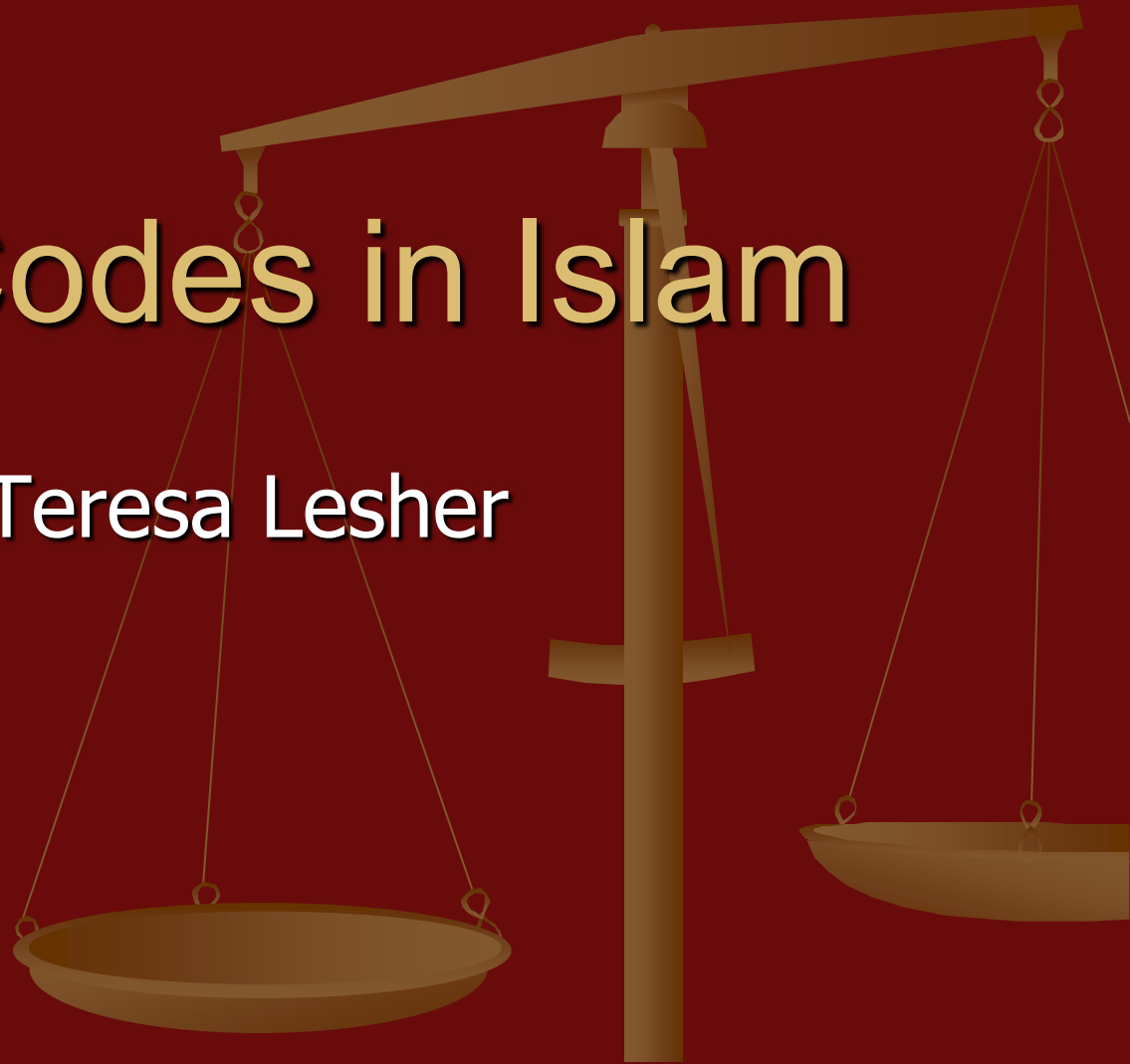


# Penal Codes in Islam

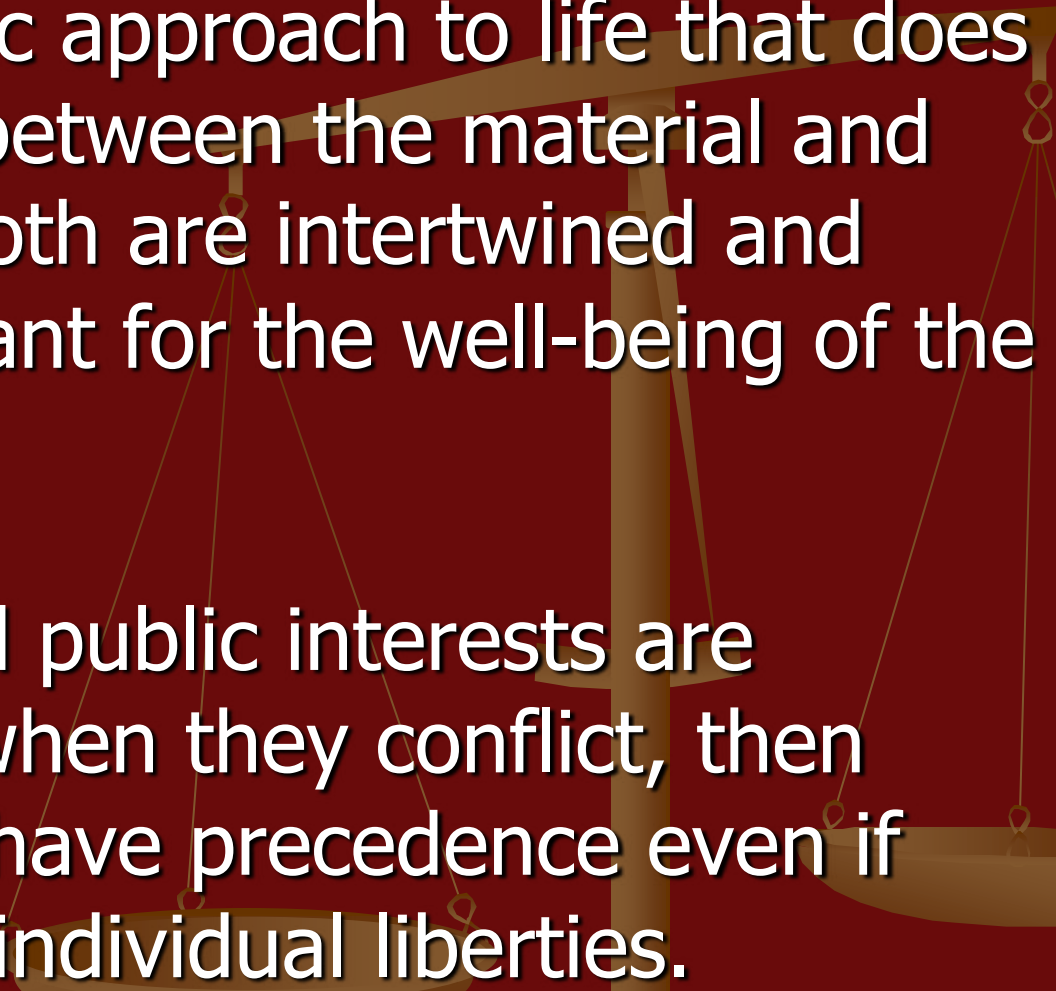
Dr. Teresa Leshner



# Islamic Philosophy

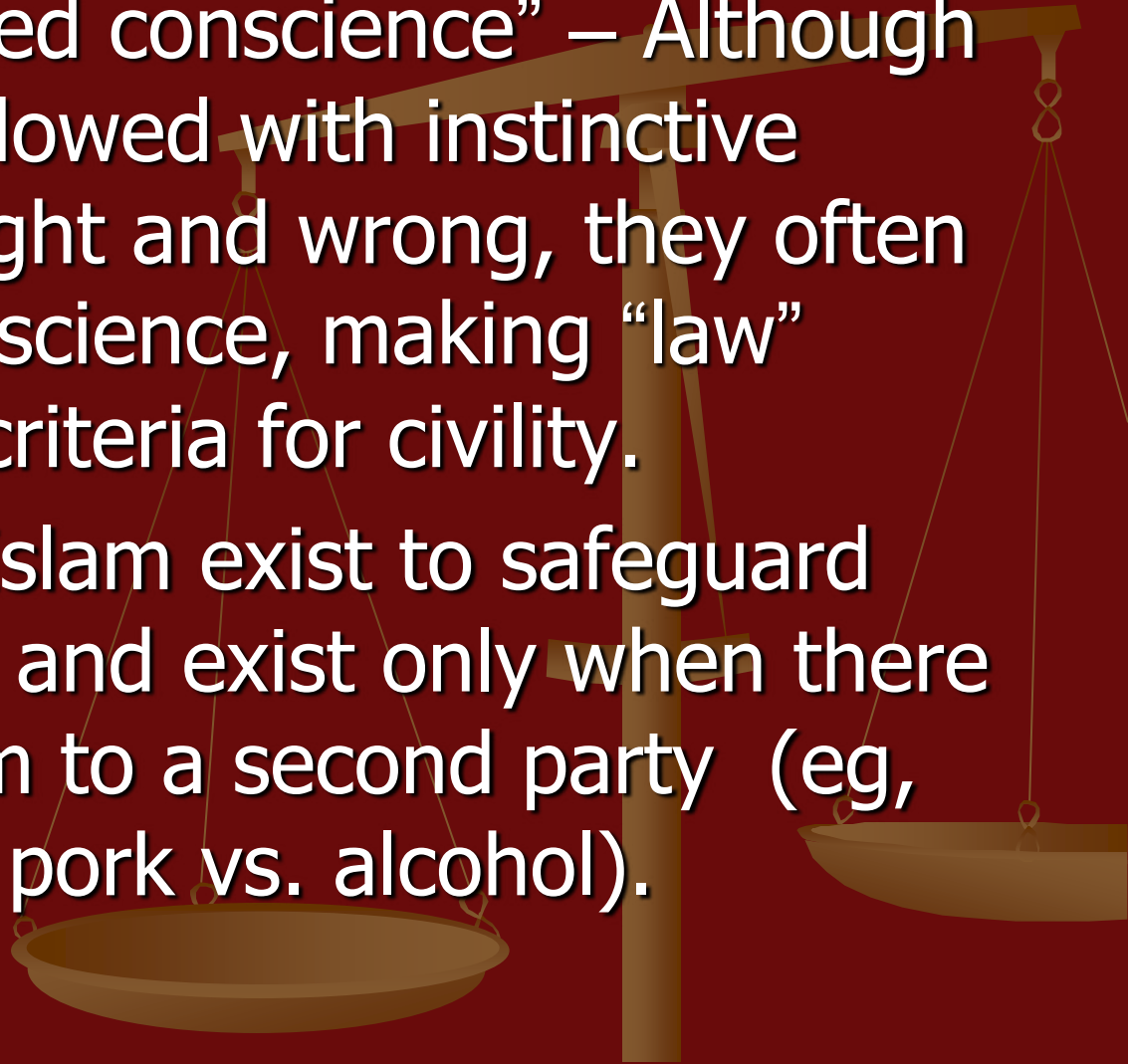
- Individual and communal life is shaped by belief in the One God, who sent His Book (the Quran) for the spiritual, social, physical and economic benefit of mankind. The Quran was inspired to Muhammed, who provided a practical example of the teachings of the Quran in executive, legislative, judicial, social and spiritual spheres of life.

# Islam: Not Just a Religion

- Islam is a holistic approach to life that does not distinguish between the material and the spiritual – both are intertwined and both are important for the well-being of the human.
  - Both private and public interests are important, but when they conflict, then public interests have precedence even if they limit some individual liberties.
- 

# The Purpose of Law & Penalties

- Laws are “codified conscience” – Although humans are endowed with instinctive knowledge of right and wrong, they often ignore their conscience, making “law” important as a criteria for civility.
- Penal codes in Islam exist to safeguard the community, and exist only when there is potential harm to a second party (eg, consumption of pork vs. alcohol).

