operate.

Fill in the blank: Sūrah al-Nūr 24:58-60 includes guidance on respect for personal \_\_\_\_\_.



1. What evidentiary requirement is stated in Sūrah al-Nūr 24:4?
2. What is the central concern of Sūrah al-Nūr 24:30-31?
3. What aspect of social life is addressed in Sūrah al-Nūr 24:58-60?
4. Why is the rule in 24:4 important for protection of honour?
5. Why should the selected verses not all be treated as penal provisions?

## 4.2 Selected Passages from Sūrah al-Aḥzāb

### 4.2.1 Public Modesty and Sūrah al-Aḥzāb 33:59

Sūrah al-Aḥzāb 33:59 instructs the Prophet to tell his wives, daughters and believing women to draw their outer garments around themselves. The verse is commonly studied in discussions of modesty, dignity and public conduct. Interpretive and juristic details surrounding dress should be distinguished from the wording and immediate purpose of the verse.

Fill in the blank: Sūrah al-Aḥzāb 33:59 concerns public \_\_\_\_\_ and dignity.

### 4.2.2 Responsible Speech and Conduct: Sūrah al-Aḥzāb 33:69-71

Sūrah al-Aḥzāb 33:69-71 warns believers not to harm or speak against the Messenger and calls for reverence for Allah and truthful speech. Verse 33:70 specifically commands believers to speak words that are correct or upright. The passage reinforces the broader principle that speech carries moral responsibility.

Fill in the blank: Sūrah al-Aḥzāb 33:70 instructs believers to speak \_\_\_\_\_ words.

### 4.2.3 Moral Responsibility and Obedience: Sūrah al-Aḥzāb 33:36-39

Sūrah al-Aḥzāb 33:36-39 emphasises obedience to Allah and His Messenger and describes the responsibility of those entrusted with delivering divine guidance. The selected passage



helps frame legal and moral conduct within obedience to divine guidance rather than personal preference. It should be read as part of the Sūrah's wider discourse rather than isolated from its context.

Fill in the blank: Sūrah al-Aḥzāb 33:36 emphasises obedience to Allah and His \_\_\_\_\_.

#### *Pilot questions 4.2*

1. What is the principal subject of Sūrah al-Aḥzāb 33:59?
2. What does 33:70 teach about speech?
3. What principle is emphasised in 33:36?
4. Why should the wording of a verse be distinguished from later juristic interpretation?
5. How can the selected passages contribute to responsible social conduct?

### 4.3 Penal and Moral Themes in the Selected Passages

#### 4.3.1 Protection of Honour, Chastity and Reputation

The selected passages repeatedly protect values that support a stable moral community. Sūrah al-Nūr 24:4 places a high evidentiary barrier before a serious accusation affecting sexual honour, while 24:30-31 promotes modest conduct and chastity. Sūrah al-Aḥzāb 33:59 also addresses public modesty. Together, these passages show that legal and moral guidance can work together to protect dignity and social order.

Fill in the blank: Protection of personal \_\_\_\_\_ is an important theme in the selected passages.

#### 4.3.2 Evidence, Restraint and Social Responsibility

The Qur'ānic passages studied here encourage restraint in accusation, speech, privacy and conduct. The requirement of evidence in qadhf is a clear example of restraint in a penal context, while guidance on speech and privacy provides preventive moral direction. A learner should therefore avoid reducing the selected passages to punishment alone.



Fill in the blank: The selected passages combine legal safeguards with moral \_\_\_\_\_.

### 4.3.3 Relationship Between Legal Rules and Moral Conduct

Islamic penal regulations should be studied alongside the moral principles that discourage harmful conduct and protect people from injustice. The selected passages illustrate this relationship: evidence protects against reckless accusation, modest conduct supports chastity, privacy protects personal dignity, and truthful speech promotes responsible social interaction. The legal rule and moral purpose should be distinguished but studied together.

Fill in the blank: Qur'ānic legal guidance and moral \_\_\_\_\_ can be studied together.

