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Hudud Theory of Muhammad Syahrūr and its Implementation in the Qur'an Verses

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Abstract

The current formulation of the hudud theory is caused by the helplessness of the Muslim community, marked by dependence on religious leaders in resolving legal issues. The stagnation in the development of Islamic jurisprudence today is rooted in the passive attitude of society that overly reveres past religious authority without critical thinking. To overcome this deadlock, Muhammad Shahrūr introduced the paradigm of the 'Theory of Limits' (hudud) so that Islamic law has the flexibility to continually adapt to the demands of different times and places (li kulli zaman wa makan).

Keywords: Hudud Theory, Muhammad Shahrūr, Tafsīr Ahkam

Abstrak

Rumusan teori ḥudūd yang ada saat ini disebabkan oleh ketidakberdayaan ummat yang ditandai dengan ketergantungan pada para pemuka agama mereka dalam menyelesaikan masalah hukum. Mandeknya perkembangan yurisprudensi Islam di masa kini berakar pada sikap pasif masyarakat yang terlalu mendewakan pendapat otoritas keagamaan masa lampau tanpa sikap kritis. Kondisi ini membuat syariat seolah kehilangan relevansinya terhadap dinamika zaman yang terus berubah. Guna mengatasi kebuntuan tersebut, Muhammad Syahrur memperkenalkan paradigma "Teori Batas" (hudud) agar hukum Islam memiliki fleksibilitas untuk terus beradaptasi dengan tuntutan ruang dan waktu yang berbeda (li kulli zaman wa makan).

Kata Kunci: Teori Hudud, Muhammad Syahrūr, Tafsir Ahkam

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INTRODUCTION

Fundamental human rights are inherent entitlements bestowed upon every individual by the Creator; therefore, safeguarding these rights constitutes an essential obligation of individuals, society, and the state. Nevertheless, the realization of human rights remains entangled in complex debates, as their implementation frequently intersects with political interests, cultural identities, and diverse philosophical and religious perspectives. Consequently, human rights continue to be the subject of ongoing discourse among scholars and religious thinkers, particularly at the conceptual level.

Many scholars, academics, and intellectuals regard human rights as fundamental, indispensable, and of paramount importance. Accordingly, human rights are widely understood as inherent entitlements that every individual possesses, since the absence of these rights undermines human dignity and compromises one's status as a fully recognized human being. In response to persistent violations and social injustices, the concept of human rights gradually evolved into a global movement for justice and legal protection. Its historical development can be traced from the adoption of the *Magna Carta* in England in 1215, culminating in the adoption of the *Universal Declaration of Human Rights* (UDHR) on 10 December 1948 in Paris, France. The Declaration was endorsed by 48 of the 58 member states of the United Nations and subsequently adopted by the UN General Assembly. The international recognition of universal, impartial, and non-discriminatory human rights standards represents the outcome of a long historical process. Furthermore, the resulting international consensus affirmed that the protection and implementation of human rights are the responsibility of every state, particularly through their incorporation into national constitutional frameworks.

Criticism of the United Nations' conception of universal human rights has emerged from several Muslim-majority countries, including Sudan, Pakistan, Iran, and Saudi Arabia, which argue that the framework fails to adequately accommodate cultural and religious values beyond the Western tradition adequately. For example, the Iranian representative, Said Rajaie-Khorassani, explicitly characterized the UN human rights framework as a secular construct rooted in the Judeo-Christian tradition and therefore unsuitable for application within Muslim societies. In contrast, many Muslims maintain that the principles of human rights derived from divine revelation possess universal validity, transcending temporal and geographical boundaries. They further contend that the Islamic conception of human rights represents the earliest, most comprehensive, and morally superior framework for protecting human dignity. Beyond official governmental positions and broader public discourse, Muslim intellectuals have also made significant contributions to this debate. Among them, Abdullahi Ahmed An-Na'im stands out for his influential perspective. He argues that one of the

principal challenges in reconciling Islamic law with the modern framework of universal human rights lies in the deeply entrenched interpretive framework that has long underpinned traditional Islamic jurisprudence.

Notably, the discourse on human rights within Islam is far from a recent development. It dates back more than 14 centuries and is exemplified by the Charter of Medina, formulated following the Prophet Muhammad's migration to Medina. The Charter explicitly recognized the city's diverse communities, including Muslims, Jews, and Christians, as members of a single political community. This historical document demonstrates that Islam has long acknowledged fundamental human rights and that its universal principles are compatible with a comprehensive understanding of human rights. Nevertheless, contemporary efforts to promote and enforce human rights continue to generate divergent perspectives. On the one hand, human rights are regarded as essential entitlements that must be upheld to protect individuals from oppression and injustice. On the other hand, critics argue that their implementation may inadvertently foster social disorder, injustice, and the erosion of moral and cultural values when invoked to justify unrestricted individual freedoms.

Within the Islamic worldview, addressing these issues ultimately requires a return to the guidance of the Qur'an. As the primary source of Islamic teaching, the Qur'an establishes comprehensive principles for safeguarding human rights, promoting justice, and ensuring the welfare of humanity in every sphere of life. Its verses repeatedly emphasize values such as justice, the rejection of oppression, the sanctity of human life, equality among all people, and the protection of other essential rights. Drawing upon these Qur'anic foundations, Muslim jurists (*mujtahids*) engage in *istinbāṭ,* the process of legal reasoning to formulate rulings that remain applicable to the changing circumstances of society while preserving Islamic legal principles. In the context of contemporary Islamic reform, Muhammad Shahrūr advocates a reinterpretation of Islamic thought by highlighting Islam's dynamic and flexible nature (ḥanīfiyyah). He further develops his theory of *ḥudūd* as a contextual interpretive framework that enables the Qur'an to address the social, legal, and intellectual challenges posed by an ever-evolving modern world.