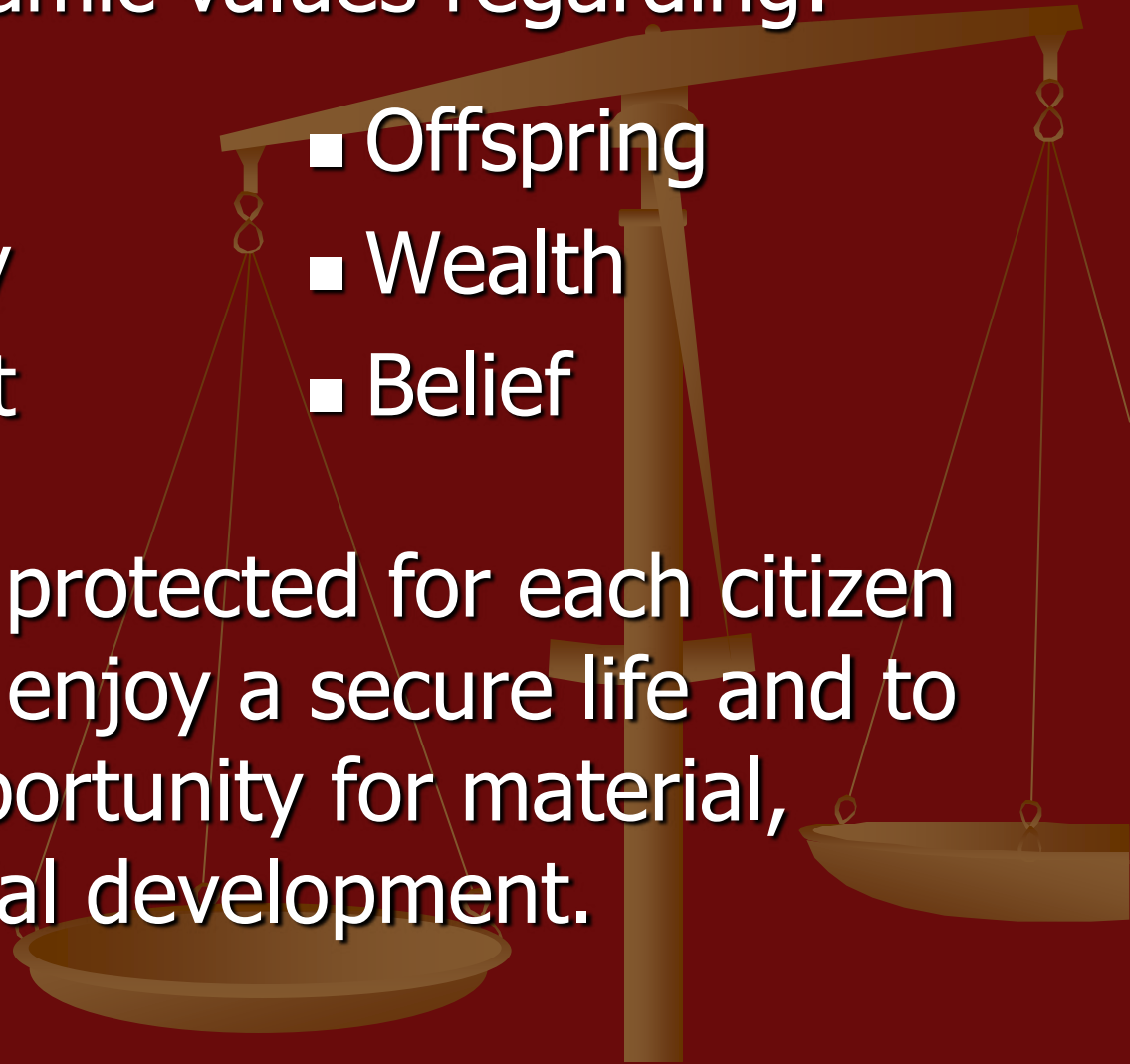


# Goals of Islamic Law

To safeguard Islamic values regarding:

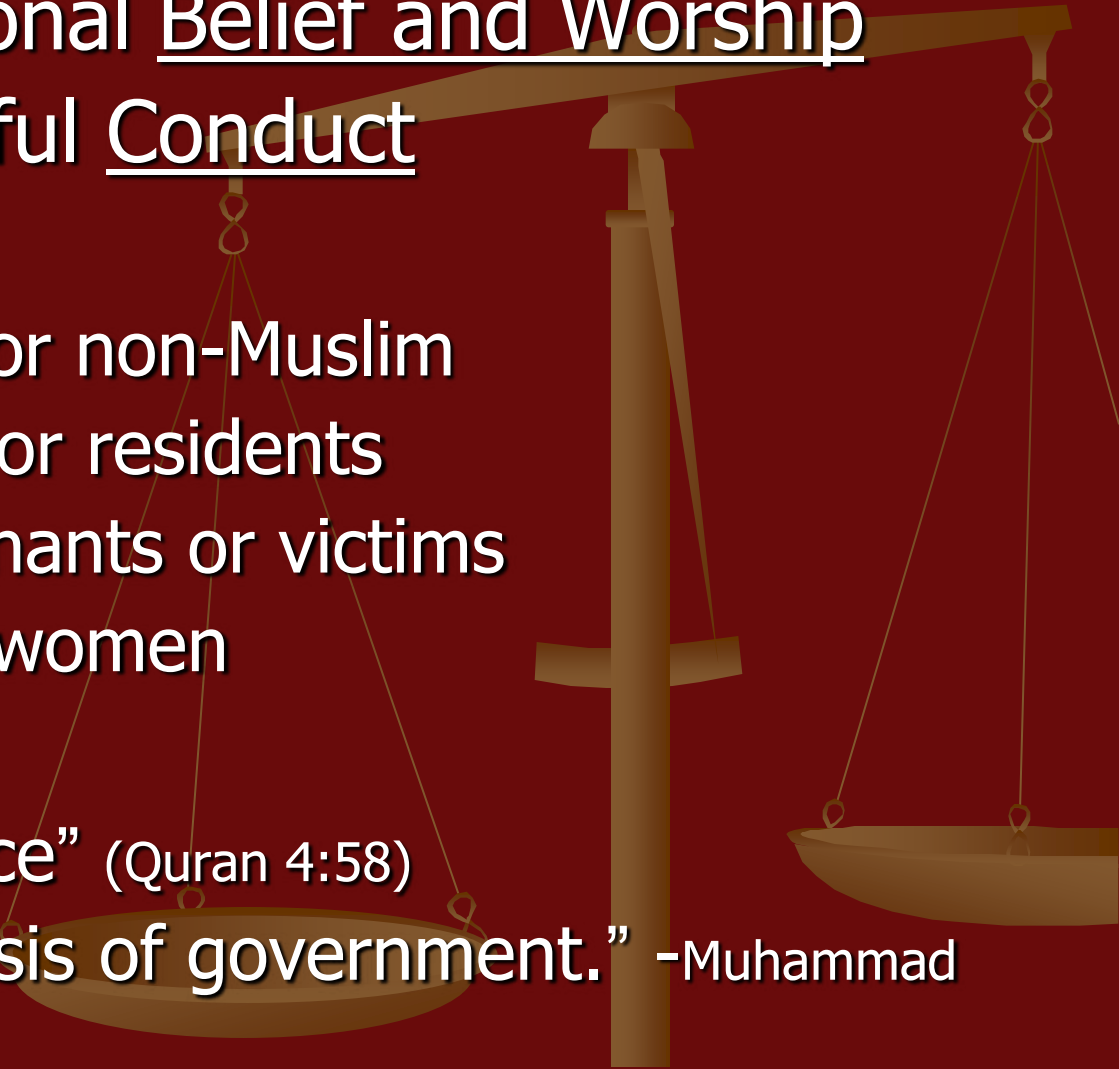
- Life
- Security
- Intellect
- Offspring
- Wealth
- Belief

These rights are protected for each citizen to enable him to enjoy a secure life and to maximize his opportunity for material, spiritual and social development.



