

Theft Punishment

Geschrieben von: Joe

Donnerstag, den 01. April 2010 um 21:20 Uhr - Aktualisiert Donnerstag, den 01. April 2010 um 21:28 Uhr

12:1-3, "A.L.R. These are signs <ayat> of the profound scripture. We have sent it down, an Arabic Quran that you may understand. We narrate to you the best stories through Our revelation to you of this Quran. Before this, you were totally unaware."

What is theft punishment in Quran? This article will show, God willing (Gw), that is to give the chance to the thieves to come forward, acknowledge their crime, and give back what they have stolen to the victim. They might even get a reward. If they do not come forward, prove should be found who are the thieves. Then they should work to pay the fees involved for the whole thing. What was stolen, if found, should be restituted to their owners. Otherwise, thieves should work for them until what they have stolen is repaid. First, the article will explore the two literal understandings related to this issue and show their shortcomings. Then, it will conclude with the third non-literal and the closest to Quran's spirit understanding just stated.

So far, two punishments for theft were proposed as an understanding of aya 5:38.

5:38, "The male thief, and the female thief, you shall <eqta'u> <aydiyahuma> as a punishment for their crime, and to serve as a deterrent from God. God is Almighty, Wise."

5:39, "If one repents after committing this crime, and reforms, God redeems him. God is Forgiver, Merciful."

The Arabic word <eqta'u> means "cut" while <aydiyahuma> refers to "the (three or more) hands of the male and female thief". Thus the expression <eqta'u> <aydiyahuma>, in aya 5:38 above, stands literally for "cut their (three or more) hands." Therefore, 5:38 reads literally:

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5:38, "The male thief, and the female thief, you shall cut their (three or more) hands as a punishment for their crime, and to serve as a deterrent from God. God is Almighty, Wise."

First Literal Understanding

The first understanding says that 5:38 means to cut off the thief's hand. I do not agree with this understanding for the following reasons. First, the Arabic word <aydiyahuma> is the plural (three or more) of <yad> (hand) used in dual form. As we know, each one of us has normally only two hands, including thieves. How can we possibly cut off the hands (three or more) of a thief? Even if we accept that the hands in this aya refer to the hands of both thieves, should we then cut off both hands of a thief?

Second, what will benefit the one who lost their stolen goods in case they would not recover them? And what would happen if someone were accused mistakenly or maliciously of theft and their hands were cut off? What if someone does not have hands and uses only his brain to plan thefts for their accomplices? This is not a fiction; it happened.

Third, how could the above aya 5:39 be applied if someone has his or her hands cut off and repents later on and reforms? On other words, if cutting the hands in aya 5:38 is translated literally to mean cutting off the hands, then aya 5:39 can not stand logic and common sense. Let's assume that someone steals something and pays the heavy price of his or her hands being cutting off. Then he or she repents and reforms. What does it mean in his or her case that,

"God redeems him. God is Forgiver, Merciful"? (5:39).

How will he or she be redeemed once he or she has lost his or her hands? How could he or she deserve a second chance without his or her hands? Indeed, understanding cutting hands

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as cutting off hands literally does not stand logic and common sense in the context of these two ayat 5:38-39 in particular, and in the context of Quran in general.

Second Literal Understanding

The second understanding that was proposed for aya 5:38 is to only mark the thief's hand. This understanding runs against the same problems as the first one. Besides the same above problems, we have a specific one to this case. With all esthetic surgery advances, someone could manage to steal millions and spend a few thousands to offer themselves an esthetic surgery to hide their hands' markings. Criminals nowadays do go thru facial surgery in order to hide from justice and people.

Furthermore, Ayat 12:31 and 12:50 were used to convey this meaning of marking the hands to 5:38.

12:31, "..When they (the women) saw him (Joseph), they exalted him and they cut <qatta'a> their hands..."

However, 12:31 and 12:50 do not use the exact wording as 5:38. They use the Arabic variation <qatta'a> of <qata'a> "cut" used in 5:38. Even though if someone agrees that both have the same meaning, the same word <qatta'a> is used in 5:33, 7:124, 20:71, 26:49 as to mean cut off or amputate.

5:33, "The retribution for those who fight God and His messenger, and commit corruption in the land, is to be killed, or crucified, or to cut off/amputate <qatta'a> their hands and feet on alternate sides, or to be banished from the land..."

Therefore why should someone use 12:31 and 12:50 to convey the meaning "to

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mark" and not 5:33, 7:124, 20:71, 26:49 to convey the meaning "to cut off/amputate"?

Non-Literal Understanding

Let's consider now the third meaning and the closest to Quran's spirit. The punishment is to cut off from the thieves' resources and power. Here you are three reasons supporting this non-literal understanding.

1. First, the Arabic word <yad> (in dual plural in 5:38 above) or "hand" is used in Quran in its literal and figurative meanings. For instance, 27:12 uses it in its literal meaning while 5:64 uses it in its figurative one to refer to wealth and resources.

27:12, "Put your hand <yad> (O Moses) in your pocket; it will come out white, without a blemish. These are among nine signs <ayat> to Pharaoh and his people, for they are wicked people."

5:64, "The Jews even said, "God's <yad> hand is tied down!" It is their <yad> hands that are tied down. They are condemned for uttering such a blasphemy. Instead, His both <yad> hands are wide open, spending as He wills..."

Another example for the non-literal meaning is 38:45. It uses <yad> in plural (three or more) form. It conveys the meaning of power and possession of resources.

38:45, "Remember also our servants Abraham, Isaac, and Jacob. They were resourceful <ulu al-aydee> (with many hands), and possessed vision/They possessed power and vision."

