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CAPITAL PUNISHMENT IN THE OLD TESTAMENT IN THE LIGHT OF THE HOLY QUR'AN AND THE SUNNAH: A COMPARATIVE STUDY.

وذلك لغايات البحث العلمي و / أو التبادل مع المؤسسات التعليمية والجامعات و / أو لأغراض
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**CAPITAL PUNISHMENT IN THE OLD TESTAMENT IN
THE LIGHT OF THE HOLY QUR'ĀN AND THE SUNNAH
A COMPARATIVE STUDY**

By

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**This thesis was submitted in partial fulfillment of the
requirements for the Master's degree in Islamic studies**

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Dedication

To my Parents who helped and guided me to be an educated person to use
knowledge for the service of Islam and Muslim Nation.

Acknowledgment

All Praise be to Allah The Cherisher and Sustainer of the worlds, Who helped me to finish this dissertation, and I ask Him to make it sincere for His sake, Ameen. Special thanks to my supervisor – Professor Mohammad Khazer Al-Majali for his guidance and help within the period of preparing this dissertation. I ask Allah All-Mighty to reward him in this life and in the hereafter. Special thanks to our academic staff: "Dr. Bahjat Alhabashnah, Dr. Mohammad Alkhateeb, Dr. Ibrahim Abu Argoub, Dr. Samirah Alkhwaldah and Dr. □Alaa' Adawi". They gave us the deep meaning of knowledge and its tools through the period of study. I also thank my friends: Malik Al-Ubaidi and Dr. Tahseen Saadah for their support.

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ABSTRACT

This study discusses capital punishment in the Old Testament in the light of the holy Qur'ān and the Sunnah as a comparative study by showing the causes of this punishment and ways in which it is carried out. This work consists of: introduction, introductory chapter and three chapters. The introduction includes the problem, the importance, the objectives of the study in addition to the previous researches related to the present work and what distinguishes this study from the previous studies. The introductory chapter deals with the terms of the study. The first chapter deals with capital punishment for religious causes, such as: Apostasy, Blasphemy, false prophecy and other religious causes. The second chapter deals with the capital punishment for criminal causes, such as: murder, adultery, incest, kidnapping, in addition to other crimes. The last chapter deals with the capital punishment for causes regarding family, such as: cursing and striking parents. Finally, the conclusion, which includes the most important results of this study. Among the most important of them were the following: the holy Qur'ān and the Sunnah agreed with the Old Testament on carrying out of capital punishment for some causes, but with different

details, such as: murder, apostasy, committing Adultery by the married person, incest and sodomy. The holy Qurān and the Sunnah disagreed with the Old Testament on carrying out of capital punishment for some causes, such as: killing by mistake indirectly, committing and adultery by the non married person, whereas they put other punishments for them, such as: flogging eighty times and exile for a year for committing adultery by non married person and paying blood money for killing by mistake indirectly. The Old Testament includes clear contradictions which confirm that it is corrupted.

Introduction

Allah All-mighty created Man and settled him in the earth for two goals: worshipping Allah and settlement of the earth. So, He gave him qualities, by which he can achieve these two goals. Allah All-mighty organized the relation regarding Man's life with different fields to make the activity of this life moves as Allah All-mighty wants. Without doubt, the relation between children of Adam is considered as an important component of life movement components on this earth with different areas. Because Allah All-mighty knows the future relation and its nature between children of Adam on the earth, He sent Messengers and Prophets with legislations to regulate this relation and its sides. One of these sides is the side of rights, and the most important one of them is the right to life which Allah All-mighty gave to Man, and depriving of it with killing or execution without lawful right is considered an assault on one of Allah's rights, because He gave, guaranteed and legislated this right.

To protect this right, there were different legislations, some of them came from religious sources, and others came from human sources. But, it should be known that this right must be finished or deprived for some causes, which results are dangerous, whether they are regarding religion and creed, or regarding man's life. End of this right for the previous causes or for other causes was known as "death penalty", or what is known in our contemporary time as "capital punishment". This punishment has different ways in carrying out according to its legislations. Among the most famous legislations with religious source concerning capital punishment, are legislations of the Old Testament. This book is considered the first religious source for Jews, because it includes: laws, legislations and events and history regarding Judaism. Also, this book is considered a holy book for

Christians, because it forms the first part of the holy Bible in addition to its second part - the New Testament-. The Old Testament discussed capital punishment through mentioning its causes and its ways of carrying out. Also, among of the most famous legislations which came from religious source concerning the same punishment, are legislations of the Islamic sources: the holy Qurān and the Sunnah. Both of them dealt with capital punishment with details differ from the Old Testament.