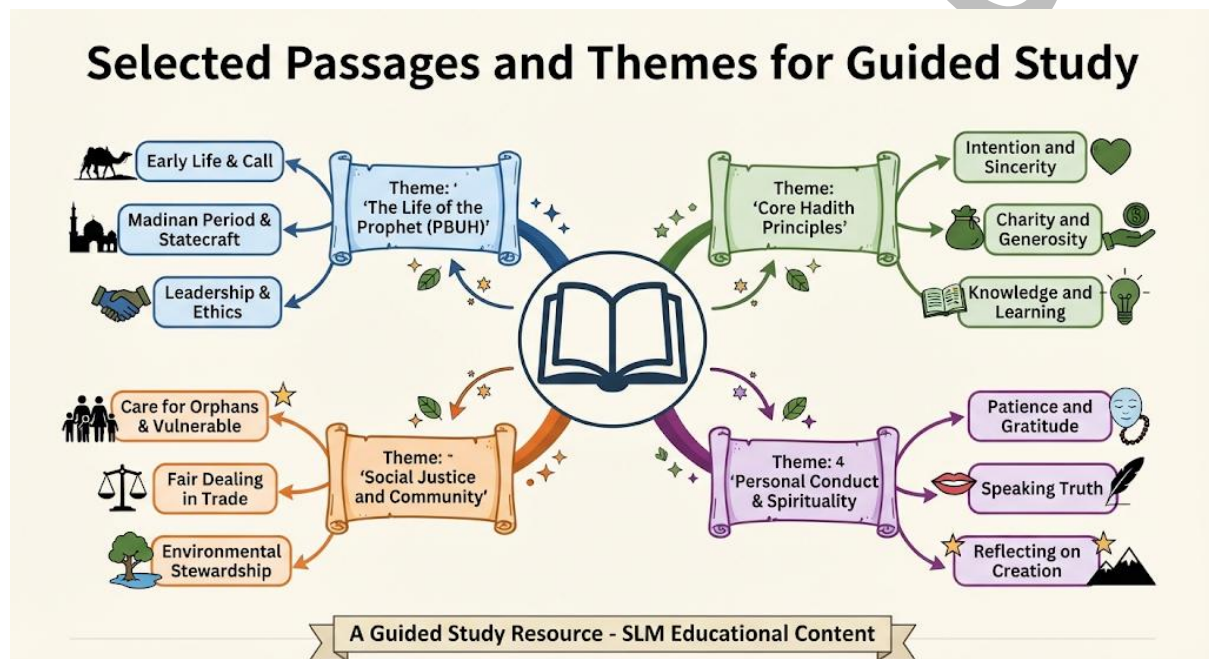


Figure 4.1: Selected passages and themes for guided study

Pilot questions 4.3

1. Name two values protected by the selected passages.
2. How does evidence contribute to protection of honour?
3. Why is moral guidance relevant to the study of penal regulations?
4. Give one example of preventive guidance in the selected passages.



5. Why should penal study not be reduced to punishment alone?

## 4.4 Guided Interpretation of the Selected Qur'ānic Passages

### 4.4.1 Reading Verses in Context

A Qur'ānic verse should be read with attention to the verses around it, its subject matter and the circumstances relevant to its interpretation. Context reduces the risk of extracting a statement from the passage and assigning it a meaning that the text does not support. Students should therefore distinguish the immediate textual meaning from later applications and interpretations.

Fill in the blank: Careful interpretation requires attention to the verse's immediate \_\_\_\_\_.

### 4.4.2 Connecting Textual Guidance with Jurisprudential Principles

Jurisprudential principles help scholars reason from Qur'ānic evidence to legal conclusions. The student should nevertheless avoid claiming that every moral instruction automatically creates a fixed penal sanction. The relevant text, juristic methodology, conditions and recognised interpretations must all be considered before drawing a legal conclusion.

Fill in the blank: A legal conclusion should be connected to the Qur'ānic text through recognised juristic \_\_\_\_\_.

### 4.4.3 Applying the Lessons to Academic Case Analysis

For academic case analysis, identify the conduct, locate the relevant Qur'ānic guidance, read the passage in context and distinguish direct textual guidance from juristic application. Then consider the relevant conditions and evidence. This method allows you to use Qur'ānic guidance responsibly without turning an educational exercise into private enforcement or an unsupported legal judgment.

Fill in the blank: Academic case analysis should distinguish direct textual guidance from juristic \_\_\_\_\_.