# The Bases of Islamic Law

- Freedom of Personal Belief and Worship
- Necessity of Lawful Conduct
- Equality
  - whether Muslim or non-Muslim
  - whether citizens or residents
  - whether complainants or victims
  - whether men or women
- Justice
  - “Judge with justice” (Quran 4:58)
  - “Justice is the basis of government.” –Muhammad



# The Major Crimes

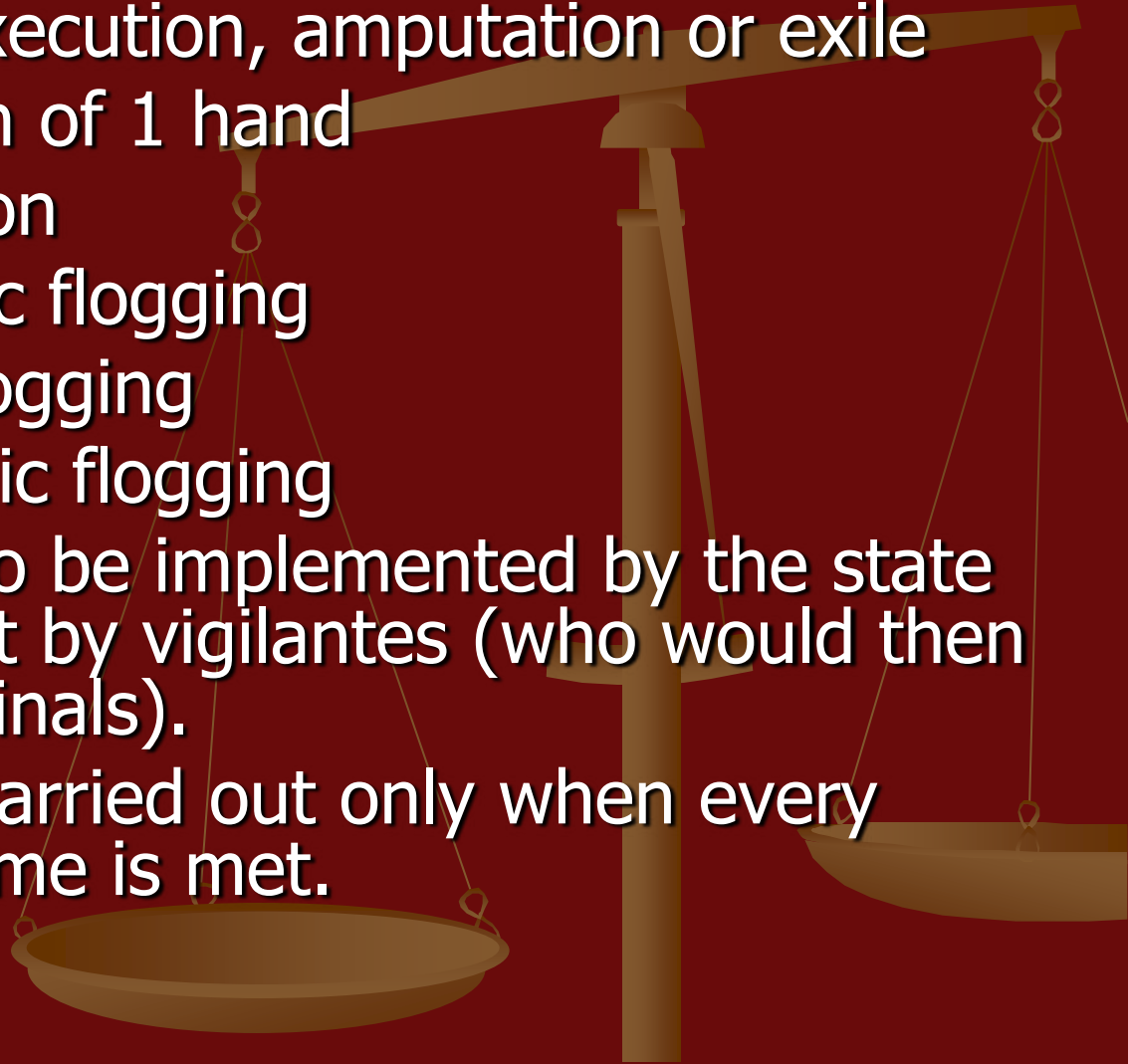
- Murder
- Violent crimes (eg rape, armed robbery)
- Theft
- Adultery and fornication
- Slander (falsely accusing someone of sexual misconduct)
- Intoxication





# The Penalties

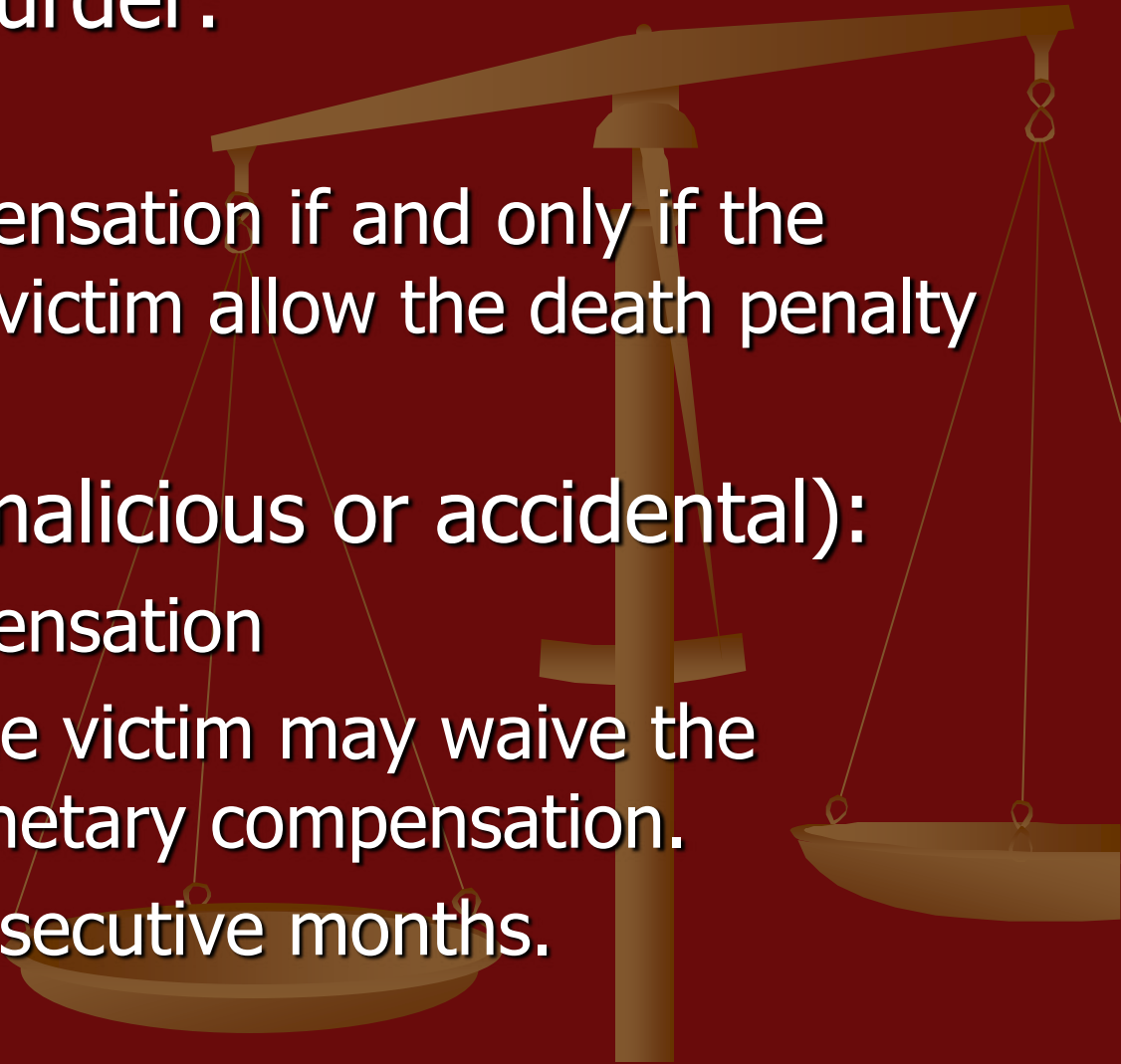
- Murder = execution
- Violent crimes = execution, amputation or exile
- Theft = amputation of 1 hand
- Adultery = execution
- Fornication = public flogging
- Slander = public flogging
- Intoxication = public flogging
- The penalties are to be implemented by the state after a fair trial, not by vigilantes (who would then be considered criminals).
- The penalties are carried out only when every condition of the crime is met.





