

The *Hudud* Controversy in Contemporary Malaysia: A Study of Its Proposed Implementation in Kelantan and Terengganu

R. Sivaperegasam P.Rajanthiran (Dr)¹

Abstract: This paper explores and examines *Hudud* punishments in Islamic penal system, and is specifically purposed to analyse the proposed actualisation of the *Hudud* law in the two Malay-Muslim dominated states of Kelantan and Terengganu in the east coast of Peninsular Malaysia. This paper is legal normative with descriptive-qualitative approach on both primary and secondary resources in order to obtain a judicial view of the subject matter by employing legal-theoretical and comparative analysis. In Malaysia, the Syariah Criminal Enactment (II) 1993 of Kelantan and the Syariah Criminal Enactment 2003 of Terengganu (as proposed by PAS) allow the application of *Hudud* laws into the above mentioned states. However, the enforcement of the above in both these states have been suspended indefinitely as UMNO claims these laws are inconsistent with the Federal Constitution - the supreme law of the Federation. This is because the enactment of penal laws are within the jurisdiction of the federal authority and not the state. Furthermore, the criminal jurisdiction of the Syariah Court has been restricted by the Syariah Courts (Criminal Jurisdiction) Act 1965, a federal law. The arguments in relation to the implementation of *Hudud* laws in Malaysia is an ongoing political-dispute between PAS and UMNO even to the present moment. Upon examining the facts related, this paper arrives at a point where it confirms the unsuitability on the actualization of the *Hudud* law presently not only in Kelantan and Terengganu but in contemporary Malaysia as a whole.

Keywords: *Hudud*, Islam, Criminal Law, Punishment, Syariah, Society, Federal Constitution, Federation.

1. Introduction

This paper confines its discussion to *Hudud* (the plural for *hadd*, meaning “restraint” or “prohibition”) which is the capital offences in the Islamic criminal justice system. These are offences that are specified in the Qur’an and Sunnah. *Hudud* crimes are often seen as criminal behavior against Allah s.w.t, or public justice. Islamic courts do not have any discretionary power in the execution of *Hudud* penalties. Once a *prima facie* case is established with evidences, and the conditions for applying the punishments are fulfilled, the Islamic court is divested of discretionary powers. Allow me to now clarify some of these offences namely rebellion, apostasy, fornication, adultery, theft, and drinking of alcohol as well as the punishments accorded to them for our further understanding of the *Hudud* as a whole.

1.1 *Hudud* as an Islamic Penal Code

Rebellion against constituted authority either a political leader or economic order is categorized under “corruption on earth”, and is punishable by death. Rejection of Islam² (apostasy) is a criminal offence in Islamic penal system³, and the punishment is a death penalty. Fornication means sexual intercourse outside marriage, and the punishment in the Qur’an is 100 lashes.⁴ The punishment of flogging is ordered in the Qur’an, Surah 24.2. Adultery⁵ means extra-marital sex, and the prescribed punishment is stoning to death. In this respect, adultery and fornication are called *zina*.⁶ False accusations of charges of *zina* are punishable for the offence of defamation (*qadhif*). The crime of theft is explicitly condemned in Islamic penal system. The punishment for theft is stated in the Qur’an as follows: “As to the thief, male or female, cut off his/her hands”.⁷ However, the stealing of government property is not punishable by amputation. Since the Islamic State has the duty to provide for the citizens, amputation cannot be carried out in a time of famine and starvation. Prophet Muhammad once described the offence of drinking alcohol as “the mother of all vices” because alcoholic intoxication can lead to the commission of other offences. The punishment for alcoholism and public intoxication from the *Hadith* is 80 lashes. This punishment was not provided for in the Qur’an.