#### Pilot questions 4.4

1. Why is context important when interpreting a Qur'ānic verse?
2. What should a student avoid when connecting a verse to a legal conclusion?
3. What is the role of juristic methodology?
4. What should be distinguished in an academic case analysis?
5. Why must academic analysis be distinguished from private enforcement?

### Series Summary

This Series examined selected passages from Sūrah al-Nūr and Sūrah al-Aḥzāb in accordance with the course content. From Sūrah al-Nūr, you studied qadhf and its evidentiary safeguard, guidance on modesty and chastity, and rules concerning privacy. From Sūrah al-Aḥzāb, you examined public modesty, responsible speech and obedience to divine guidance.

The Series also showed that Qur'ānic guidance on al-'uqūbāt should not be reduced to punishment. The selected passages connect legal safeguards with moral values such as protection of honour, chastity, privacy, truthful speech and responsible conduct. You therefore learned to distinguish direct penal guidance from broader ethical instruction.

You should now be able to identify the principal guidance in the selected passages (SLO 4.1), explain their relationship with honour, chastity, privacy, evidence and responsible conduct (SLO 4.2), analyse how moral guidance complements penal regulations (SLO 4.3), and interpret a selected passage in context for an academic case without extending the text beyond what it establishes (SLO 4.4).

### Glossary of Terms

- ☐ Qadhf: False accusation of a chaste person of unlawful sexual intercourse, subject to specific Qur'ānic rules.
- ☐ Chastity: Moral and sexual self-restraint emphasised in Islamic ethical and legal guidance.



- ☐ Honour: Personal dignity and reputation protected by Qur'ānic moral and legal safeguards.
- ☐ Privacy: Protection of personal and domestic space from inappropriate intrusion.
- ☐ Evidence: Proof or testimony used to establish a claim under the applicable legal framework.
- ☐ Context: The surrounding verses, subject matter and circumstances relevant to interpreting a Qur'ānic passage.
- ☐ Modesty: Conduct and appearance characterised by restraint and dignity in accordance with Islamic guidance.
- ☐ Juristic methodology: Recognised principles and methods used by scholars to derive and apply legal rulings.
- ☐ Penal regulation: A legal rule concerning an offence and its recognised consequence within a lawful legal framework.



## Concept Check Questions 4

### Objective Questions

1. How many witnesses are required in Sūrah al-Nūr 24:4 for the relevant accusation? (Linked to SLO 4.1)
2. Which selected passage addresses privacy in domestic life? (Linked to SLO 4.1)
3. Which Sūrah contains verse 33:59 on public modesty? (Linked to SLO 4.1)
4. Which value is strongly protected by the evidentiary rule in Sūrah al-Nūr 24:4? (Linked to SLO 4.2)
5. What should be considered before extending a Qur'ānic passage to a legal conclusion? (Linked to SLO 4.4)

### Short-Answer Questions

6. Explain the significance of the four-witness requirement in Sūrah al-Nūr 24:4. (Linked to SLO 4.2)
7. Explain how Sūrah al-Nūr 24:30-31 contributes to the moral framework surrounding penal regulation. (Linked to SLO 4.3)
8. Explain the relationship between legal safeguards and moral guidance in the selected passages. (Linked to SLO 4.3)
9. Why must a Qur'ānic verse be interpreted in context before it is used in academic legal analysis? (Linked to SLO 4.4)

### Long-Answer Questions

10. Analyse how selected passages from Sūrah al-Nūr and Sūrah al-Aḥzāb combine protection of social dignity with moral guidance. (Linked to SLO 4.2 and SLO 4.3)
11. Evaluate the importance of context, evidence and juristic methodology when relating Qur'ānic passages to Islamic penal regulations. (Linked to SLO 4.4)



## Answers to Concept Check Questions 4

### Objective Questions

1. Four.
2. Sūrah al-Nūr 24:58-60.
3. Sūrah al-Aḥzāb.
4. Personal honour and reputation.
5. The immediate context, relevant evidence, juristic methodology and recognised conditions.