RESEARCH METHODS

In this section, the reviewer describes the methods and approaches used in the research reported in this article. This is entirely left to the author whether to include this or not.

RESULTS AND DISCUSSION

Definition of Ḥudūd

Etymologically, the term *ḥudūd* is the plural of ḥadd, which literally means a boundary or dividing line separating one entity from another. Within the context of Islamic law, the concept refers to the limits established by Allah to protect humanity from violating His commands and engaging in prohibited conduct. Many scholars regard *ḥudūd* as a preventive legal mechanism designed to preserve social order and communal harmony. According to Abdurrahmān Dahlan, the Sharīʿah encompasses the entirety of divine legislation, including commands, prohibitions, rights, and obligations governing both the physical and spiritual dimensions of human life. Likewise, *Lisān al-ʿArab* defines *ḥadd* as a boundary that distinguishes one thing from another, preventing their overlap, and also as a restriction on prohibited acts. In this sense, prescribed punishments, such as the *ḥadd* for theft, function as legal safeguards intended to deter transgression and uphold the moral and social order established by Islamic law.

Al-Mawardi characterizes *ḥudūd* as divinely prescribed punishments that serve a preventive purpose, discouraging individuals from violating Allah's prohibitions and encouraging them to fulfill their religious obligations. Although expressed differently, Abu Zahrah offers a conceptually similar definition, describing *ḥudūd* as penal sanctions established in the Qur'an and the Sunnah for specific categories of *jarā'im* (criminal offenses), the implementation of which falls exclusively within the rights ordained by Allah. Likewise, Sayyid Sabiq explains that *ḥudūd* are fixed legal penalties prescribed by Islamic law for particular offenses, functioning both as a deterrent against future violations and as a means of spiritual purification, whereby offenders may obtain expiation for the sins associated with their transgressions. While Ar-Raghīb adds another dimension, namely that ḥudūd can also be interpreted as an act of immorality itself, referring to the words of Allah in QS. Al-Baqarah: 187.

تِلْكَ حُدُوْدُ اللّٰهِ فَلَا تَقْرَبُوْهَا ۗ

Translation:

"*That is the prohibition of Allah, so do not approach it.*"

It also means a *provision* (law), for example, the word of Allah SWT.

وَمَنْ يَّتَعَدَّ حُدُوْدَ اللّٰهِ فَقَدْ ظَلَمَ نَفْسَهٗ ۗلَا تَدْرِيْ لَعَلَّ اللّٰهَ يُحْدِثُ بَعْدَ ذٰلِكَ اَمْرًا

Translation:

"Whoever transgresses the laws of Allah, then he has indeed wronged himself. (AtThalaq/65:1)."

It is as if what is separated by the verse between halal and haram is called *ḥudūd*. When studying QS. Ath-Thalaq: 1 and QS. An-Nisa': 14, Syahrūr focuses his analysis on the phrase *yata'addā ḥudūdallāh,* which means to go beyond the limits of Allah's law. According to him, this verse emphasizes that although disobedience to Allah and His Messenger may occur, violations of the limits of the law only apply in relation to Allah alone, because the authority to establish sharia law that applies throughout time absolutely belongs only to Allah SWT.

In the field of *fiqh al-jināyah* (Islamic criminal jurisprudence), *ḥudūd* are generally defined as *ʿuqūbah muqaddarah* (fixed punishments) whose nature and extent are explicitly prescribed in the Qur'an. This concept has become the conventional legal terminology for sanctions imposed on specific categories of criminal offenses (*jināyāt*). Because the authority to determine these prescribed penalties belongs exclusively to Allah, judges are not permitted to alter, reduce, or increase the punishments established by divine law. Classical jurists further support this doctrinal framework by drawing on the Sunnah and the established Islamic legal tradition, which provide the jurisprudential basis for classifying ḥudūd as ʿuqūbah muqaddarah and for affirming their fixed, divinely ordained character.

This view differs from the original meaning of ḥudūd in the Qur'an, which essentially means the limits of the laws set by Allah and should not be violated. An-Na'im asserts that the legal limitations explicitly mentioned in the Qur'an cover only four crimes: sariqah, hirābah, adultery, and qadzaf because only these four have detailed legal provisions in the nash.

Muhammad Syahrūr's Hudud Theory

According to Nasr Hāmid Abū Zayd, Muhammad Shahrūr's theory of *ḥudūd* represents one of his most original and innovative intellectual contributions. Within this framework, Shahrūr developed the *theory of limits*, which establishes legal boundaries based on two fundamental parameters: *ḥadd al-adnā* (the minimum limit) and *ḥadd al-aʿlā* (the maximum limit). For Shahrūr, this theory constitutes more than a methodological approach to legal interpretation; it embodies the inherent flexibility and dynamic character of Islam as a *ḥanīf* religion. Within this framework, Qur'anic legal injunctions are understood as defining a range of permissible legal possibilities rather than prescribing a single immutable ruling. These legal boundaries are subsequently elaborated through several categories that illustrate the practical application of the theory in addressing diverse legal issues.

a. Minimum Limit Position

The minimum limit of the law of Allah SWT is found in the verses about women who are haram to marry, namely;

وَلَا تَنْكِحُوْا مَا نَكَحَ اٰبَآؤُكُمْ مِّنَ النِّسَآءِ اِلَّا مَا قَدْ سَلَفَ ۗاِنَّهٗ كَانَ فَاحِشَةً وَّمَقْتًا ۗوَسَآءَ سَبِيْلًا

Translation:

"*And you shall not marry women whom your father has married, except in the past. Indeed, it is an abomination and is hated by Allah and as bad as the path (that is taken)*" (an-Nisa'/4:22).