Equipped with the knowledge on the *Hudud* offences and the punishment prescribed,⁸ we shall now closely examine the proposed implementation of *Hudud* in both Kelantan and Terengganu by PAS.⁹ Prior to that, I would like to mention beforehand, that attention must be paid to the provisions of the Malaysian Federal Constitution regarding the division of legislative powers between the Federation and the States. Under List I (Federal List), Ninth Schedule of the Federal Constitution, “criminal law” is a Federal matter¹⁰ and within the jurisdiction of the Civil Courts. On the other hand, “offences relating to the precepts of Islam” as provided in List II (State List), Ninth Schedule of the Federal Constitution are within the legislative powers of the States and the jurisdiction of the Syariah Courts. Hence, if those criminal offences under the Penal Code were to be made punishable with *Hudud* punishments, that could only be done under a Federal law, i.e. as criminal law and not as

“offences relating to precepts of Islam” as provided by List II (State List), Ninth Schedule of the Federal Constitution. There is no constitutional impediment to do so as a Federal law. Parliament may choose whatever punishments to be provided for criminal offences, including punishments according to Syariah. Done that way, they may be extended to Muslims and non-Muslims alike. Criminal law is under the jurisdiction of the Civil Courts. Civil Courts have jurisdiction over Muslims and non-Muslims alike. For Parliament to make such law, no amendment to the Constitution is required and the bill could be passed by a simple majority. The subsequent question which arises is what about offences which are not to be found in the Penal Code or any other Federal law which, in fact, had already been provided for in the Syariah Criminal Offences Enactments of the States, e.g., adultery? It could be argued that they are not “criminal law”. They may be made offences under the State law. However, to use the *Hudud* punishment for them, there is a legal impediment, not by the Constitution but by Federal law¹¹ which limits the punishments which could be legislated by the State Legislature. Only if the Federal Parliament is prepared to amend the Syariah Courts (Criminal Jurisdiction) Act 1965 to enable the State Legislature to provide for the *Hudud* punishments, then the State Legislature may be able to do so. As a State law under List II (State List), Ninth Schedule of the Federal Constitution, the law is only applicable to Muslims and fall under the jurisdiction of the Syariah courts. It has been widely believed that the *Hudud* law would be made applicable to Muslims only. This is only partially right. The reasons are, firstly, criminal law is not personal law or “offences relating to precepts of Islam” as provided by List II (State List), Ninth Schedule of the Federal Constitution. Criminal law is a public law. The offences are offences against the State, not just against the victim. That is why it is the Public Prosecutor who prosecutes, on behalf of the State. Secondly, a law applying *Hudud* punishments for criminal offences under the Federal jurisdiction to Muslims only would be inconsistent with Article 8 of the Federal Constitution as it is a discrimination on ground only of religion and therefore unconstitutional, null and void.¹² Thirdly, is it fair that if a Muslim steals the property of a non-Muslim he is subject to *Hudud* punishment, while if a non-Muslim steals the property of a Muslim he is only subject to imprisonment and/or fine? To implement the *Hudud* punishments in respect of those offences to Muslim only is not only unconstitutional but also unfair and unwise.

Hudud in Kelantan

Ever since its ratification in November 1993 by the State Legislature of Kelantan,¹³ the *Hudud* Bill has been the focus of public debate in Malaysia.¹⁴ When the state legislature unanimously passed the Bill, the *Menteri Besar* of Kelantan made it clear that the Bill “*could not be implemented until the Federal Government of Malaysia made changes to the Federal Constitution*”.¹⁵ This was evidently an acknowledgement on the part of the State Government that by passing the *Hudud* Bill, the state legislature had exceeded its jurisdiction under the Federal Constitution. The State Government also announced that the Bill “*was prepared by a committee and reviewed and approved by the State Islamic Religious Council and the state Mufti after considering it from all aspects of the Islamic Syariah*”.¹⁶ The Kelantan *Menteri Besar* also went on record to add that by enacting the Bill, the State government was “*performing a duty required by Islam*” and failure to act in this regard “*would be a great sin*”.¹⁷ As to the question whether the people had accepted the State Government’s plan to implement the *Hudud* laws, the *Timbalan Menteri Besar* of Kelantan at this time, made the remarkable announcement that “*the question did not arise as Muslims in the State who rejected the laws would be considered murtad (apostate).*”