### Short-Answer Questions

6. It establishes a demanding evidentiary safeguard before a serious accusation affecting sexual honour can be treated as the relevant technical offence. This discourages reckless accusations and protects dignity.
7. The verses promote lowering the gaze, guarding chastity and modest conduct. These preventive moral instructions help create the ethical environment in which legal rules concerning sexual misconduct and honour are understood.
8. Legal safeguards establish conditions and evidence, while moral guidance encourages conduct that prevents harm and protects dignity. The two should be distinguished but studied together.
9. Context helps determine the subject and scope of a verse and reduces the risk of extracting a statement from its setting. It also helps the student distinguish the Qur'ānic wording from later juristic applications.

### Long-Answer Questions

10. Basic response: Sūrah al-Nūr protects honour through the rule on qadhf and promotes chastity, modesty and privacy. Sūrah al-Aḥzāb also addresses public modesty and responsible conduct. Value-added response: Together, the passages show that protection of social dignity is supported by both legal safeguards and preventive moral guidance.



11. Basic response: Context establishes the proper setting of a verse, evidence supports legal claims, and juristic methodology guides the movement from text to legal conclusion. Value-added response: These safeguards prevent students from treating every moral instruction as a fixed penal rule or extending a verse beyond what the text and recognised jurisprudence support.

## Answers to Pilot Questions 4

### Part 4.1

1. Four witnesses for the relevant accusation.
2. Lowering the gaze, guarding chastity and modest conduct.
3. Privacy and appropriate conduct within domestic life.
4. It makes a serious accusation subject to a demanding evidentiary standard.
5. Because some passages provide moral and social guidance rather than a fixed penal sanction.

### Part 4.2

1. Public modesty and dignity.
2. It instructs believers to speak words that are correct or upright.
3. Obedience to Allah and His Messenger.
4. Because later interpretation may contain juristic reasoning that should not be confused with the wording of the verse itself.
5. They promote modesty, truthful speech, obedience and responsible conduct.

### Part 4.3

1. Honour and chastity.



2. It prevents a serious accusation from being treated as established without the required proof.

3. Moral guidance helps prevent harmful conduct and explains values protected by legal rules.

4. Guidance to lower the gaze and guard chastity.

5. Because the selected passages also address prevention, evidence, dignity, privacy and responsible conduct.

#### Part 4.4

1. It helps establish the meaning and scope of the passage.

2. Unsupported legal conclusions or claims that the verse establishes more than it actually establishes.

3. It provides recognised principles for moving from evidence to a legal conclusion.

4. Direct textual guidance from juristic application and the student's own inference.

5. Because studying a ruling does not confer judicial or enforcement authority.



## References and Attributions 4

### Primary Sources:

- o The Qur'ān, Sūrah al-Nūr (24:4-5), on qadhf, evidence, repentance and reform.
- o The Qur'ān, Sūrah al-Nūr (24:30-31), on lowering the gaze, chastity and modest conduct.
- o The Qur'ān, Sūrah al-Nūr (24:58-60), on privacy and conduct within domestic life.
- o The Qur'ān, Sūrah al-Aḥzāb (33:36-39), on obedience to Allah and His Messenger.
- o The Qur'ān, Sūrah al-Aḥzāb (33:59), on public modesty and outer garments.
- o The Qur'ān, Sūrah al-Aḥzāb (33:69-71), on responsible speech and upright conduct.

### Secondary Sources:

- o Kamali, M. H. (2008). Shari'ah Law: An Introduction. Oneworld Publications.
- o Kamali, M. H. (2003). Principles of Islamic Jurisprudence (3rd ed.). Islamic Texts Society.
- o Al-Zuhayli, W. (2001). The Islamic Jurisprudence and Its Proofs, Vol. 1. Dar al-Fikr.

### Illustrations:

- o Figure 4.1: Selected passages and themes for guided study. Created as an original educational diagram for this SLM.

### General Attribution:

- o Qur'ānic passages are identified as primary sources. Secondary works are cited for jurisprudential methodology and explanatory context. The Series distinguishes Qur'ānic textual guidance from later juristic application and is presented for academic study.