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<yad> is also used to infer someone's actions and doings (2:195, 22:10). It is used too to mean possession of a responsibility or a contract (2:237).

Therefore, <eqta'u aydiyahuma> in the above aya 5:38 means to cut off from the thieves' resources and power.

5:38, "The male thief, and the female thief, you shall cut off from their resources and power as a punishment for their crime, and to serve as a deterrent from God. God is Almighty, Wise."

Aya 5:39 that follows 5:38 makes complete sense.

5:39, "If one repents after committing this crime, and reforms, God redeems him. God is Forgiver, Merciful."

2. Second, let's consider the case of murder in Quran which is a worse crime than stealing. There are two earthly punishments. 4:92 deals with a believer's accidental killing. Neither capital punishment nor jail are involved. 2:178 deals with the second case when someone meant the killing. This aya gives the option of sparing the murderer's life. In both cases, there is ransom involved if possible. It is the case maybe because when someone is killed, a source of income is cut from their family and therefore should be compensated. In either case, punishment does not tall the cutting or marking of hands if it was the case in 5:38.

3. Last but not least, sura 12 gives us a good example of how to punish the thieves.

12:70, "When he provided them with their provisions, he placed the drinking cup in his brother's bag, then an announcer announced: 'The owners of this caravan are thieves.'"

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12:71, "They said, as they came towards them, "What did you lose?"

12:72, "They said, "We lost the king's cup. Anyone who returns it will receive an extra camel-load; I personally guarantee this."

12:73, "They said, "By God, you know full well that we did not come here to commit evil, nor are we thieves."

12:74, "They said, "What is the punishment for the thief, if you are liars?"

12:75, "They said, "The punishment, if it is found in his bag, is that the thief belongs to you. We thus punish the guilty."

12:76, "He then started by inspecting their containers, before getting to his brother's container, and he extracted it out of his brother's container. We thus perfected the scheme for Joseph; he could not have kept his brother if he applied the king's <deen> law/religion. But that was the will of God. We exalt whomever we choose to higher ranks. Above every knowledgeable one, there is one who is even more knowledgeable."

12:77, "They said, "If he stole, so did a brother of his in the past." Joseph concealed his feelings in himself, and did not give them any clue. He said (to himself), "You are really bad. God is fully aware of your accusations."

12:78, "They said, "O you noble one, he has a father who is elderly; would you take one of us in his place? We see that you are a kind man."

12:79, "He said, "God forbid that we should take other than the one in whose possession we found our goods. Otherwise, we would be unjust."

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The way I understand the above ayat is this is God's law for theft in application.

12:7, "In Joseph and his brothers there are lessons for the seekers."

Joseph and his brothers were submitters and children of Jacob and Abraham's great great-children.

12:38, "And I (Joseph) followed instead the religion <deen> of my forefathers, Abraham, Isaac, and Jacob. We have no right to commit shirk (associating partners) with God. Such is the blessing from God upon us and upon the people, but most people are unappreciative."

It is very clear from the above ayat that they were not following the king's law to punish the thieves but rather God's law.

12:76, "...We thus perfected the scheme for Joseph; he could not have kept his brother if he applied the king's <deen> law/religion. But that was the will of God..."

First the presumed thieves were given the chance to come forward, acknowledge their wrongdoing, and then give back what they have stolen. They might even get a reward.

Second, if they do not do so, they must be proven as thieves. Then, what was stolen, if found, should be restituted to their owners. Thieves should work to repay the fees involved in the whole process. They should also work to repay what was stolen in case they do not give it or the whole of it back.

Besides, aya 5:38 refers to THE thief. If someone steals for the first time, comes forward and acknowledges his or her wrongdoing, he or she is not called THE thief. Aya 5:38 does not apply to those ones.

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This process put in application the theft punishment stated in 5:38 that is to cut off from the thieves' resources and power. It leaves also the door open for thieves to repent and reform as God states in 5:39. This whole process is what is applied to thieves in some Muslim rural areas.

These ayat give us also an example of someone who was set up for theft, for a good reason of course. But, what would happen to someone who was set up maliciously and has to face marking or cutting of his or her both hands?

Had Joseph known that God's punishment for theft is marking or cutting hands (which his brothers would have apply), he would not scheme that way in order to keep his brother with him.

Someone would argue that was God's theft law for previous communities and we are not bound by it. Well, when God wants to change something, He specifies it (2:187). Furthermore, Quran specifies when some laws do apply only for some communities (16:118) and therefore we are not bound to apply them.

The cutting or marking hands as a punishment of thieves run into contradictions within Quran. However, meaning of "cutting hands" in 5:38 as cutting from the thieves' resources and power, the case of murder's punishment in Quran, and the example of God's law in application in 12:70-79 are the three arguments, put forward in this article, to propose the third and closest to Quran's spirit punishment for theft. It goes as follow. Chance should be given to the thieves to come forward, acknowledge their crime, and give back what they have stolen to the victims. They might even get a reward. If they do not come forward, prove should be found who are the thieves. Thieves should then work to pay the fees involved for the whole thing. What was stolen, if found, should be restituted to their owners. Otherwise, thieves should work for them until what they have stolen is repaid.

We started this article with the first ayat of sura 12 that tells us that God narrates to us the best stories. We have seen how, indeed, we could apply the theft story from this sura to deduce the meaning of theft punishment and its application as stated in 5:38-39. We conclude this article with the last aya of the same sura 12.

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12:111, "In their stories, there is a lesson for those who possess intelligence. This is not a fabricated narration <hadith>; this (Quran) authenticates what it is between its hands, and provides the details of everything. It is a beacon and a mercy for those who believe."

God bless you all, peace,

Quelle: <http://www.free-minds.org/theft>