The most explicit response at this time came from the Prime Minister then, Tun Dr. Mahathir Mohamad who said on September 1994 that “*the Government would not sit back and allow PAS to commit cruel acts against the people in Kelantan, including chopping off the hands of criminals*”. Tun Dr. Mahathir Mohamad added that the PAS version of the *Hudud* Law “*punishes victims while actual criminals were often let off with minimum punishment. For instance, he clarified that if two people, a Muslim and a non-Muslim, committed a crime, the Muslim offender will be punished severely like having his hands chopped off while the non-Muslim offender will escape with a light sentence like a fine or a month’s imprisonment*”. He also added that the Government was convinced that “*the law passed by the Kelantan State Assembly in November 1993 was against the teachings of Islam*”, adding that the punishment meted out must be fair. However, according to what he claimed, were PAS laws, criminals are let off and the victim is punished and this is “*against the true teachings of Islam*” and should therefore be rejected. He declared that “*the Government would take action against the PAS-led Kelantan Government if it implemented the PAS-created Hudud laws*”, and that the proposed law could not be enforced because it was not in line with the Federal Constitution. He stressed further that the Federal Government cannot allow the PAS Government to enforce the laws which were against the Islamic spirit of justice.¹⁸

Latest, it was reported on the 13 July, 2017 the amendments to a Kelantan Syariah law to allow public caning will only be enforced on Muslims in the state. But, even though the amendments to the Kelantan Syariah Criminal Procedure Enactment 2002 were passed by the state legislative assembly, they were subject to the

Kelantan sultan's approval for enforcement. The Syariah legal amendments passed by PAS also included empowering religious enforcers to use handcuffs on suspects and accepting video and electronic recordings as evidence in court. PAS is aiming to enforce the Kelantan Syariah Criminal Code II 1993 amended in 2015, its version of *Hudud*, but may not do so until legal barriers are removed at the federal level.

Hudud in Terengganu

While there is so much brouhaha regarding the Syariah amendments by the Kelantan State Assembly, Malaysians seem to have forgotten that the Terengganu State Assembly approved similar amendments back when PAS was running the state.

In 2002 Terengganu joined Kelantan in passing the Syariah Criminal Offences (*Hudud* and *Qisas*) Enactment 2002.

In the final bill that was passed, the scope covers all Muslims in Terengganu and was further extended to cover non-Muslims who elect to be tried under these laws. In a talk in July 2002, PAS acting leader and Chief Minister of Terengganu at that time, Abdul Hadi Awang said that the victims of the crime could also elect for the crime to be tried under *Hudud* laws even if the accused is a non-Muslim. The testimonies of these non-male Muslims, if accepted, are likely to be thought of as carrying less weight than that of a male Muslim, as otherwise the explicit provisions in the *Hudud* enactment would be redundant or useless,

UMNO has been running Terengganu to-date since 2004. Yet the Terengganu amendments still remain although unenforceable because they are yet to be approved by Parliament. UMNO must decide whether it wants to do what PAS is doing – bring the amendments to Parliament for approval or repeal them. It is left to be seen whether UMNO makes its move to repeal the bill that the Terengganu State Assembly approved when the state was under PAS? If not, that would also mean UMNO also supports *Hudud*, at least as far as Terengganu is concerned. The current *Menteri Besar* of Terengganu, Datuk Seri Ahmad Razif Abdul Rahman mentioned that Terengganu is not ready to implement *Hudud* before an in-depth study on the matter. He reiterated the fact that Terengganu should not rush into the matter and will wait till Bill 355 is approved in Parliament, and that the state government had no problem in implementing *Hudud* provided the public, especially non-Muslims, understood the Islamic law.

Conclusion

The goal of criminal law is not to punish, including with any particular punishment. The goal of criminal law is to prevent the prohibited acts, to establish public order and to administer justice in the event of contravention. Punishment is a tool to achieve that goal. Success of the implementation of the *Hudud* should not be measured merely by the fact that it is implemented or how many heads are decapitated, how many persons are stoned to death and how many hands are amputated. However, it must be noted that the non-enforcement of the *Hudud* enactment in Terengganu is reminiscent of the situation in Kelantan, where after the *Hudud* bill was passed and assent given by the Sultan of Kelantan in 1994, but the state government said it was unable to enforce the laws as they 'contravened the constitution'.