Likewise in Q.s. an-Nisa'/4:23.

حُرِّمَتْ عَلَيْكُمْ اُمَّهٰتُكُمْ وَبَنٰتُكُمْ وَاَخَوٰتُكُمْ وَعَمّٰتُكُمْ وَخٰلٰتُكُمْ وَبَنٰتُ الْاَخِ وَبَنٰتُ الْاُخْتِ وَاُمَّهٰتُكُمُ الّٰتِيْٓ اَرْضَعْنَكُمْ وَاَخَوٰتُكُمْ مِّنَ الرَّضَاعَةِ وَاُمَّهٰتُ نِسَآىِٕكُمْ وَرَبَآىِٕبُكُمُ الّٰتِيْ فِيْ حُجُوْرِكُمْ مِّنْ نِّسَآىِٕكُمُ الّٰتِيْ دَخَلْتُمْ بِهِنَّ ۖ فَاِنْ لَّمْ تَكُوْنُوْا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ ۖوَحَلَاۤىِٕلُ اَبْنَآىِٕكُمُ الَّذِيْنَ مِنْ اَصْلَابِكُمْ ۙ وَاَنْ تَجْمَعُوْا بَيْنَ الْاُخْتَيْنِ اِلَّا مَا قَدْ سَلَفَ ۗاِنَّ اللّٰهَ كَانَ غَفُوْرًا رَّحِيْمًا ۔

Translation:

"It is forbidden for you (to marry) your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sisters' daughters, your nursing mothers, your breastfeeding sisters, your mothers-in-law, your wife's daughters (stepdaughters) who are in your care from the wife you have meddled. Still, if you have not mixed with your wife (and you have divorced), it is not sinful for you (to marry her), (and it is forbidden for you) to have wives of your biological son (daughter-in-law), and (it is also forbidden) to gather (in marriage) two sisters, except (in the past). Indeed, Allah is Forgiving and Merciful."

In his interpretation of the verse, Shahrūr argues that Allah has established a minimum legal boundary by prohibiting marriage with women belonging to one's immediate family. This lower limit is absolute and, therefore, cannot be altered or overridden under any circumstances, including through *ijtihād*. Nevertheless, *ijtihād* remains applicable in extending the scope of this prohibition rather than modifying its fundamental boundary. For example, if contemporary medical research were to demonstrate that marriages between close relatives pose significant risks to genetic health or create complications in matters of inheritance, then expanding the category of prohibited relationships through *ijtihād*-based legal reasoning would be considered both legitimate and consistent with the objectives of Islamic law.

Interestingly, Shahrūr's theory ultimately yields legal conclusions that differ little from those advanced by the classical schools of Islamic jurisprudence; the

primary distinction lies in its conceptual framework and terminology. Whereas classical (*salaf*) jurists employ the concept of *maḥram* to identify women who are permanently prohibited from marriage, Shahrūr reformulates this prohibition as a minimum legal boundary (*ḥadd al-adnā*) that may be extended through *ijtihād* when supported by empirical evidence. Consequently, both approaches may arrive at comparable legal outcomes. For instance, if reliable scientific evidence demonstrates that marriage between paternal cousins results in substantial harm, Shahrūr's framework would permit prohibiting such unions through *ijtihād*. In contrast, the majority of classical jurists have generally regarded marriages between paternal cousins as merely *makrūh* (discouraged) rather than *ḥarām* (prohibited).

The principal methodological difference between Shahrūr and classical Muslim jurists lies in the starting point of their legal reasoning. Traditional scholars generally began with the revealed texts. Subsequently, they sought to apply them to social realities, often giving greater priority to the texts' literal meaning than to their social context. Shahrūr, by contrast, adopts an opposite approach: first examining contemporary social realities and then interpreting the Qur'an in light of those conditions. In doing so, he occasionally departs from the apparent (*ẓāhir*) meaning of certain *hadiths*, placing greater emphasis on empirical evidence, as reflected in his interpretation of the legal boundaries concerning women's *ʿawrah*. Similarly, when proposing an extension of the Qur'anic prohibitions on marriage, Shahrūr grounds his reasoning in modern scientific findings, particularly medical research. Accordingly, if scientific evidence were to establish that marriage between an individual and a first cousin is associated with significant adverse consequences such as an increased risk of hereditary disorders or diminished intellectual capacity among offspring his framework would regard the legal expansion of the prohibition through *ijtihād* as both legitimate and justifiable.

Syahrūr's belief in modern science was very strong. He believes that every product of the ijtihād of previous scholars is potentially revisable or even rescinded if it fails empirical testing in contemporary scientific disciplines, because it is considered more accurate and relevant to today's life. Similar provisions regarding the minimum limit are also present in the discussion of forbidden foods, namely carcasses, blood flowing from slaughter, and pork, as stated in QS. Al-Majidah: 3.

حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ وَالدَّمُ وَلَحْمُ الْخِنْزِيْرِ وَمَآ اُهِلَّ لِغَيْرِ اللّٰهِ بِهٖ وَالْمُنْخَنِقَةُ وَالْمَوْقُوْذَةُ وَالْمُتَرَدِّيَةُ وَالنَّطِيْحَةُ وَمَآ اَكَلَ السَّبُعُ اِلَّا مَا ذَكَّيْتُمْۗ وَمَا ذُبِحَ عَلَى النُّصُبِ وَاَنْ تَسْتَقْسِمُوْا

بِالْاَزْلَامِۗ ذٰلِكُمْ فِسْقٌۗ اَلْيَوْمَ يَىِٕسَ الَّذِيْنَ كَفَرُوْا مِنْ دِيْنِكُمْ فَلَا تَخْشَوْهُمْ وَاخْشَوْنِۗ اَلْيَوْمَ اَكْمَلْتُ لَكُمْ دِيْنَكُمْ وَاَتْمَمْتُ عَلَيْكُمْ نِعْمَتِيْ وَرَضِيْتُ لَكُمُ الْاِسْلَامَ دِيْنًاۗ فَمَنِ اضْطُرَّ فِيْ مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ لِّاِثْمٍۙ فَاِنَّ اللّٰهَ غَفُوْرٌ رَّحِيْمٌ

Translation:

"*It is forbidden for you to (eat) carcasses, blood, pork, and (animal flesh) that are not slaughtered in the name of Allah, those that are strangled, those that are beaten, those that fall, those that are horned, and those that are pounced by wild beasts, except those that you slaughter. (It is forbidden) What is slaughtered for idols? (Similarly) drawing lots with azlām (arrows), (because) it is an evil deed. On this day, the disbelievers have despaired of (defeating) your religion. Therefore, do not be afraid of them, but fear Me. On this day, I have perfected your religion for you, I have fulfilled My favor for you, and I have accepted Islam as your religion. Therefore, whoever is forced to do so because he is hungry, not because he wants to sin, indeed Allah is Forgiving and Merciful.*"

Islamic law clearly delineates the criteria governing the permissibility and prohibition of consuming animal flesh. The primary determinant is the manner in which the animal dies. An animal that is alive at the time of slaughter and is slaughtered in accordance with the procedures prescribed by the Sharīʿah is considered lawful (*ḥalāl*) for consumption. Conversely, an animal that dies without undergoing a valid ritual slaughter is classified as carrion (*maytah*), rendering its meat prohibited (*ḥarām*). This ruling is explicitly affirmed in QS al-Anʿām (6):145, where carrion is specifically identified among the categories of food that Muslims are forbidden to consume.

قُلْ لَّآ اَجِدُ فِيْ مَآ اُوْحِيَ اِلَيَّ مُحَرَّمًا عَلٰى طَاعِمٍ يَّطْعَمُهٗٓ اِلَّآ اَنْ يَّكُوْنَ مَيْتَةً اَوْ دَمًا مَّسْفُوْحًا اَوْ لَحْمَ خِنْزِيْرٍ فَاِنَّهٗ رِجْسٌ اَوْ فِسْقًا اُهِلَّ لِغَيْرِ اللّٰهِ بِهٖ فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَّلَا عَادٍ فَاِنَّ رَبَّكَ غَفُوْرٌ رَّحِيْمٌ

Translation:

"*Say, 'I do not find in what has been revealed to me anything that is forbidden to eat it for those who want to eat it, except (the flesh) of a dead animal (carcass), the blood that flows, the flesh of pork because it is unclean, or that which is slaughtered wickedly, (i.e.) by mentioning (the name) other than Allah. However, whoever is forced not because he wants it and does not exceed (the*

emergency limit), then verily your Lord is Forgiving and Merciful."

And it is also reinforced in Q.S. al-An'ām/6:119.

وَمَا لَكُمْ اَلَّا تَأْكُلُوْا مِمَّا ذُكِرَ اسْمُ اللّٰهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَّا حَرَّمَ عَلَيْكُمْ اِلَّا مَا اضْطُرِرْتُمْ اِلَيْهِۗ وَاِنَّ كَثِيْرًا لَّيُضِلُّوْنَ بِاَهْوَاۤىِٕهِمْ بِغَيْرِ عِلْمٍۗ اِنَّ رَبَّكَ هُوَ اَعْلَمُ بِالْمُعْتَدِيْنَ

Translation:

"*Why do you not want to eat something (the flesh of an animal) that (when slaughtered) is called the name of Allah. In fact, Allah has explained to you in detail something that He has forbidden you, unless you are under duress. Indeed, many mislead others by following their desires without the basis of knowledge. Verily, your Lord knows better those who go beyond the limits."*

According to Syahrūr in this verse, Allah SWT does not close the minimum limit of forbidden foods with redaction;

فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَّلَا عَادٍ فَاِنَّ رَبَّكَ غَفُوْرٌ رَّحِيْمٌ

Translation:

"... Whoever is in a state of compulsion, and he does not want it and does not go beyond the limit, then verily your Lord is Forgiving and Merciful». (al-An'am/6:145).