## Series 5: Morality and Relevance of Islamic Regulations

### *Parts and Sub-Parts*

- 5.1 Relationship Between Islamic Regulation and Morality
  - 5.1.1 Meaning of Morality in Islamic Legal and Ethical Life
  - 5.1.2 Relationship Between Legal Rules and Moral Conduct
  - 5.1.3 Moral Purposes Behind Penal Regulation
- 5.2 Moral Relevance of Selected Penal Regulations
  - 5.2.1 Protection of Life and the Prohibition of Unlawful Killing
  - 5.2.2 Protection of Property and the Regulation of Theft
  - 5.2.3 Protection of Honour and the Regulation of Qadhf
- 5.3 Self-Control, Prevention and Social Responsibility
  - 5.3.1 Intoxicants and the Prevention of Harm
  - 5.3.2 Restraint in Speech and Accusation
  - 5.3.3 Personal Responsibility and Respect for Others
- 5.4 Contemporary Relevance of Islamic Regulations
  - 5.4.1 Moral Lessons for Individual Conduct
  - 5.4.2 Moral Lessons for Community Life
  - 5.4.3 Applying the Lessons Without Confusing Morality with Legal Enforcement



## Introduction

Islamic regulations are studied not only as rules concerning offences and their consequences, but also in relation to the moral values they seek to protect and promote. The course content for this Series requires emphasis on the relevance of regulations on murder, theft, intoxicants and qadhf to morality. This perspective helps you see how legal rules concerning harmful conduct relate to values such as respect for life, protection of property, preservation of honour, self-control and social responsibility.

The aim of this Series is to examine the moral significance of selected Islamic regulations and to show how legal safeguards can support responsible conduct. You will consider the relationship between rules and moral formation, the protective values associated with selected penal regulations, and the relevance of these values to individual and community life.

We shall begin by examining the relationship between Islamic regulation and morality. Next, we will consider the moral relevance of regulations concerning unlawful killing, theft and qadhf. We will then examine intoxicants, restraint in speech and accusation, and personal responsibility. Finally, we will consider the contemporary moral relevance of these principles while maintaining the important distinction between studying a legal rule and possessing authority to enforce it.

## Series Learning Outcomes

Upon completing this Series, you should be able to:

SLO 5.1 explain the relationship between Islamic legal regulations and moral conduct,

SLO 5.2 analyse the moral values protected by selected regulations concerning murder, theft and qadhf,

SLO 5.3 evaluate the preventive and social-responsibility dimensions of regulations concerning intoxicants, speech and accusation,

SLO 5.4 apply the moral lessons of selected Islamic regulations to defined academic situations while distinguishing ethical guidance from legal enforcement.



## 5.1 Relationship Between Islamic Regulation and Morality

### 5.1.1 Meaning of Morality in Islamic Legal and Ethical Life

Morality in Islamic life concerns conduct, character and responsibility in relation to Allah and other people. Islamic legal rules and ethical guidance can therefore operate together: a rule may prohibit harmful conduct while moral teaching encourages a person to develop the self-restraint needed to avoid that conduct. In this Series, morality is considered in connection with the values protected by selected regulations rather than as a substitute for legal analysis.

Fill in the blank: Moral conduct concerns responsible behaviour and the development of good \_\_\_\_\_.

### 5.1.2 Relationship Between Legal Rules and Moral Conduct

Legal regulation and moral conduct are related but should not be treated as identical. A legal rule may establish an enforceable prohibition or condition within a recognised legal system, while morality also concerns intention, character and conduct that may not be subject to a fixed legal sanction. Studying both dimensions helps you appreciate the wider purpose of Islamic regulations without assuming that every moral fault has a fixed penal consequence.

Fill in the blank: Legal rules and moral guidance are related, but they are not completely \_\_\_\_\_.

### 5.1.3 Moral Purposes Behind Penal Regulation

Penal regulations can protect important interests by discouraging harmful conduct and establishing safeguards against injustice. In the selected areas of murder, theft, intoxicants and qadhaf, the protected concerns include life, property, sound social conduct and honour. The moral dimension encourages learners to recognise why these interests matter and how responsible conduct can help prevent harm before a legal issue arises.

Fill in the blank: A major purpose of regulation is to protect important human \_\_\_\_\_.



1. What is meant by morality in the context of this Series?
2. Are legal rules and moral guidance identical?
3. Mention two interests that Islamic regulations may protect.
4. Why should legal and moral dimensions be studied together?
5. Why should moral discussion not be treated as a substitute for legal analysis?

