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## Hudud by the Taliban in Afghanistan and the relevance of Muhammad Syahrur's thought

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### ABSTRACT

This study is motivated by the continuing debate over the hudud in the modern era and its practical implications. It examines how the Taliban have applied hudud punishments in Afghanistan and assesses the relevance of Muhammad Syahrur's contemporary legal thought on hudud punishments. Using a qualitative library-research approach, data were collected from books, scholarly literature, and relevant reports and then analyzed using content analysis and inductive reasoning. The findings indicate that during the Taliban's rule, the implementation of hudud tends to be harsher, more rigid, and more repressive, often raising concerns regarding due process and human rights. Both the Taliban's approach and Syahrur's discussion derive from the Qur'an and Hadith; however, Syahrur's theory of limits (*nazariyyat al-hudud*) frames divine law as having minimum and maximum boundaries, allowing space for contextual *ijtihad* that weighs public benefit (*maslahah*) in line with changing social realities while remaining within God's limits (*sunnatullah*).

**Keywords:** hudud; Taliban; Afghanistan; Muhammad Syahrur

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RESEARCH & PUBLISHING



## 1. INTRODUCTION

Hudud has become a persistent and sensitive topic in contemporary Islamic discourse. For some, the formal adoption of Islamic criminal law in a country is seen as evidence of the complete implementation of shari' a; conversely, the absence of hudud is sometimes taken as proof that a state is not fully Islamic (Schacht, 1964). However, the implementation of hudud is complex and contested. In many modern settings, hudud punishments are criticized as cruel, inhumane, and incompatible with human rights norms, and Muslim intellectuals continue to debate the scope, criteria, and evidentiary requirements of hudud crimes and their associated sanctions (Muslich, 2004). Although crime can never be entirely eliminated, reducing it requires clear sanctions that deter offenders and provide a proportional response. In Islamic criminal law, crimes are often discussed as jarimah acts prohibited by Shari' ah and subject to sanctions. The Qur'an contains commands and prohibitions that frame hudud, and understanding these norms has historically involved interpretive methods in Qur'anic studies, including thematic interpretation (tafsir mawdu' i) aimed at developing methodological clarity in deriving legal meanings (Kirana et al., 2022).

Muhammad Syahrur is a contemporary Muslim thinker whose work focuses on how the Qur'an should be read, understood, and interpreted to derive legal guidance that remains meaningful in changing contexts. One of his best-known contributions is nazariyyat al-hudud (the theory of limits), which proposes that divine law sets minimum and maximum boundaries on human behavior. Within these boundaries, jurists (mujtahids) have room to formulate context-sensitive legal policies through ijihad, as long as they do not fall below the minimum or exceed the maximum limits established by God (Syahrur, 1992).

In Afghanistan, the Taliban returned to power after a prolonged insurgency against the U.S.- and NATO-backed government (Council on Foreign Relations, 2022). Having been removed from power in the wake of the September 11, 2001, attacks, with the Taliban accused of sheltering Osama bin Laden, their rapid takeover in August 2021 surprised many (BBC News, 2021). The speed of territorial control and subsequent public communication efforts raised renewed questions about how shari' a would be enforced under their rule, including the direction and character of the implementation of hudud (Katzman & Thomas, 2017).

Therefore, this study asks: how are hudud punishments regulated and implemented by the Taliban in Afghanistan, and how can that practice be assessed in light of Muhammad Syahrur's contemporary theory of limits?

## 2. LITERATURE REVIEW

### 2.1. Hudud in Muhammad Syahrur's Theory of Limits

In Syahrur's framework, hudud should not be reduced to a rigid set of penalties. Instead, it functions as a "theory of limits" that allows for elastic and contextual textual interpretation when engaging with the Qur'an's definitive (muhkamat) verses. He rejects static literalism and stresses that the law must retain a dynamic dimension to remain relevant to the realities of modern society (Anugerah & Purba, 2021).

Syahrur distinguishes between a minimum limit (hadd al-adna) and a maximum limit (hadd al-a'la), which together define the permissible range of an Islamic legal policy. Contemporary analyses argue that this approach contributes to modern Islamic legal thought by attempting to bridge the classical tradition with the needs and circumstances of contemporary Muslim communities (Foster, 2023). Recent hermeneutic studies suggest that Syahrur's theory can be applied to contemporary issues in Qur'anic interpretation and legal reform by keeping legal outcomes within God's boundaries while enabling context-aware Ijihad.

## **2.2. Taliban Implementation of Hudud in Afghanistan**

After taking power in August 2021, the Taliban announced a legal order they claimed was grounded in shari' a, including the reintroduction of punishments associated with hudud, such as flogging, amputations, and public executions. These practices have drawn widespread attention because they are often perceived as lacking transparent legal procedures and have triggered strong criticism from international human rights institutions (Aravik et al., 2025).