# The Penalty for Murder

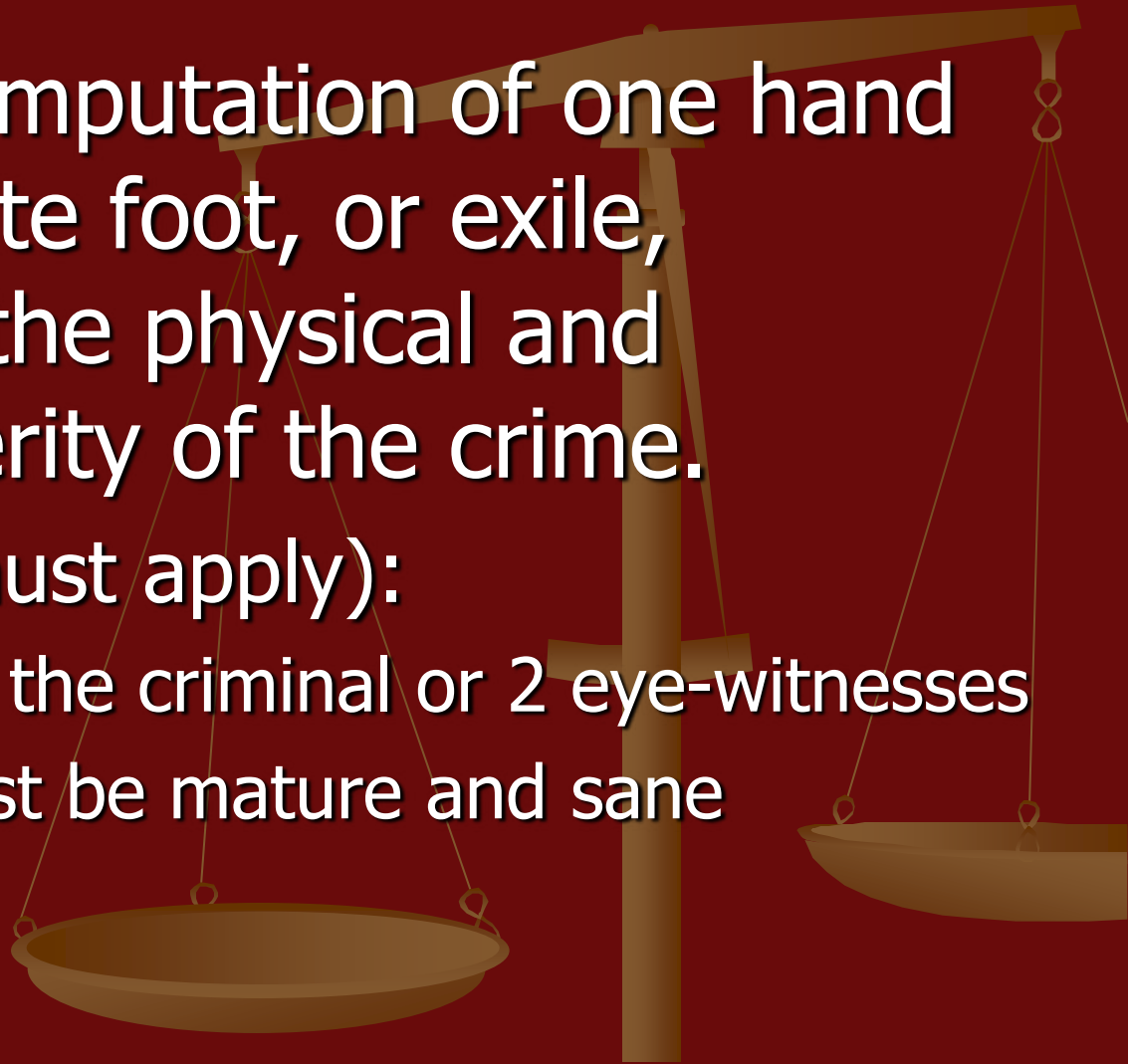
- Premeditated murder:
  - Death penalty
  - Monetary compensation if and only if the relatives of the victim allow the death penalty to be waived.
- Manslaughter (malicious or accidental):
  - Monetary compensation
  - The family of the victim may waive the payment of monetary compensation.
  - Fasting two consecutive months.