Shahrūr's interpretation of this verse differs from his treatment of the minimum legal boundary discussed previously. In the case of the prohibition against marrying certain categories of women, he maintains that the lower limit is definitive and closed, since the Qur'anic text does not indicate that the scope of the prohibition may be modified. By contrast, with respect to dietary regulations, Shahrūr identifies the categories of food that the Qur'an explicitly prohibits, including carrion, blood, pork, animals slaughtered without invoking the name of Allah, animals that die through strangulation, beating, falling, goring, or attacks by wild beasts unless they are properly slaughtered before death, as well as animals sacrificed to idols. This interpretation is based on the Qur'anic provisions found in QS al-Anʿām (6):119

This interpretation is generally consistent with the consensus (*ijmāʿ*) of classical Muslim jurists. However, Shahrūr introduces an important qualification by emphasizing that the Qur'anic prohibition concerning certain foods is accompanied by a necessity (*ḍarūrah*) clause. Accordingly, individuals who consume otherwise prohibited food under conditions of compulsion, without exceeding what is strictly necessary, incur no moral or legal culpability. No comparable exception, however, appears in the Qur'anic prohibition against marrying *maḥrams* as stipulated in QS al-Nisāʾ (4):22–23, where the prohibition is

presented without any provision for exemption. Through this distinction, Shahrūr seeks to demonstrate that his theory of *ḥudūd* neither departs from the principles of classical Islamic jurisprudence nor contradicts its established doctrines. Instead, he argues that the theory is fully compatible with, and may even be substantiated by, the classical juristic tradition.

b. Maximum Limit Position

Muhammad Syahrūr gives an example for the maximum limit in the word of Allah in Q.S. Al-Maidah/5; 38 :

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوْٓا اَيْدِيَهُمَا جَزَاۤءًۢ بِمَا كَسَبَا نَكَالًا مِّنَ اللّٰهِۗ وَاللّٰهُ عَزِيْزٌ حَكِيْمٌ

Translation:

"*Men who steal and women who steal, cut off their hands as a retribution for what they have done and as a punishment from Allah, and Allah is Mighty and Wise".*

Shahrūr explains that the term *nakāl* derives from the Arabic word nakala, which means prohibition or restraint. From this term are derived expressions such as *nakkala bihi*, *tankīl*, and *nakāl*, all of which share the semantic notion of preventing or restraining an individual from engaging in an act that would otherwise be permissible. Al-Rāghib al-Aṣfahānī, in his *Muʿjam*, interprets the expression *nakala ʿan al-shay'* as denoting incapacity or inability (*ʿajz*). Similarly, *al-Muʿjam al-Wasīṭ* explains the term as *jabuna*, referring to a condition that weakens one's courage or determination. In contrast, Ibn ʿāshūr adopts a more juridical understanding, defining nakāl as retribution for a criminal offense or as a punishment of exceptional severity intended to deter future wrongdoing.

Concerning the punishment for theft, Shahrūr maintains that amputation of the hand should be understood as the maximum legal sanction rather than the sole mandatory penalty. This interpretation allows judges to impose lesser punishments, provided that they remain within the legal limits established by the Qur'an. Consequently, the role of the *mujtahid* becomes essential in determining the circumstances under which offenders warrant the maximum penalty and those in which a lighter sanction is more appropriate, while recognizing that some form of punishment must still be imposed for the offense of theft. Within this framework, *ijtihād* retains a broad sphere of application, empowering qualified jurists to formulate penalties that are proportionate to the social, temporal, and geographical contexts in which they are applied, without exceeding the upper limit represented by hand amputation.

The punishment of hand amputation predates the advent of Islam, having already been practiced during the pre-Islamic (*Jāhiliyyah*) period before being

incorporated into Islamic criminal law. According to a narration cited in al-Qurṭubī's *Tafsīr*, the earliest recorded individual to receive this punishment in the *Jāhiliyyah* era was al-Walīd ibn al-Mughīrah. The same source further reports that the first person to undergo hand amputation under the authority of the Prophet Muhammad (peace be upon him) was al-Khiyār ibn ʿAdī ibn Nawfal ibn ʿAbd Manāf, following the theft of property belonging to a woman named Murrah bint Ṣufyān. During the period of the Rightly Guided Caliphs, the sanction was likewise enforced by Abū Bakr against al-Yamanī and by ʿUmar ibn al-Khaṭṭāb against Ibn Samurah, the brother of ʿAbd al-Raḥmān ibn Samurah.

A notable point of divergence between Shahrūr and classical Muslim jurists concerns the *niṣāb* (minimum threshold) of theft that warrants hand amputation. Classical jurists differ considerably in determining this threshold. Imām Mālik, al-Shāfiʿī, and al-Awzāʿī maintain that the prescribed punishment applies only when the value of the stolen property reaches one-quarter of a *dīnār* or three silver *dirhams*. By contrast, Abū Ḥanīfah, relying on narrations transmitted from ʿAbd Allāh ibn Masʿūd, Ibn ʿAbbās, Abū Jaʿfar, ʿAṭāʾ, and Ibn ʿUmar, sets the threshold at one-tenth of a *dīnār*, equivalent to ten *dirhams*. Other jurists adopted different standards; for example, Abū Laylā and Ibn Shubrumah argued that theft involving property valued at less than five *dirhams* does not justify hand amputation, whereas ʿUthmān al-Baṭṭī established the *niṣāb* at two *dirhams.*

Furthermore, Syahrūr added that if the punishment of amputation of hands is considered too light for certain crimes, such as theft of state secret data which is then sold to foreign parties to trigger an economic crisis, then Allah SWT has provided other options for other maximum punishments that are more severe, as described in QS al-Māidah/5:33.