The *Hudud* Bill has been the continued focus of public debate in Malaysia. The Bill has come under criticism both on specific points as well as generally as being eager to inflict punishment and pain. This approach, although a necessary ingredient of a penal policy, needs to be moderated by such other influences that are felt to be equally important in the formulation of a comprehensive philosophy of punishment. To show care and compassion and to provide an opportunity for those who might be ready to repent and reform are among the considerations that have received greater attention in the formulation of a comprehensive penal policy in modern times. Apart from the essential merit of the harmonious approach, the added emphasis on rehabilitation and reform is an acknowledgement on the part of the society at large that crime is not a totally isolated phenomenon. The Qur'anic outlook on punishment may be characterized by its dual emphasis on retribution and reformation. It is my submission that the *Hudud* Bill in both Kelantan and Terengganu has failed to be reflective either of the balanced outlook of the Qur'an or of the social conditions and realities of contemporary Malaysian society.

The *Hudud* Bill gives rise to three types of problems, one of which is manifested in lack of jurisdiction leading to conflict with the Federal Constitution of Malaysia. Then there are problems relating to the realities of Malaysian society and politics. In the context of a multi-religious society, this Bill raises questions as to whether the nation should be governed by two sets of laws, one for Muslims, and another for non-Muslims? And then the fact that only two of the 13 states of Malaysia (Kelantan and Terengganu) has attempted to chart a different plan for itself has presented the national government with difficult choices. The other problem here is manifested in the fact that the Bill fails to offer a meaningful alternative as it raises questions over the wisdom of a literalist approach to the understanding of *Hudud*. The Bill exhibits no attempt to exercise *ijtihad* over new issues, such that would fulfil the ideals of justice and encourage the development of a judicious social policy.

Indeed, in Malaysia, the Federal-State power conflict over criminal law assumed new prominence with the passage of this *Hudud* Bill partly because of its overlap with the Penal Code. Some offences under the Bill are also federal law offences, giving rise to the issue of double jeopardy where both laws would be simultaneously enforceable. A person in that situation can seek protection against double jeopardy under Article 7 (2) of the Federal Constitution. There are also a number of offences such as theft, robbery, killing, rape, causing bodily harm, and unnatural offences which have been dealt with by the Penal Code, and there are provisions in this Code which relate to such other offences as false accusation of *zina*, consuming liquor and using words of contempt against religion.

In an attempt to overcome the problem the *Hudud* Bill has barred any proceedings or trial under the Penal Code of a person who has been tried for the same offence under this Bill (Clause 61). But then questions arise as to the acceptability of this formula and whether it can resolve the conflict which the *Hudud* Bill has given rise to in trial under the laws of another jurisdiction particularly when it is the former that is violating the limits of its jurisdiction under the Constitution.

The *Hudud* Bill also provided for a range of punishments that are far in excess of the limitations which Parliament has imposed on the jurisdiction of Syariah courts. The Malaysian Syariah courts (Criminal Jurisdiction) Act 1965, as amended in 1984, restricted the jurisdiction of these courts only to Muslims who may be tried for offences punishable with imprisonment of up to three years or a fine of up to RM5000 or with whipping not exceeding six strokes, or with any combination of these. The *Hudud* punishments that the Bill has proposed exceeds these limits, and it is doubtful whether the Special Syariah Courts that are envisaged in the Bill could lawfully exercise their functions unless the Federal Parliament suitably amends the provisions of the 1965 Act.¹⁹

The 1946 judgment of the Nuremberg Tribunal endorsed the notion of human rights as the foundation and legitimacy of international criminal procedure. There is a consensus that there is natural connection between human rights and international criminal law. Some Muslim countries are signatories to various treaties that outlaw international crimes and human rights violations.

The content of the Syariah law is very different from what is acceptable to the international community. If we consider the vital issue of universality of human rights and criminal law, then it is only wise for Islamic criminal law to conform to fundamental principles of international criminal law. The choice facing a modern Muslim, therefore, is either to insist on enforcing the totality of syariah regardless of standards of human rights, or to seek a radical reform within Islam that will reconcile the syariah with present-day human rights requirements and expectations.²⁰ A radical restructuring of traditional syariah law is advocated because it represented the needs and expectations of previous generations, and a new principle of syariah can be evolved in line with contemporary realities.