# Penalty for Violent Crimes such as Rape and Armed Robbery

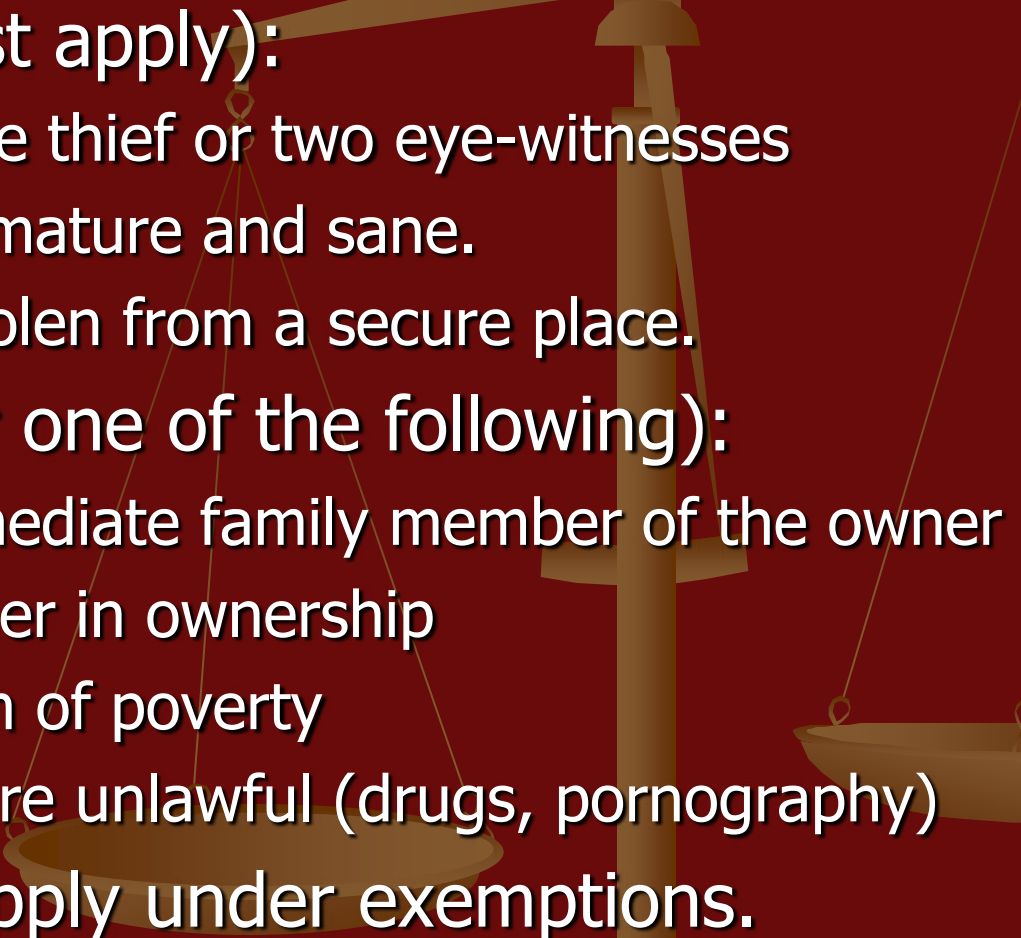
Execution, or amputation of one hand and the opposite foot, or exile, depending on the physical and emotional severity of the crime.

- Conditions (all must apply):
  - Confession from the criminal or 2 eye-witnesses
  - The criminal must be mature and sane



# The Penalty for Theft

Amputation of the hand from the wrist.

- Conditions (all must apply):
    - Confession from the thief or two eye-witnesses
    - The thief must be mature and sane.
    - The goods were stolen from a secure place.
  - Exemptions (under one of the following):
    - The thief is an immediate family member of the owner
    - The thief is a partner in ownership
    - The thief is a victim of poverty
    - The stolen goods are unlawful (drugs, pornography)
  - Lighter penalties apply under exemptions.
- 

# The Penalty for Adultery

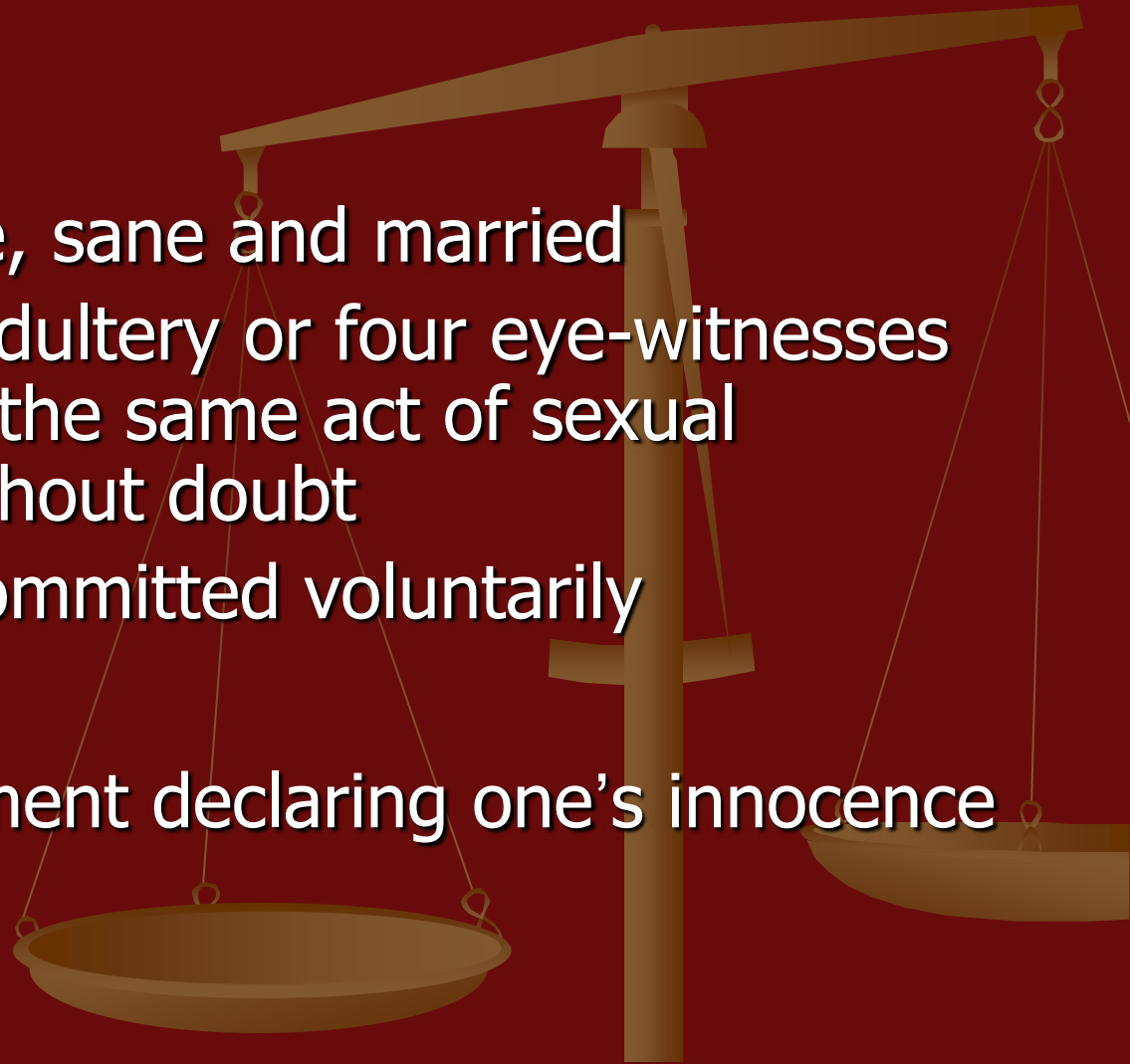
## Stoning to death

### ■ Conditions:

- Must be mature, sane and married
- Confession of adultery or four eye-witnesses who witnessed the same act of sexual intercourse, without doubt
- Adultery was committed voluntarily