اِنَّمَا جَزٰۤؤُا الَّذِيْنَ يُحَارِبُوْنَ اللّٰهَ وَرَسُوْلَهٗ وَيَسْعَوْنَ فِى الْاَرْضِ فَسَادًا اَنْ يُّقَتَّلُوْٓا اَوْ يُصَلَّبُوْٓا اَوْ تُقَطَّعَ اَيْدِيْهِمْ وَاَرْجُلُهُمْ مِّنْ خِلَافٍ اَوْ يُنْفَوْا مِنَ الْاَرْضِ ۗ ذٰلِكَ لَهُمْ خِزْيٌ فِى الدُّنْيَا وَلَهُمْ فِى الْاٰخِرَةِ عَذَابٌ عَظِيْمٌ

Translation:

"The retribution for those who fight against Allah and His Messenger and cause havoc on the earth is simply to be killed, crucified, have their hands and feet cut off, or exiled from their dwellings. That is a disgrace to them in this world, and in the Hereafter, they will have a severe punishment."

According to Shahrūr, penalties imposed beyond the maximum legal limit, such as hand amputation, should remain adaptable to the specific social, geographical, temporal, and legal circumstances surrounding the offense. He argues that the Qur'anic verse in question primarily addresses the punishment of

bughāh, those who wage rebellion against a legitimate government rather than ordinary acts of theft. Nevertheless, Shahrūr extends this principle to certain contemporary offenses. In his view, individuals who unlawfully obtain or disclose classified state information may, under exceptional circumstances, be subject to the death penalty, since the unauthorized disclosure of confidential data that affects the public interest poses a direct threat to the security and survival of the state and its citizens.

c. Maximum and Minimum Limits Simultaneously

To illustrate the application of his theory of *ḥudūd*, Shahrūr cites the Qur'anic regulations on inheritance in QS al-Nisāʾ (4):11–14, which include the expression *tilka ḥudūd Allāh* ("these are the limits prescribed by Allah"). He interprets this phrase as conveying a definitive (*qaṭʿī*) legal meaning, arguing that the authority to establish immutable legal boundaries belongs exclusively to Allah. According to Shahrūr, the Prophet Muhammad (peace be upon him) was not entrusted with this legislative authority; otherwise, the Qur'an would have referred to violating "the limits of Allah and His Messenger" rather than solely "the limits of Allah." On this basis, he contends that legal rulings transmitted through the Prophet, whether concerning a single *ḥadd* or multiple *ḥudūd*, should be understood as context-specific rather than universally applicable across all times and places. Building on this premise, Shahrūr argues that the Qur'anic law of inheritance establishes two fundamental legal boundaries: the maximum share allocated to a male heir is two-thirds (66.6%), corresponding to the Qur'anic principle that a male receives a portion equal to that of two females, while the minimum share guaranteed to a female heir is one-third (33.3%), as derived from the verse *li al-dhakari mithlu ḥaẓẓ al-unthayayni* ("for the male is a share equivalent to that of two females"). He further maintains that these legal limits operate on the assumption that women do not bear financial responsibility for family maintenance, thereby allowing contextual legal interpretation while remaining within the boundaries prescribed by the Qur'an.

The minimum limit of women's share is set at two-thirds of the total inheritance, provided that the woman concerned does not bear the obligation of family maintenance based on.

فَاِنْ كُنَّ نِسَآءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ

Translation:

"And if the children are all females34, then for them two-thirds of the wealth is left behind" (an-Nisa'/4:11).

In addition, this restriction is also contained in the verse about polygamy. Syahrūr is of the view that the verse of polygamy is like the word of Allah;

وَاِنْ خِفْتُمْ اَلَّا تُقْسِطُوْا فِى الْيَتٰمٰى فَانْكِحُوْا مَا طَابَ لَكُمْ مِّنَ النِّسَآءِ مَثْنٰى وَثُلٰثَ وَرُبٰعَ ۚ فَاِنْ خِفْتُمْ اَلَّا تَعْدِلُوْا فَوَاحِدَةً اَوْ مَا مَلَكَتْ اَيْمَانُكُمْ ۗذٰلِكَ اَدْنٰٓى اَلَّا تَعُوْلُوْا ۗ

Translation:

"And if you fear that you will not be able to do justice to the orphan (if you marry her), then marry the (other) women you like: two, three, or four. Then if you are afraid that you will not be able to do justice, then marry) only one, or the enslaved people that you have. That is closer to not doing wrong" (an-Nisa'/4:3).

According to Shahrūr, the verses under discussion simultaneously establish both the minimum and maximum legal boundaries, leading him to classify them as *ḥudūdiyyah* verses. Their distinctive feature lies in integrating two complementary dimensions within a single legal framework: quantitative and qualitative regulation. From a quantitative perspective, the Qur'an permits marriage to no fewer than one and no more than four wives. This numerical limitation has long been recognized and implemented within the Islamic legal tradition, remaining the prevailing understanding from the time of the Prophet Muhammad (peace be upon him) to the present day.

Hahrur contends that when social circumstances evolve, the quantitative limits of polygamy alone are insufficient and must be complemented by qualitative considerations. By 'qualitative limits,' he refers to the prospective wife's marital status, specifically whether she is a widow or has never been married. Although the Qur'an clearly prescribes a quantitative framework that permits a minimum of one wife and a maximum of four, Shahrūr argues that the practice of polygamy should ultimately serve the higher ethical objectives of Islamic law, particularly the protection and welfare of widows and orphans. He arrives at this interpretation through an integrated textual and sociological reading of QS al-Nisā' (4):3. In his view, the verse cannot be interpreted in isolation. Still, it must be understood in conjunction with verses 2 and 6 of the same sūrah, both of which address the care and protection of orphans, thereby providing the broader context within which the Qur'anic regulation of polygamy should be understood.