The punishments inflicted for *Hudud* crimes – flogging, stoning and amputation are retrogressive not only in Islam, but the entire humanity.²¹ The punishment of stoning to death for adultery is not provided for in the Qur'an, and it is a gross violation of fundamental human rights of people. Various human rights instruments prohibit torture and other forms of cruel, barbaric and degrading punishment. It was also pointed out that *Hudud* punishments should not be prescribed for offences such as fornication, drinking of alcohol and apostasy.

Also, there are recommendations that it is completely unacceptable for Islamic criminal law to criminalise offences that are civil violations in international law. Civil liberties like freedom of thought, conscience and religion, and religious liberties are criminal offences punishable under *Hudud* crimes in Islam. Criminal procedure under Syariah does not allow cross-examination of witness, or rebuttal testimony by the accused. The rules of evidence in Islamic criminal law exclude all men who lack credibility, and integrity in society (*non-adl*). Women and non-Muslims are not allowed to testify. There is no provision for jury trial, or appeals.

Coming back to criticism against *Hudud*, some went to the extent of saying that the implementation of *Hudud* would only bring greater human rights disaster as the punishment is very cruel, inhuman or degrading.²² They argued that if people are exposed to *Hudud* punishments, they will gradually become inhumane.²³ It was further contended that the nature of *Hudud* punishment is outdated and therefore, does not fit right into our system of society today. It is submitted that the critique should not merely look at the harshness of the syariah punishment from the offender's point of view. They should also understand the psychological and emotional suffering of the victim or the dependents of the deceased. They should put themselves in the shoes of the victim or their family members who are grieving for the loss of their loved one in a brutal crime.

Finally, one issue that has received much attention is the impact of *Hudud* on non-Muslims.²⁴ Will they be subjected to *Hudud* laws? Even if they are not, will such laws apply to a non-Muslim who is an accomplice in a crime by a Muslim? Social media is rife with emotionally charged opinions. The pressure group, *Ikatan Muslim Malaysia* (ISMA or Muslim Fellowship of Malaysia), has questioned the citizenship status of non-Muslims who are unhappy with the *Hudud* laws. Senior clerics, like the former Mufti of Perlis, Dr. Asri Zainal

Abidin, have taken the position that non-Muslims should be included. Social activists lament the injustice if a non-Muslim receives a lighter sentence under civil laws compared with a heavier one for the Muslim under *Hudud* laws for the same offence.

During times when emotions run high, it is helpful to listen to voices of reason. Many scholars on Islam have discussed *Hudud* in contemporary society, advocated rethinking on its implementation and suggested alternative ways at maintaining public order and security that conform to the spirit of Islam.²⁵ Notwithstanding the mention of *Hudud* in the Qur'an, many stringent conditions must be met before punishment can be meted out. The demanding conditions that are practically near-impossible to fulfill, thus rendering the application of *Hudud* punishments virtually impracticable, or more preventive than punitive. The conditions are made onerous, as reflected in the Prophet Muhammad's tradition to avoid *Hudud* punishments in case of doubt as to the facts, witnesses, victims or the accused.

Moreover, *Hudud* punishment cannot be applied on a criminal who repents after the crime and before its execution. In short, Muslims are enjoined to show tolerance as well as clemency; every time they show mercy and avoid the application of *Hudud* punishments, they are acting in the good spirit of Islam. There is always a concern that legal judgments made in the name of religion may be abused by an unjust government for reasons of expediency or by a harsh judiciary on the basis of arbitrary arrests or false witnesses. This is why renowned and learned scholars take the strong position that Muslims should only consider implementing *Hudud* laws if their societies consist of pious as well as honorable people and leaders of high moral integrity who do not abuse power so that political, social and economic justice prevails.

It is therefore judicious for Muslims and their leaders to focus on building a just and moral society governed by trustworthy leaders rather than treading the path of implementing *Hudud* laws without fulfilling the deliberately onerous preconditions, and violating the principle of justice found in the Qur'an. In trying to uphold the sacred religion of Islam,²⁶ we must be careful not to accept anything and everything that labels itself Islamic. We do not want Islam to be manipulated for the interest of an individual or a group to acquire power. In fact, there are cases where Islam is used to defend inequality, abuse of power, oppression of women and corruption on the part of the leaders. These are lessons to be learned so that what happened in other countries will not be repeated in Malaysia. We do not want the image of Islam as a religion that emphasizes moderation, love and harmony in society tarnished as a result of harsh punishment imposed without taking into consideration the political and social environment of the contemporary Malaysian society.

