

A
Clarification
of
Questions

An Unabridged Translation of
Resaleh Towzih al-Masael
— by —
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Mousavi Khomeini

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A Westview Replica Edition

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CONTENTS

Foreword	ix
Translator's Note	xxx
Acknowledgements	xxxiii
Imprimatur	xxxiv
Problems	1
New Questions	394
Index	415
Supplemental Index	422
Appendix I (Glossary)	423
Appendix II (from Tahrir al-Vasileh)	428

vii

APPENDIX II

Extracts from Tahrir al-vasileh (by Ayatollah Khomeini) which appeared in volume 4 of Resaleh Novin: Political and Legal Problems, 'translation and explanation by Abdulkarim Biazar Shirazi'. Publisher, Anjam i Ketab, Day 1360/1981; see Foreword.

PENAL CODE: PUNISHMENTS

The merciful Prophet was a messenger of bounty: Those who follow the west imagine that the Islamic precepts are harsh. These people do not know at all what these precepts are for. It is like a physician who holds the knife and tears the abdomen in order to remove a cancer[ous] gland and someone says: that physician is harsh. Is this a bounty or harshness? That physician who cuts off the hand does it because that hand will putrefy the human body. This society is like the human body and sometimes, for rectifying a society, it will discipline (punish) a person, such punishment that on occasion results in his killing. One who corrupts a country, or a group, and is incorrigible, he must be eliminated for the sake of purifying and protecting the society; this cancerous gland must be removed from the society and its removal is done by executing him. Such are the Islamic executions, not like the western executions that they rush in and kill and annihilate in order to make a place for themselves. Islamic executions are bounty [bountiful] executions, when one punishment of the divine punishments is exercised the society will be rectified. If the hands of four thieves are cut off in a public gathering (thievery) will end. If four people who are afflicted with prostitution are flogged, prostitution will die. This is that cancerous gland that a physician is forced to remove in order to preserve a man's life (Imam Khomeini, 4/19/1358/1979).

APOSTASY

1 — Apostasy is leaving Islam and accepting infidelity. One who turns from Islam to infidelity is called an apostate and that is of two kinds; 1) innate-apostate, and that is a person that one of his father or mother was Moslem when his seed was being jelled, and who embraced Islam following puberty and then left Islam. 2) National apostate, and that is a person whose father and mother were infidels when his seed was being jelled and he has expressed infidelity after puberty, and became an original infidel (kafar i aslee), then he embraced Islam and later has returned to infidelity; such as a person who originally was a Christian and became a Moslem and then returned to Christianity.

Tahrir al-vasileh, Volume 2, P. 366

2 — Innate-apostate's [embracing of] Islam is apparently unacceptable and, if a man, his ruling is execution and, if a woman, she is condemned to prison for life and [with] beating when praying and straitening of livelihood, but her repenting is acceptable and she will be freed if she repents.

3 — A national apostate will be caused to repent and in case of refusing to repent will be executed. And it is preferable to give a 3 day reprieve and to execute him on the fourth day if he refused.

4 — Puberty, knowledge, volition and intention are credible in ruling on apostasy.

5 — The child of a Moslem or that of an apostate, whether national or innate, is considered Moslem before the father's apostasy, and therefore, if the child reached puberty and chose infidelity he will be asked to repent (and to return to Islam), else he will be executed.

6 — Apostasy is proven by the witnessing of two just men and by confession.

Tahrir al-vasileh, Volume 2, pp 494-496

RETALIATION (GHASAS)

2 — Conditions of retaliation

- (1) Equality in liberty and bondage, and therefore a free will be retaliated vis a vis a free.
- (2) Equality in religion, therefore Moslem will not be retaliated for infidel, unless a Moslem has a habit of killing infidels.
- (3) The slayer is not the father of the slain, nor the paternal grandfather (apparently).
- (4) Reason and wisdom.
- (5) Puberty.
- (6) That he religiously does not deserve to be killed, such as when a person is forced to kill in self-defense.

Imam Khomeini: Tahrir al-vasileh, Volume 2, pp. 508-547

MULCTS AND BLOOD MONEY

Articles: 1 — With consent and agreement of the mulct-owner the above-mentioned cash penalties may be paid in part cash and part commodity manner.

2 — If a person commits killing [another] during the unlawful months, that is in Rajab, Zeegha'deh and Zeehajjeh and Moharram, or if he commits the killing within the sanctuary of the Great Mecca, 1/3 of each of