Furthermore, Syahrūr asserts that polygamy is justified only if two cumulative conditions are met: the second, third, and fourth wives must be widows who have orphans, and the husband must be genuinely concerned about his inability to act fairly with the orphans. If one or both of these conditions are not met, then the ability to practice polygamy becomes lost. Through this reading, Syahrūr seeks to restore the humanitarian dimension in the polygamy discourse by making the protection of orphans the core and main purpose of the provision.

The limits he formulated are a synthesis of maximum and minimum limits that integrate aspects of quality and quantity.

d. The minimum and maximum limit positions are at once at one point, or a straight position, or the determination of a particular law

Syahrūr states that the condition in which the maximum and minimum limits of the law converge at the same point occurs only in one case: *had* zinā. In this provision, the punishment of whipping 100 times functions as both the lowest limit and the highest limit, so there is no room for the judge to reduce or increase the number of punishments, as affirmed in the words of Allah SWT.

اَلزَّانِيَةُ وَالزَّانِيْ فَاجْلِدُوْا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍۖوَّلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِيْ دِيْنِ اللّٰهِ اِنْ كُنْتُمْ تُؤْمِنُوْنَ بِاللّٰهِ وَالْيَوْمِ الْاٰخِرِۚ وَلْيَشْهَدْ عَذَابَهُمَا طَآىِٕفَةٌ مِّنَ الْمُؤْمِنِيْنَ

Translation:

"Adulterous woman and adulterous man, then beat each one of them a hundred times, and do not have mercy on them to prevent you from (pursuing) the religion of Allah, if you believe in Allah, and the Hereafter, and let a group of believers witness their punishment." (an-Nur/24:2).

In this verse, Allah sets the maximum and minimum limits of seclaigus, namely the whip 100 times with the mention;

وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِيْ دِيْنِ اللّٰهِ

Translation:

"And do not have mercy on them to prevent you from practicing the religion of Allah."

According to Shahrūr, this verse establishes the punishment for adultery as a minimum legal boundary that cannot be reduced under any circumstances. The Qur'an explicitly prohibits mitigating the prescribed penalty on grounds of compassion or pity, thereby emphasizing the obligatory nature of the sanction. Shahrūr contrasts this with the Qur'anic ruling on theft, in which no comparable prohibition against showing leniency (*ra'fah*) is mentioned. In his interpretation, the punishment of hand amputation represents the maximum legal boundary rather than an invariable sanction, leaving room for lesser penalties in appropriate cases. He further notes that, rather than prohibiting leniency, the Qur'an describes the punishment as nakālan mina Allāh ("an exemplary punishment from Allah"), indicating that, while the prescribed upper limit must not be exceeded, its application requires careful judicial discretion. Consequently, the penalty of hand amputation should be reserved only for the gravest cases of theft. In contrast, less severe offenses may warrant proportionately lighter sanctions that remain within the legal boundaries established by the Qur'an.

On this basis, Shahrūr maintains that the *ḥadd* for adultery is unique among the Qur'anic legal punishments because its minimum and maximum limits converge at a single fixed point, with both the sanction and the conditions for its implementation prescribed directly by Allah. He contrasts this with the punishment for theft, for which the Qur'an does not explicitly specify the conditions of application. Consequently, Shahrūr argues that hand amputation may function as either the upper limit, the lower limit, or both, although these limits do not coincide at the same legal point. In this respect, his interpretation of the punishment for adultery is consistent with the consensus of the major Sunni schools of jurisprudence, which prescribe one hundred lashes as the *ḥadd* penalty. Nevertheless, unlike the classical jurists, Shahrūr does not further distinguish between the legal treatment of *muḥṣan* (previously or currently married) and *ghayr muḥṣan* (never-married) offenders. This distinction occupies a central place in the traditional literature of Islamic jurisprudence.

Although Shahrūr's argument seems conceptually logical, he offers no alternative to punishment. He did not move away from the old formulation to develop a sanction more relevant to the current context. This is one of the weak points, suggesting that Shahrūr sometimes gets caught up in a highly textualist reading (*ẓāhiriyyah*), which is likely influenced by the orientation of the linguistic philosophy on which his approach is based. In addition, his description of the punishment for adulterers feels incomplete because it does not clearly distinguish between adulterers who have *muḥṣan* status and those *who are ghair muḥṣan*.

e. Maximum Limit Position with Point Approaching a Straight Line Without Contact

To illustrate the practical application of his theory of *ḥudūd*, Shahrūr uses the example of interactions between men and women. Within this framework, the lower legal boundary is represented by the complete absence of physical contact. In contrast, the upper boundary is defined by the occurrence of sexual intercourse constituting *zinā* (adultery). According to Shahrūr, actions that may lead to adultery but do not culminate in the act of illicit sexual intercourse remain within the legal boundaries established by Allah and therefore do not warrant the prescribed *ḥadd* punishment for *zinā*. In other words, although such conduct may be regarded as morally blameworthy or as a precursor to adultery, it does not constitute a violation of the maximum legal limit that triggers the Qur'anic penal sanction.

Theoretically, the limit of adultery is described as one of Allah's straight line ḥudūd, in which a person will get closer and closer to the peak of the offense as he gets closer to the act. This straight-line model is considered by Syahrūr to be very in harmony with the real dynamics of the relationship between men and women.