Footnotes:

- [1]. R.Sivaperegasam P. Rajanthiran (Dr) is Senior Lecturer, and he lectures 'Introduction to Political Science', 'Malaysia's Administrative System' and 'Politics of the Muslim World' at the College of Law, Government and International Studies (COLGIS), Universiti Utara Malaysia, 06010 Sintok, Kedah Darul Aman, Malaysia. He can be contacted at sivaperegasam@uum.edu.my h/phone: 016-9159694.
- [2]. Prophet Muhammad s.a.w is quoted in one of the Hadith as saying: "Whoever changes his religion (of Islam) kill him". Reported by Bukhari no 2854. The rejection of Islam tends to discourage other people from converting into Islam and that rejection encourages massive criminality and blasphemy with impunity.
- [3]. The prevailing interpretation of the rejection of Islam in Islamic criminal jurisprudence means that the apostate was only testing Islam without any commitment to it. To that extent, rejection is a deliberate attack and internal rebellion. The apostate is more dangerous than the infidel. Apostasy also means attacking Islam openly and publicly with treachery and blasphemy, which threatens the social and moral fabric of society, and capable of instigating internal revolution that may topple the Islamic State. See Abdul Rahmanal-Sheha, 1998, "Human Rights in Islam and Common Misconceptions, Islamabad, Islam Books, pg. 130-135).
- [4]. "Men are strip to the waist, women have their clothes bound tightly, and flogging is carried out with a leather strip" (Schmallegger 2001: 632).
- [5]. The social implications of adultery are obvious, it has given rise to teen pregnancies, broken homes, distrust, divorce and baby dumping, fast spread of AIDS and other venereal diseases, among others. The Prophet Muhammad s.a.w said 'When promiscuous behavior becomes rampant in a nation, Allah s.w.t. will send upon them such (strange) diseases that their own ancestors never heard of'. See [http://www.islamonline.net/sevlet/Satellite?](http://www.islamonline.net/sevlet/Satellite?PageName=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503548032#ixzz108Mdf7qb) Pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503548032#ixzz108Mdf7qb)