An instructional communication reportedly issued to Taliban judges in November 2022 urged the fuller enforcement of their interpretation of shari' a, including the hudud and qisas. Such directives are not always codified in formal written laws, producing legal uncertainty and uneven implementation across different regions (Casini, 2011). Publicly documented cases of flogging and executions during 2023–2024 point to an intensification of hudud enforcement in several provinces under the Taliban, reflecting both a rejection of prior modern legal structures and a strong emphasis on hardline moral and social regulation.

## **2.3 Hudud, Human Rights, and Contemporary Perspectives**

The Taliban's enforcement of hudud raises serious human rights concerns, particularly regarding women's rights and civil liberties. Reports by the United Nations and the broader international community have highlighted restrictions on women's work and education and the use of public corporal punishment. Contemporary scholarship frequently critiques extreme, non-procedural interpretations of shari' a that disregard widely recognized human rights principles and modern standards of procedural justice (Jackson & Weigand, 2020). Simultaneously, several studies stress the importance of revisiting hudud through the lens of maqasid al-shari'a (the higher objectives of Islamic law) so that its application does not ignore core humanitarian values.

## **3. METHOD**

This study employs a descriptive qualitative design to explain the relationship between legal thought and the practical enforcement of hudud. Data were collected through library research, drawing on academic books, peer-reviewed journal articles, international institutional reports and official documents related to Taliban-era hudud practices (Karundeng et al., 2022). The analytical approach is normative and interpretive: the research treats law as a set of norms, principles, doctrines, and legal ideas, and uses content analysis to identify key themes and interpretive patterns in Syahrur's writings and in accounts of Taliban legal practice. Conclusions were drawn through inductive analysis based on the collected materials (Mustaqim, 2011).

## **4. RESULT AND DISCUSSION**

### **4.1. Profile of Muhammad Syahrur**

Muhammad Syahrur Deyb was born in Salihhiyyah, Damascus, Syria, on 11 March 1938, into a middle-class family. He received formal primary and secondary education that was not centered on traditional religious schools. After graduating, he left Syria to pursue undergraduate studies in civil engineering at the Moscow Institute of Engineering in Saratov, supported by a government scholarship (1959–1964). He completed his diploma in 1964 and, in 1965, became an assistant lecturer at the Faculty of Civil Engineering, University of Damascus, while continuing graduate studies. He earned an M.Sc. in 1969 (University College Dublin, Ireland) and completed his Ph.D. in 1972, later serving as an academic staff member in soil mechanics and geology at the University of Damascus, Syria.

Despite his technical background, Syahrur developed a strong interest in religious texts and integrated mathematical concepts such as limits, differentials, integrals, and parabola models into his analytical approach to Islamic legal questions. Syahrur's project emerged from his concern about modern social problems and his view that earlier Qur' ānic interpretations were often constrained by their contexts and methodological limits. He argued that traditional exegesis tended to focus on the text without

sustained dialogue with changing realities, making it difficult to engage with the Qur'an across generations. For Syahrur, no interpreter can claim absolute comprehension of the Qur'an; therefore, each generation requires a renewed reading that can produce fresh understanding and practical solutions.

#### **4.2. The Taliban**

The Taliban is a conservative politico-religious movement that emerged in Afghanistan in the 1990s amid the Soviet withdrawal, the collapse of the communist regime, and the breakdown of civil and political order. The term "Taliban" (from Pashtun) means "students" and reflects the group's origins among madrasa students in northern Pakistan many of whom were Afghan refugees from the 1980s war period. The movement was founded by Mullah Muhammad Omar, who claimed to restore stability and enforce Islam strictly in public life. Ideologically, the Taliban combine elements of Pashtunwali with Deobandi thought. Deobandism originated as a Sunni revivalist movement in British India and emphasized strict adherence to Sunni legal schools, with the Taliban often associated with Hanafi jurisprudence. The Taliban is frequently labeled as "Islamic fundamentalist" because it rejects the separation of religion and state and frames political authority as inseparable from its understanding of shari'a.

The Taliban first took Kabul and declared the Islamic Emirate of Afghanistan in 1996 under the leadership of Mullah Muhammad Omar, who centralized decision-making and adopted the title of Amir al-Mu'minin. The regime lasted until 2001 and was recognized by only a few states. It did not receive United Nations recognition amid widespread allegations of human rights violations and disregard for the rule of law. The Taliban's rise was also tied to regional politics, particularly Pakistan's strategic interests in shaping a stable Afghan government aligned with Islamabad. After the September 11 attacks, the Taliban's alleged protection of Osama bin Laden made the group a central target of the U.S.-led military intervention, culminating in the regime's collapse in late 2001.

In August 2021, the Taliban returned to power, rekindling debates about the future of governance, law, and enforcement of Shari'a in Afghanistan. Observers also discussed possible spillover effects on radical movements elsewhere, although assessments varied regarding whether the Taliban victory directly strengthened transnational terrorism.

#### **4.3. Hudud in Islamic Law**

Muslim jurists understand Islamic law as a divine command that regulates human life, including its legal (shari'a) and spiritual dimensions. In modern legal scholarship, Joseph Schacht described Islamic law as a distinctive manifestation of Islamic thought and a key expression of the Islamic way of living.