Therefore, the sanction for the perpetrator of adultery is symbolized in the form of a straight line as well, which is right at the point that is at the same time the maximum limit and the minimum limit at the same time, so that the redaction of the verse reads;

وَلَا تَقْرَبُوا الزِّنٰٓى اِنَّهٗ كَانَ فَاحِشَةًۗ وَسَاۤءَ سَبِيْلًا

Translation:

"And ye shall not approach adultery; Indeed, adultery is an abominable act, and a bad way" (al-Isra'/17:32).

A closer examination reveals a strong conceptual relationship between the fourth category of legal limits, which concerns the prescribed punishment for *zinā*, and the fifth category, which governs physical interactions between men and women. These two categories converge at the same legal boundary, namely, the commission of *zinā* itself. This interconnection demonstrates Shahrūr's intention to present his theory of *ḥudūd* as an internally coherent framework that is firmly grounded in the legal principles established by the Qur'an. Within this model, the scope of *ijtihād* remains dynamic and adaptable, allowing legal reasoning to operate within the boundaries defined by Allah by moving between the minimum and maximum limits in response to changing social circumstances and considerations of public welfare (*maṣlaḥah*), while remaining faithful to the objectives of Islamic law.

f. The maximum "positive" limit that cannot be crossed, and the "negative" lower limit that can be crossed

The sixth category of *ḥudūd* concerns financial relations and property rights among individuals. Within this framework, Shahrūr identifies two opposing legal boundaries: an upper limit represented by the absolute prohibition of *ribā* (usury), which must never be exceeded, and a lower limit represented by *zakāt*, which establishes the minimum obligatory level of wealth redistribution. Unlike the upper boundary, the lower limit may be surpassed through voluntary acts of charity, such as *ṣadaqah* and other forms of philanthropic giving. Because these two limits occupy opposite normative positions, *ribā* representing the prohibited extreme and *zakāt* the minimum obligatory contribution, the midpoint between them constitutes a neutral position, symbolically represented by zero.

In practical terms, Shahrūr's framework positions *ribā* at the upper legal boundary, *al-qarḍ al-ḥasan* (interest-free benevolent loans) at the neutral midpoint, and *zakāt* together with voluntary charity (*ṣadaqah*) at the lower boundary. Accordingly, Islamic principles governing the circulation of wealth may be understood through three distinct models: transactions involving *ribā*, obligatory and voluntary wealth redistribution through *zakāt* and *ṣadaqah*, and

interest-free lending. The prohibition of *ribā* constitutes an absolute upper limit that must never be transgressed, whereas the minimum obligation represented by *zakāt* may be exceeded through additional voluntary charitable contributions. Positioned between these two extremes, *al-qarḍ al-ḥasan* occupies the neutral point, serving as an ethical model of financial exchange that neither exploits the borrower through usurious gain nor requires the permanent transfer of wealth characteristic of charitable giving.

Etymologically, the Arabic term *ribā* is derived from the verbal forms *rabā* (رَبَا) and *rabi'a* (رَبِئَ), both of which convey the basic meanings of increase, growth, and elevation. This term appears in various Qur'anic verses, including QS al-Baqarah (2):275–276 and 278–280, and QS al-Nisā' (4):161. The relationship between *ribā* and *zakāt* can be found in QS al-Rūm (30):39, the upper legal limit of *ribā* is established in Q.S. Āl 'Imrān (3):130, and its neutral position is reflected in QS al-Baqarah (2):279.

Based on this framework, Shahrūr argues that individuals are presented with three alternative models of wealth distribution, each of which may be applied according to the prevailing socio-economic circumstances. In light of the foregoing discussion, the author contends that Shahrūr makes a serious effort to demonstrate both the coherence and practical relevance of his theory of *ḥudūd*. Rather than remaining a purely abstract conceptual framework, the theory is presented as a functional interpretive model that can be applied to a wide range of issues in Islamic law.

CONCLUSION

The theory of ḥudūd Syahrūr is a normative framework derived from the Book and the Sunnah that establishes minimum and maximum limits for every human act.

The Syahrūr theory of limits affirms two characteristics of Islam that go hand in hand: on the one hand, Islam is firm and definite in terms of the limits of the law and its moral pillars; on the other hand, it is flexible, providing a wide space for ijtihād within these limits. In the realm of ḥudūd, Islamic law is fixed and consistent, but in the movement of ijtihād between those boundaries, Islam is dynamic and adaptive.

Syahrūr argues that it is man who is in charge of formulating the law, while Allah only sets the limits. In his view, Islamic law is an artificial civil law that, on the one hand, is subject to divine provisions and, on the other, responsive to social reality. Syahrūr also divides Islamic law into two domains: the law of worship (*maḥḍah*), which is standard and cannot be ijtihād because it is fully accepted from the Prophet (peace be upon him), and the law of muamalah, which is open to

ijtihād to always develop within the scope of Allah's ḥudūd.

The typology of limits in the determination of law (*ḥudūd*) according to Muhammad Shahrūr includes six categories: minimum limits; maximum limits; positions where the minimum and maximum limits are present at the same time; minimum and maximum limits that meet at a point in a straight line as the stipulation of a particular law; the maximum limit that approaches a straight line without touching it; as well as the maximum positive limit that must not be exceeded and the negative lower limit that may be exceeded.

No theory is absolute and eternal. It is always open to new theories that can contradict or strengthen previous theories. The ḥudūd theory developed by Syahrūr, grounded in scientific logic that combines exact and social-scientific analysis, is one of the reform efforts that seeks to go beyond the pre-existing construction of Islamic legal theory.

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