## 5.2 Moral Relevance of Selected Penal Regulations

### 5.2.1 Protection of Life and the Prohibition of Unlawful Killing

The prohibition of unlawful killing reflects the high value placed on human life. The study of murder in earlier parts of this course introduced classifications of homicide and the legal concepts associated with them. From a moral perspective, the regulation also reinforces restraint, accountability and respect for life. The legal rule and its moral significance should therefore be studied together without treating moral discussion as a replacement for the required legal conditions.

Fill in the blank: The regulation of unlawful killing reinforces respect for human \_\_\_\_\_.

### 5.2.2 Protection of Property and the Regulation of Theft

The regulation of theft protects property and discourages wrongful appropriation. Its moral relevance extends beyond the legal classification of a particular act: it encourages honesty, respect for the property of others and responsible economic conduct. At the same time, the technical legal conditions for a ḥadd offence remain distinct from the broader moral wrong of taking what does not belong to you.

Fill in the blank: The moral relevance of theft regulation includes honesty and respect for \_\_\_\_\_.



### 5.2.3 Protection of Honour and the Regulation of Qadhf

Qadhf concerns a serious false accusation affecting sexual honour. Earlier in this course, you examined its evidentiary safeguard in Sūrah al-Nūr 24:4. Morally, the regulation encourages restraint in speech and protects people from reckless accusations that can damage dignity and reputation. This illustrates how a legal safeguard can reinforce a wider ethic of responsible speech.

Fill in the blank: Qadhf regulation protects personal honour and \_\_\_\_\_.

#### *Pilot questions 5.2*

1. Which human interest is directly protected by regulations against unlawful killing?
2. What moral value is reinforced by the regulation of theft?
3. What does qadhf regulation protect?
4. Why is the technical ḥadd of theft different from the broader moral wrong of taking another person's property?
5. How does qadhf regulation encourage responsible speech?

## 5.3 Self-Control, Prevention and Social Responsibility

### 5.3.1 Intoxicants and the Prevention of Harm

The Qur'ān instructs believers to avoid intoxicants and explains that they can create enmity and distract people from remembrance of Allah and prayer. The moral relevance therefore includes self-control, avoidance of harmful behaviour and protection of relationships. The legal treatment of intoxicant offences should still be distinguished from the broader moral objective of preventing harm.

Fill in the blank: Avoiding intoxicants is connected with self-control and prevention of \_\_\_\_\_.



### 5.3.2 Restraint in Speech and Accusation

Responsible speech requires restraint before repeating accusations or harmful claims. The selected Qur'ānic guidance studied earlier links qadhf with a demanding evidentiary requirement and also encourages truthful and upright speech. Morally, this teaches you to consider the consequences of your words and to avoid causing unjustified harm to another person's reputation.

Fill in the blank: Responsible speech requires restraint and \_\_\_\_\_.

### 5.3.3 Personal Responsibility and Respect for Others

Moral responsibility includes recognising that individual choices can affect other people. Respect for life, property, honour and social wellbeing requires more than avoiding punishment. It requires a willingness to act responsibly, control harmful impulses and respect the rights and dignity of others. This is one reason the course emphasises the relevance of penal regulations to morality.

Fill in the blank: Responsible conduct includes respect for the rights and \_\_\_\_\_ of others.



Figure 5.1: Relationship between Islamic regulation, morality and social protection



1. What moral quality is associated with avoiding intoxicants?
2. Why is restraint important in speech and accusation?
3. How can individual conduct affect other people?
4. Mention two areas in which personal responsibility is important.
5. Why is prevention an important dimension of moral guidance?

## 5.4 Contemporary Relevance of Islamic Regulations

### 5.4.1 Moral Lessons for Individual Conduct

The moral lessons of selected regulations can inform everyday decisions. Respect for life encourages non-violence and restraint, respect for property encourages honesty, and protection of honour encourages responsible speech. These lessons can guide personal conduct even when no question of formal legal enforcement arises.

Fill in the blank: Moral lessons can guide everyday personal \_\_\_\_\_.

### 5.4.2 Moral Lessons for Community Life

At community level, these values support trust and peaceful interaction. When people respect life, property and reputation, harmful conflict is reduced and social relationships are strengthened. The relevance of the regulations therefore includes the cultivation of responsible citizens and communities, not merely the discussion of penalties.