The laws of the Old Testament had connection mainly with Jews and their life circumstances in a particular period. These laws were including some of hardness to treat violations and crimes of Jews, whether in religious sides or in life sides. But after that the circumstances of the life changed, and new issues appeared, and the laws of the Old Testament became incapable to treat them. That means, these laws became old, because it came for a particular time and particular place. In addition to that, existence of corruption in some cases in the Old Testament, whereas we find contradictions between texts regarding the same rule! Also carrying out of rules on crimes with different circumstances!

Then, Allah All-mighty chose the law of Islam as the last divine law, and it abrogated all previous divine laws. Since it is the last divine law, it will be valid for every time and every place, and capable to treat all circumstances and problems in addition to its deep dealing with humanity because it is the most appropriate for human nature, respects the human in his self and it is applied on every one without favoritism. This is without doubt, gives this law flexibility and acceptance on every levels.

Nowadays, if we look at westerns, who claim that they keep human rights, respect humanity and claim that Islam includes hard and unjust rules; specially the criminal laws, it is said to them that you have a holy book(the holy Bible), which includes the Old testament, which its laws include corruption and hardness as it is above-mentioned, and

these laws contradict the human rights in many places. So, with greater reason, they – westerns- must study their holy book and Islam objectively to determine the best ever laws.

In addition to that, there are request in the west to cancel capital punishment under the pretense that it is contradicting the human rights. Some of western states canceled capital punishment for these requests, and they put other punishment instead of capital punishment. But, what was the result? Increasing of crimes average, loosing the rights of oppressed and expansion of the social disorder in those states.

Depending on the above-mentioned explanation, and because the Old Testament and the Islamic sources- the holy Qur'ān and the Sunnah and their legislations are considered famous in the human community, and they are connected with the three famous religions in the world: Islam, Judaism and Christianity, because capital punishment is considered a very dangerous rule, because it means: end someone's life, this study came to discuss this punishment in the Old Testament in the light of the holy Qur'ān and the Sunnah as a comparative study.

The problem of the study:

What are the areas of similarity and dissimilarity between the Old Testament and the Holy Qur'ān and the Sunnah regarding capital punishment? And how did these two religious sources deal with it?

The importance of the study:

The Importance of this study shows which legislations regarding capital punishment in the Old Testament texts or in the Holy Qur'ān texts and the Sunnah texts are appropriate for the human life, and take into account human value and its different circumstances. The criterions of this value are: to accord with the human nature, all people engage in it, to

complete and raise the human existence and not to decay it. Also, to make Man an objective in his self not only a tool.

The objectives of the study:

This study aims at shedding some light on:

- 1- Getting an overview about the main study terms: capital punishment, the Old Testament, the holy Qur'ān and the Sunnah.
- 2- Analyzing capital punishment in the Old Testament: causes and ways of carrying out of this punishment.
- 3- Making a comparison regarding capital punishment between the Old Testament and the Holy Qur'ān and the Sunnah.
- 4- Refuting doubts which claim that capital punishment in the holy Qur'ān and in the Sunnah is inhuman.

The methodology of the study

In this study, I used many methods illustrated as follows:

- 1- The inductive method, whereas I collected the texts in the Old Testament which talk about the capital punishment. Also, the texts in the holy Qur'ān and the texts in the Sunnah regarding the same punishment. Then, it has come out through this method that the reasons of capital punishment in the Old Testament are more than what is in the holy Qur'ān and in the Sunnah.
- 2- Secondly, the analytical method; which helps to understand all areas of the texts regarding capital punishment.
- 3- Finally, the comparative method between the Old Testament texts and the holy Qur'ān text and the Sunnah texts to know the areas of similarity and dissimilarity