Linguistically, hudud is the plural of hadd, meaning a boundary or limit something that separates one thing from another or prevents transgression beyond a set line. In Islamic jurisprudence, hudud refers to fixed punishments that function as limits to deter and restrict specific crimes. Classical scholars have offered various definitions: for example, hudud are prohibitions set by God that humans must avoid; punishments whose measures and boundaries are determined by God; and sanctions regarded as God's rights that may not be arbitrarily delayed, increased, reduced, or replaced.

In principle, hudud punishments are established to protect society from crime. They are considered determinate and not subject to discretionary alterations by judges. This differs from positive criminal law systems, in which heads of state may grant clemency, such as pardons, amnesties, or abolitions. Hudud offenses are limited in number because their forms are specified by revelation, and their sanctions are described in the Qur'an and the Hadith. As matters of public order and security, they are framed to protect broader communal interests.

#### **4.4. Taliban Enforcement of Hudud in Afghanistan**

Studies of the Taliban typically focus on their first period of rule (1996–2001) and their renewed dominance in 2021. During their earlier rule, the Taliban incorporated Islamic law into the state system and applied rules based on traditionalist understandings of Islam. Social regulations were strictly enforced. Men were expected to conform to specific dress and grooming rules, while women's social freedom was

sharply restricted, including limited access to schooling, constrained employment, requirements to travel with a male relative, and compulsory full-body covering in public. The marginalization and abuse of women in Afghanistan have been documented across other conflict periods, not only under the Taliban.

The Taliban framed public punishment as a religious event. Accounts describe public flogging for zina, amputation for theft, and severe penalties for acts deemed morally deviant, carried out in highly visible spaces such as stadiums in Kabul, Afghanistan. Dissenters risked arrest and physical abuse, reinforcing a climate of fear in the country. Following the September 11, 2001, attacks carried out by al-Qaeda, the Taliban's support for Osama bin Laden led to U.S. and allied military interventions. By early December 2001, the Taliban regime was removed from the capital. Their return in August 2021 has brought renewed scrutiny to their legal practices, including intensifying corporal and public punishment.

#### **4.5. Comparing Taliban Practice with Syahrur's Approach**

Syahrur's theory of limits is grounded in the premise that the Islamic message is dynamic and, therefore, valid for every time and place (*shalih li kulli zaman wa makan*). He argues that Islam combines *istiqamah* (constancy) with *hanifiyyah al-taghayyur* (dynamism), making the law flexible while remaining within *hududullah* God's legal boundaries. This framework grants jurists a wider space for legal creativity through *ijtihad*, provided that the outcomes do not violate the minimum and maximum limits.

Some scholars explain Syahrur's model using functional relations: the Y-axis represents God's limits, while the X-axis represents historical and empirical realities. Within this space, Syahrur outlines several boundary principles (including minimum, maximum, and combinations of the two) to illustrate how the law can remain rooted in revelation while responding to context. In contrast, the Taliban's approach reflects an effort to enforce Islamic criminal sanctions in a rigid and punitive manner. Accounts of punishments such as public flogging, executions for accusations of slander, and extreme penalties for LGBT-related conduct are portrayed as creating fear among the population and reflecting repressive governance.

This study highlights a key difference: while both the Taliban and Syahrur ground their arguments in the Qur'an and Hadith and share the stated aim of upholding Islamic law, Syahrur's contemporary approach emphasizes contextual reasoning and public benefit within divine boundaries, offering a more constructive pathway for legal interpretation in modern societies.

### **5. CONCLUSION**

The study finds both similarities and differences between the Taliban and Muhammad Syahrur in their views on and application of hudud. Both appeal to the Qur'an and Hadith and claim the objective of upholding Islamic law. However, under the Taliban rule in Afghanistan, hudud enforcement is characterized as harsh and repressive, generating fear among the public and raising serious concerns about rights and due process.

In contrast, Syahrur's contemporary theory of limits opens space for mujtahids to formulate legal responses that fit changing times and promote public welfare (*maslahah*) while remaining anchored in revelation. This suggests that modern Islamic legal thought can inform contemporary discussions and approaches to hudud, aiming to protect social order without losing sight of core humanitarian values.

#### **Ethical Approval**

This study did not require formal ethical approval as it constitutes qualitative library-based research in the field of Islamic legal studies and does not involve human subjects, medical experiments, or vulnerable populations. The research was conducted in accordance with generally accepted ethical standards for social science and religious studies research.

### **Informed Consent Statement**

Not applicable.

### **Confidentiality Statement**

Not applicable.

### **Authors' Contributions**

DIS contributed to conceptualization, literature review, data analysis, interpretation, and writing of the original manuscript draft. S contributed to theoretical framework development, supervision, critical review, and revision of the manuscript. HI contributed to methodological refinement, conceptual clarification, and final editing of the manuscript. All authors have read and approved the final version of the manuscript.

### **Disclosure Statement**

The authors declare no conflict of interest related to this research.

### **Data Availability Statement**

All data supporting the findings of this study are derived from publicly available sources, including academic books, peer-reviewed journal articles, and institutional and international reports. No new datasets were generated or analyzed.

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