Fill in the blank: Respect for life, property and reputation can strengthen social \_\_\_\_\_.

### 5.4.3 Applying the Lessons Without Confusing Morality with Legal Enforcement

Academic study must distinguish moral guidance from legal enforcement. You can analyse the moral value of a prohibition or legal safeguard without assuming authority to impose a



penalty. Where a legal ruling is involved, its conditions, evidence, procedure and competent authority must be considered. This distinction prevents moral conviction from being confused with private enforcement.

Fill in the blank: Moral analysis should not be confused with private legal \_\_\_\_\_.

*Pilot questions 5.4*

1. Give one personal moral lesson from the regulation of theft.
2. How can respect for honour contribute to community life?
3. Why are moral lessons relevant even when formal legal enforcement is not involved?
4. What must be considered when a legal ruling is being analysed?
5. Why must moral conviction not be confused with private enforcement?



## Series Summary

This Series examined the relevance of selected Islamic regulations to morality. You first considered the relationship between legal rules and moral conduct and saw that they are related without being identical. Penal regulations can establish legal safeguards, while moral guidance also shapes character, restraint and responsible conduct.

You then examined the moral significance of regulations concerning unlawful killing, theft and qadhf. These areas reinforce respect for life, property, honour and responsible speech. The Series also considered intoxicants, self-control, restraint in speech and accusation, and the responsibility individuals have toward other people.

Finally, you considered the relevance of these values to personal and community life. You learned that moral lessons can guide conduct without automatically creating a fixed legal sanction, and that legal enforcement remains a matter of recognised authority and procedure. You should now be able to explain the relationship between Islamic regulation and morality (SLO 5.1), analyse protected moral values (SLO 5.2), evaluate preventive and social-responsibility dimensions (SLO 5.3), and apply moral lessons to academic situations while distinguishing them from legal enforcement (SLO 5.4).

## Glossary of Terms

- Morality: Principles and standards concerning right conduct, character and responsible behaviour.
- Legal regulation: A recognised legal rule governing conduct and its consequences within an applicable legal framework.
- Qadhf: False accusation of a chaste person of unlawful sexual intercourse, subject to specific Qur'ānic rules.
- Hadd: A legally prescribed penal sanction discussed in Islamic jurisprudence for specified offences.
- Self-control: The ability to restrain harmful impulses and regulate one's conduct.



☐ Social responsibility: The duty to consider how one's conduct affects other people and the wider community.

☐ Honour: Personal dignity and reputation protected by moral and legal safeguards.

☐ Prevention: Measures or conduct intended to stop harm or wrongdoing before it occurs.

☐ Legal enforcement: The implementation of recognised legal rules by competent authority under applicable procedures.



## Concept Check Questions 5

### Objective Questions

1. Which value is directly associated with the prohibition of unlawful killing? (Linked to SLO 5.2)
2. Which moral value is reinforced by the regulation of theft? (Linked to SLO 5.2)
3. What does qadhaf regulation principally protect? (Linked to SLO 5.2)
4. Which quality is strongly associated with avoiding intoxicants? (Linked to SLO 5.3)
5. What must be distinguished from moral guidance when studying legal enforcement? (Linked to SLO 5.4)

### Short-Answer Questions

6. Explain why legal regulation and moral conduct should be studied together but not treated as identical. (Linked to SLO 5.1)
7. Explain how regulations concerning murder, theft and qadhaf reflect the protection of important moral values. (Linked to SLO 5.2)
8. Analyse the preventive moral significance of avoiding intoxicants and exercising restraint in speech. (Linked to SLO 5.3)
9. Explain why moral conviction should not be confused with authority to enforce a legal ruling. (Linked to SLO 5.4)

### Long-Answer Questions

10. Analyse the relationship between selected Islamic penal regulations and the moral values of respect for life, property, honour and social responsibility. (Linked to SLO 5.1 and SLO 5.2)



11. Evaluate the relevance of the moral principles studied in this Series to individual and community life, while distinguishing moral guidance from formal legal enforcement. (Linked to SLO 5.3 and SLO 5.4)

## Answers to Concept Check Questions 5

### Objective Questions

1. Respect for human life.
2. Honesty and respect for the property of others.
3. Personal honour and reputation.
4. Self-control.
5. Legal enforcement and the authority and procedure required to implement a ruling.