### ■ Exemptions:

- A sworn statement declaring one's innocence



# The Penalty for Fornication

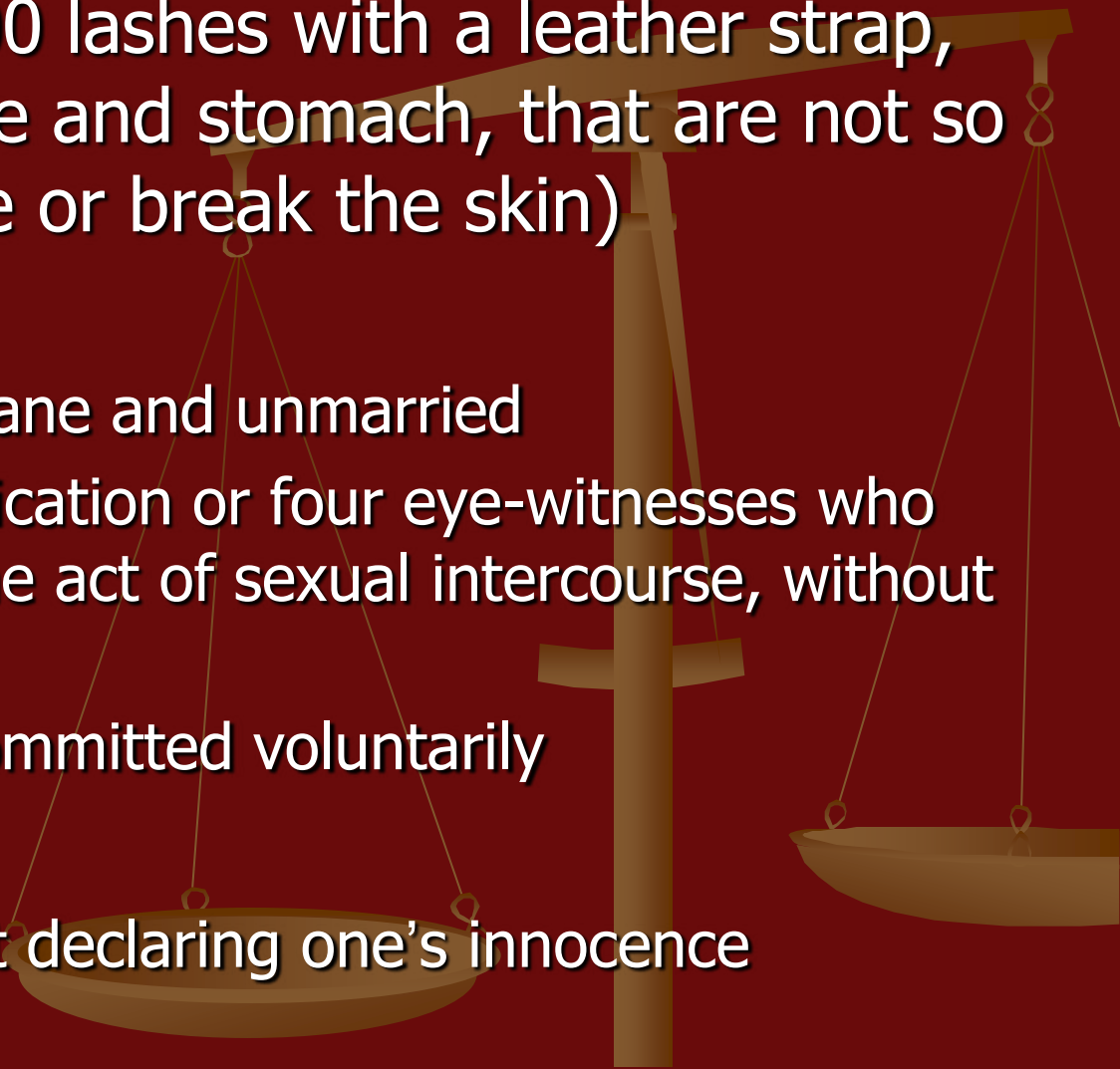
Public flogging (100 lashes with a leather strap, away from the face and stomach, that are not so severe as to bruise or break the skin)

## ■ Conditions:

- Must be mature, sane and unmarried
- Confession of fornication or four eye-witnesses who witnessed the same act of sexual intercourse, without doubt
- Fornication was committed voluntarily