- [6]. Due to its serious social repercussion, Islam has forbidden these acts to the extent of saying that even by looking at the opposite sex with desire, the eyes commit *zina*. The lustful looks at a person of the opposite sex is considered as ‘the *zina* (adultery or fornication) of the eye’ (SahihBukhari).
- [7]. Surah 5:38
- [8]. It is submitted that the severity of *Hudud* punishment is to serve as a prevention and deterrence from committing these crimes in the first place. The imposition of the punishment is to bring about ultimate order of human civilization and happiness in the society. What *Hudud* brings is peace and order and disciplined behavior as people would not dare to lift a finger to do an evil deed as they know the punishment that awaits them is severe.
- [9]. PAS leaders have said that setting up an Islamic state and enforcing *Hudud* were the party’s religious obligation and, therefore not negotiable. Implementing *Hudud* is the only way to curb crime and social ills.
- [10]. It must be stressed here that as a Federal criminal law, it must apply to all, Muslims and non-Muslims alike, because it is “criminal law” and not “offences relating to precepts of Islam” as provided by List II (State List), Ninth Schedule of the Federal Constitution. If it is made applicable to Muslims only, it would be contrary to Article 8 as it is a discrimination on ground only of religion and therefore, unconstitutional, null and void. Please refer to Article 8(2): “*Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender in any law...*”
- [11]. See Syariah Courts (Criminal Jurisdiction) Act 1965.
- [12]. Article 8 (2) *Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender in any law...*
- [13]. The proposal generated a lot of controversy because it worried certain groups of people who questioned the consequences of the implementation of such law. At the same time there are groups who want the law to be implemented without delay. Also, there have been criticisms about the proposal that have irritated certain quarters.
- [14]. PAS has offered ten (10) reasons to persuade Malaysians to accept *Hudud*: (1) *Hudud* laws are God’s laws and this is stated in the Quran. Muslims must therefore implement and abide by such laws for the betterment of mankind; (2) Muslims have no choice but to accept *Hudud*. They cannot pick and choose what they consider reasonable or sensible in Islam and leave out the rest; (3) Man-made laws have loopholes and are not to be relied and hence why rely on such laws which are imperfect when God provides us with His laws; (4) Crimes in all forms are becoming more serious and the prisons are overcrowded and a heavy burden on the State. Under *Hudud*, these problems will be reduced considerably because once an individual is tried, convicted and punished, he/she is released. *Hudud* laws are problematic in some countries because individuals abuse the laws; (5) Those who question the laws are not necessarily bad Muslims, they are merely ill-informed. They are influenced by the liberal and immoral West, and are swayed by the belief that everything must be logical. For such people, *Hudud* laws should be rejected because the West regards punishments for such laws to be barbaric; (6) Those who reject the laws are apostates; (7) *Hudud* laws are only meant only for Muslims; (8) *Hudud* will make everyone safe. The reason why investors are not coming to Kelantan has nothing to do with *Hudud* laws, they are actually prevented from investing in the State by the Federal Government; (9) In time, non-Muslims will see the value of implementing *Hudud* laws because they protect the public, prevent crimes and provide just punishments for convicted persons. Under the administration of *Hudud*, reform programs will be made available for offenders; and (10) *Hudud* laws should be implemented even though the majority of people do not understand the laws.
- [15]. *New Straits Times*, 25 November 1993, p.8
- [16]. Ibid.
- [17]. Ibid.
- [18]. *New Straits Times*, Kuala Lumpur, 10 September 1994, p.1-2.
- [19]. Mohammad HashimKamali, ‘Punishment in Islamic Law: A Critique of the *Hudud* Bill of Kelantan, Malaysia’, pg.207.
- [20]. Quoted in Lippman, 1989:55-56.Lippman’s argument is that from the Islamic perspective, new reasoning (neo-ijtihad) that calls for the restructuring of Islamic criminal law is contrary to the essence of Islam that bestows a duty on individuals to seek salvation through submission to Allah s.w.t. The syariah as path to salvation is sacrosanct. God has the right to demand obedience from His creatures. Islamic jurisprudence generally does not consider individual rights. What is paramount is God’s right

- which is protected by the state. See Mathew Lippman, “*Islamic Criminal Law and Procedure: Religious Fundamentalism v Modern Law*”, 12 B.C. Int’l & Comp. L. Rev. 29
- [21]. See OsitaOgbu, 2005, “Punishments in Islamic Criminal law as Antithetical to Human Dignity: The Nigerian Experience”, *International Journal of Human Rights*, Vol.9, No.2, pg. 170-182.
- [22]. See ‘Implementing *Hudud*: A Disaster in-waiting’ at <http://mole.my/content/implementing-hudud-disaster-waiting>.
- [23]. Many people today objects to the amputating of hands for theft on the basis of cruelty of the punishment. However, they failed to understand the definition of “theft”; the philosophical dimension to such a ruling; and the circumstances justifying the execution of such punishment, among others.
- [24]. Non-Muslims are generally anxious. The issue of *Hudud* has profound impact on inter-religious relations. As a religiously diverse society, Malaysia’s inter-faith harmony can be affected by the spill-over effects if the *Hudud* issue gives rise to gross misperceptions about Islam and becomes a wedge in relations between Muslims and non-Muslims in the country.
- [25]. See Mohammad Alami Musa’s article ‘*Hudud* and Inter-Religious Relations’, Rajaratnam School of International Studies (RSIS), Nanyang Technological University, Singapore, No. 103/2014.
- [26]. The implementation of Islamic law must not be considered solely from its implementation aspect, but how the law can solve the problems of the Malaysian contemporary society. If we can prove that Islamic law is able to solve the problems of our society, then we are able to project the truth about Islam as the religion to all times. On the other hand, if the implementation of the Islamic law results in more problems in our society because those who execute the law are weak and unjust, and its people ignorant, then Islam will be despised, and they will be held responsible for bringing disgrace to Islam.