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|---|--|
| Collegiate Dictionary | |
| Bestiality * Reference: Merriam Webster's Collegiate Dictionary | Sexual relations between a human being and a lower animal |
| Blasphemy * Reference: Merriam Webster's Collegiate Dictionary | The act of insulting or showing contempt or lack of reverence for God. |
| Booty * Reference: Merriam Webster's Collegiate Dictionary | Loot taken in war. |
| □udūd *Reference: The Encyclopedia of Islam | The technical term for the punishments of certain acts which have been forbidden or sanctioned by punishments in the Qur'ān and have thereby become crimes against religion. |
| Incest * Reference: Merriam Webster's Collegiate Dictionary | Sexual intercourse between persons closely related that they are forbidden by law to marry. |
| Kidnapping * Reference: Merriam Webster's Collegiate Dictionary | To seize and detain or carry away by unlawful force or fraud. |
| Alli□ān *Reference: Aljāmi□ fil fiqh Al-Islamī Almuqāran | Swearing with particular terms by the husband that his wife committed adultery or denying his son from her. And she swears with particular terms that he is layer in his accusation. |
| Magic * Reference: Merriam Webster's Collegiate Dictionary | Is an extraordinaire power or influence seemingly from supernatural source. |
| Marfū□ □adīth: *Reference: □Ulūm Al-□adīth | what is narrated from the prophet (pbuh) from a saying, an action or an approval. |

| | |
|---|---|
| <i>Wamu</i> □ □ <i>la</i> □ <i>uhuh</i> | |
| Mawqūf □ adīth *Reference: □ <i>Ulūm Al-</i> □ adīth <i>Wamu</i> □ □ <i>la</i> □ <i>uhuh</i> | What is narrated from the companions of the prophet (pbuh) from a saying, an action or an approval. |
| Murder * Reference: Merriam Webster's Collegiate Dictionary | To kill (a human being) unlawfully, and with premeditated malice. |
| Qi □ ā □ *Reference: The Encyclopedia of Islam | Retaliation which is applied in cases of killing, and of wounding which do not prove fatal. |
| Rape * Reference: Merriam Webster's Collegiate Dictionary | The unlawful carnal knowledge of a woman by a man without her consent, and chiefly by force or deception. |
| Shirk *Reference: The Encyclopedia of Islam | Polytheism, the giving of partnership to God. |
| Sodomy * Reference: Merriam Webster's Collegiate Dictionary | The homosexual proclivities of the men. |
| Spirit * Reference: Merriam Webster's Collegiate Dictionary | A malevolent being that enters and possesses a human being. |

عقوبة الإعدام في العهد القديم في ضوء القرآن والسنة

دراسة مقارنة

إعداد

عبد السلام عطية حماد

المشرف

الأستاذ الدكتور محمد خازر المجالي

الملخص

تناقش هذه الدراسة عقوبة الإعدام في العهد القديم في ضوء القرآن والسنة كدراسة مقارنة من خلال بيان أسباب هذه العقوبة وطرق تنفيذها. تتكون هذه الدراسة من مقدمة وفصل تمهيدي وثلاثة فصول. تحتوي المقدمة على مشكلة الدراسة وأهميتها، وأهداف الدراسة بالإضافة إلى عرض الدراسات السابقة التي لها علاقة بهذه الدراسة ثم بيان الفرق بينها وبين هذه الدراسة. يبحث الفصل التمهيدي مصطلحات الدراسة. ويبحث الفصل الأول من هذه الدراسة عقوبة الإعدام لأسباب دينية: كالردة وسب اسم الرب والنبوة الكاذبة وغير ذلك من الأسباب الدينية. أما الفصل الثاني فيبحث عقوبة الإعدام لأسباب جنائية: كالقتل العمد والزنا والخطف وزواج المحارم وغير ذلك من الأسباب الجنائية. ويبحث الفصل الأخير عقوبة الإعدام لأسباب متعلقة بالعائلة: كسب وضرب الوالدين. ثم توصلت الدراسة إلى خاتمة احتوت على أهم النتائج لهذه الدراسة، وكان من أهمها الآتي: اتفق كل من القرآن والسنة مع العهد القديم على تنفيذ عقوبة الإعدام لبعض الجنايات و الجرائم ولكن بتفاصيل مختلفة، من هذه الجرائم على سبيل المثال: القتل العمد، الردة، الزاني المحصن (المتزوج)