### Short-Answer Questions

6. They are related because legal rules can protect values that morality also encourages, such as respect for life and property. They are not identical because moral conduct also includes character and intentions, while legal enforcement concerns recognised rules, conditions and procedures.
7. The regulation of unlawful killing reinforces respect for life, theft regulation protects property and encourages honesty, while qadhif regulation protects honour and restrains reckless accusation. Together, they show how legal safeguards can support important moral values.
8. Avoiding intoxicants encourages self-control and helps prevent harm to individuals and relationships. Restraint in speech reduces reckless accusation and reputational harm. Both illustrate preventive moral guidance.
9. A person may recognise that an act is morally wrong without having authority to impose a legal sanction. Legal enforcement requires the applicable rule, conditions, evidence, procedure and competent authority.



## Long-Answer Questions

10. Basic response: The selected regulations protect life, property and honour while encouraging responsible conduct. Value-added response: Their moral relevance extends beyond the existence of penalties because they encourage restraint, honesty, accountability and respect for the rights and dignity of others.

11. Basic response: The principles can guide personal restraint, honest conduct, responsible speech and respect for others, thereby supporting peaceful community life. Value-added response: Their application in contemporary academic discussion should distinguish ethical lessons from formal legal enforcement, which remains subject to recognised legal conditions, procedures and competent authority.

## Answers to Pilot Questions 5

### Part 5.1

1. Morality concerns right conduct, character and responsible behaviour in relation to Allah and other people.
2. No. They are related but not identical.
3. Life, property, honour and social wellbeing are examples.
4. Because legal safeguards can protect values that moral guidance also encourages.
5. Because moral evaluation does not by itself establish the legal elements, conditions, evidence or procedure required for a legal ruling.

### Part 5.2

1. Human life.
2. Honesty and respect for the property of others.
3. Personal honour and reputation.



4. Because the technical ḥadd has specific legal elements and conditions, while the broader moral wrong of taking another person's property is wider.

5. It requires restraint and reliable evidence before a serious accusation is treated as the relevant technical offence.

### Part 5.3

1. Self-control.

2. It reduces the risk of unjustified harm to another person's reputation and dignity.

3. Individual choices can affect the rights, safety, dignity and wellbeing of other people.

4. Respecting the rights of others and controlling harmful impulses.

5. It encourages conduct that prevents harm before a legal or social dispute arises.

### Part 5.4

1. It encourages honesty and respect for the property of others.

2. It discourages reckless accusations and promotes respectful interaction.

3. Because the values can guide conduct and social relationships even when no formal legal issue exists.

4. The applicable rule, legal conditions, evidence, procedure and competent authority.

5. Because recognising a moral wrong does not confer authority to impose a legal penalty.



## References and Attributions 5

### Primary Sources:

- o The Qur'ān, Sūrah al-Baqarah (2:178), on qisās and the regulation of unlawful killing.
- o The Qur'ān, Sūrah al-Mā'idah (5:38), on the ruling concerning theft.
- o The Qur'ān, Sūrah al-Mā'idah (5:90-91), on intoxicants and their harmful social and spiritual effects.
- o The Qur'ān, Sūrah al-Nūr (24:4-5), on qadhf, evidence, repentance and reform.
- o The Qur'ān, Sūrah al-Nūr (24:30-31), on modesty, chastity and responsible conduct.
- o The Qur'ān, Sūrah al-Aḥzāb (33:70), on truthful and upright speech.

### Secondary Sources:

- o Kamali, M. H. (2008). Shari'ah Law: An Introduction. Oneworld Publications.
- o Kamali, M. H. (2003). Principles of Islamic Jurisprudence (3rd ed.). Islamic Texts Society.
- o Al-Zuhayli, W. (2001). The Islamic Jurisprudence and Its Proofs, Vol. 1. Dar al-Fikr.

### Illustrations:

- o Figure 5.1: Relationship between Islamic regulation, morality and social protection. Created as an original educational diagram for this SLM.

### General Attribution:

- o Qur'ānic references are used as primary textual sources. Secondary works are cited for jurisprudential explanations and methodology. The Series treats the moral relevance of Islamic regulations as an academic subject and does not confer private judicial or enforcement authority.