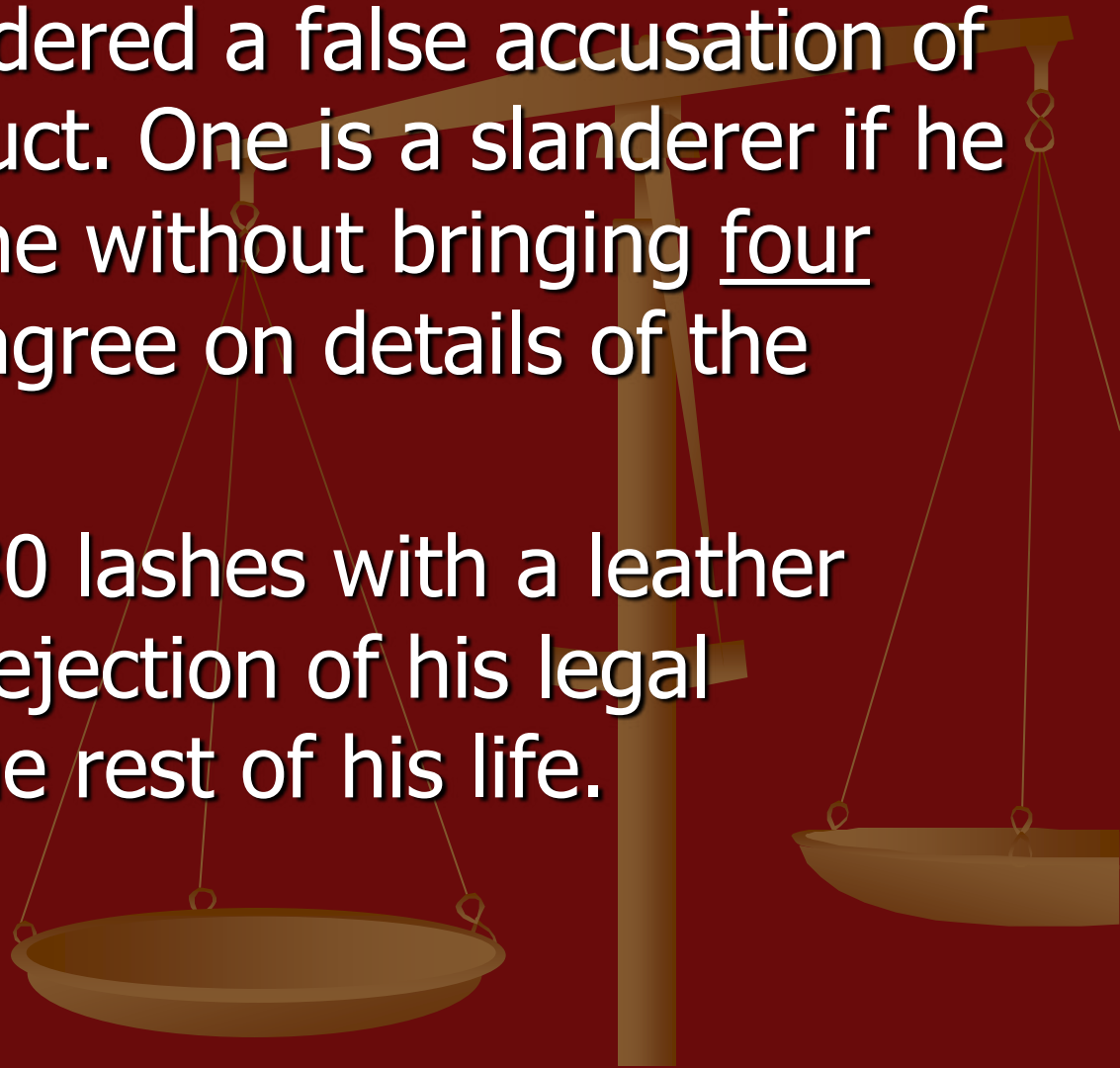
## ■ Exemptions:

- A sworn statement declaring one's innocence



# The Penalty for Slander

- Slander is considered a false accusation of sexual misconduct. One is a slanderer if he accuses someone without bringing four witnesses that agree on details of the same act.
- The penalty is 80 lashes with a leather strap, and the rejection of his legal testimony for the rest of his life.





# The Penalty for Intoxication

Public flogging (80 lashes with a leather strap, away from the face and stomach, that do not bruise or break the skin)

- Conditions:

- Must be mature and sane
- Confession or the testimony of two eye-witnesses
- S/he consumed intoxicants voluntarily

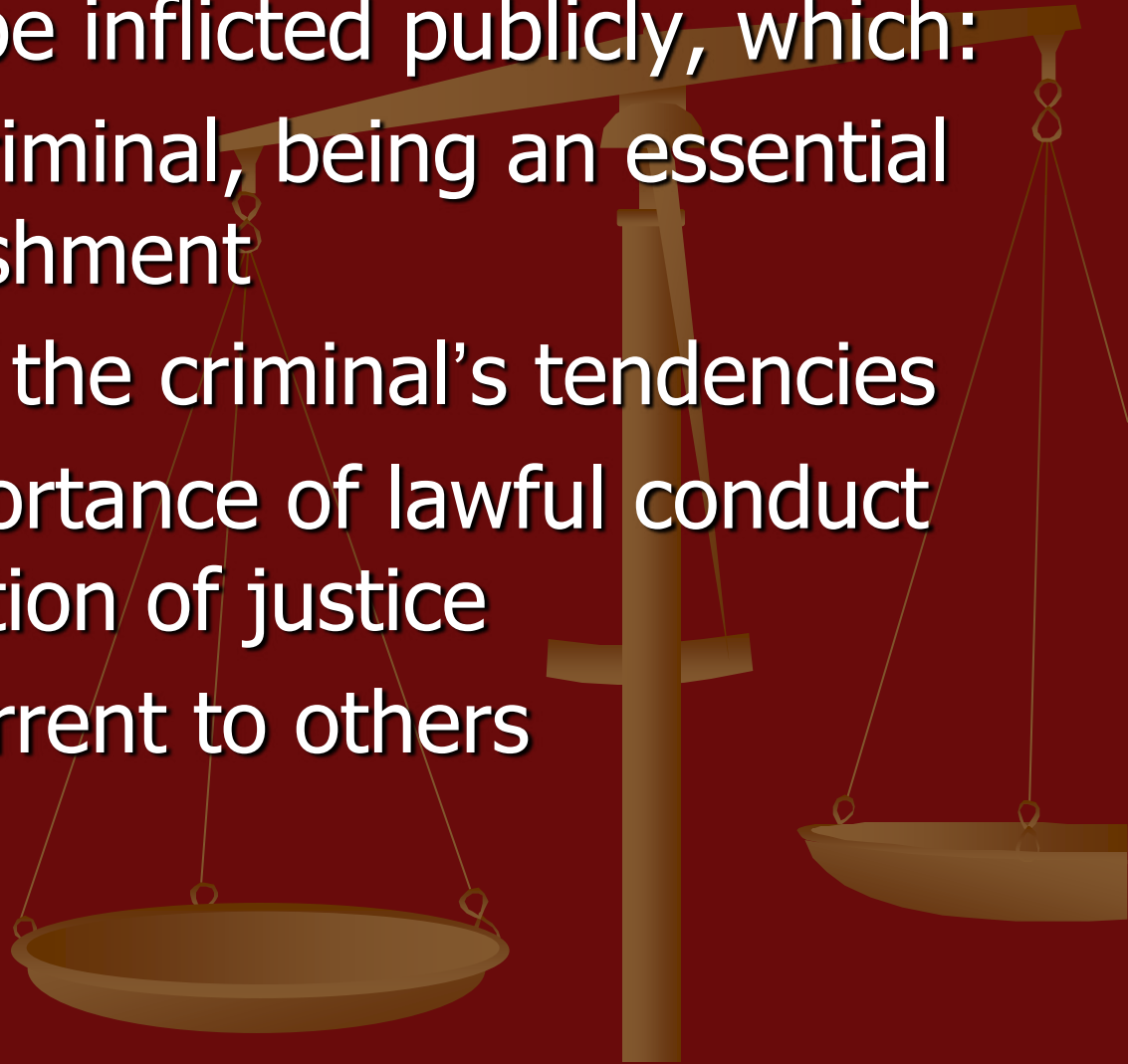
- Punishment is administered publicly when the guilty is conscious, sober and healthy.



# Publicity of Punishments

Penalties should be inflicted publicly, which:

- Humiliate the criminal, being an essential part of his punishment
- Notify others of the criminal's tendencies
- Uphold the importance of lawful conduct and the application of justice
- Serve as a deterrent to others

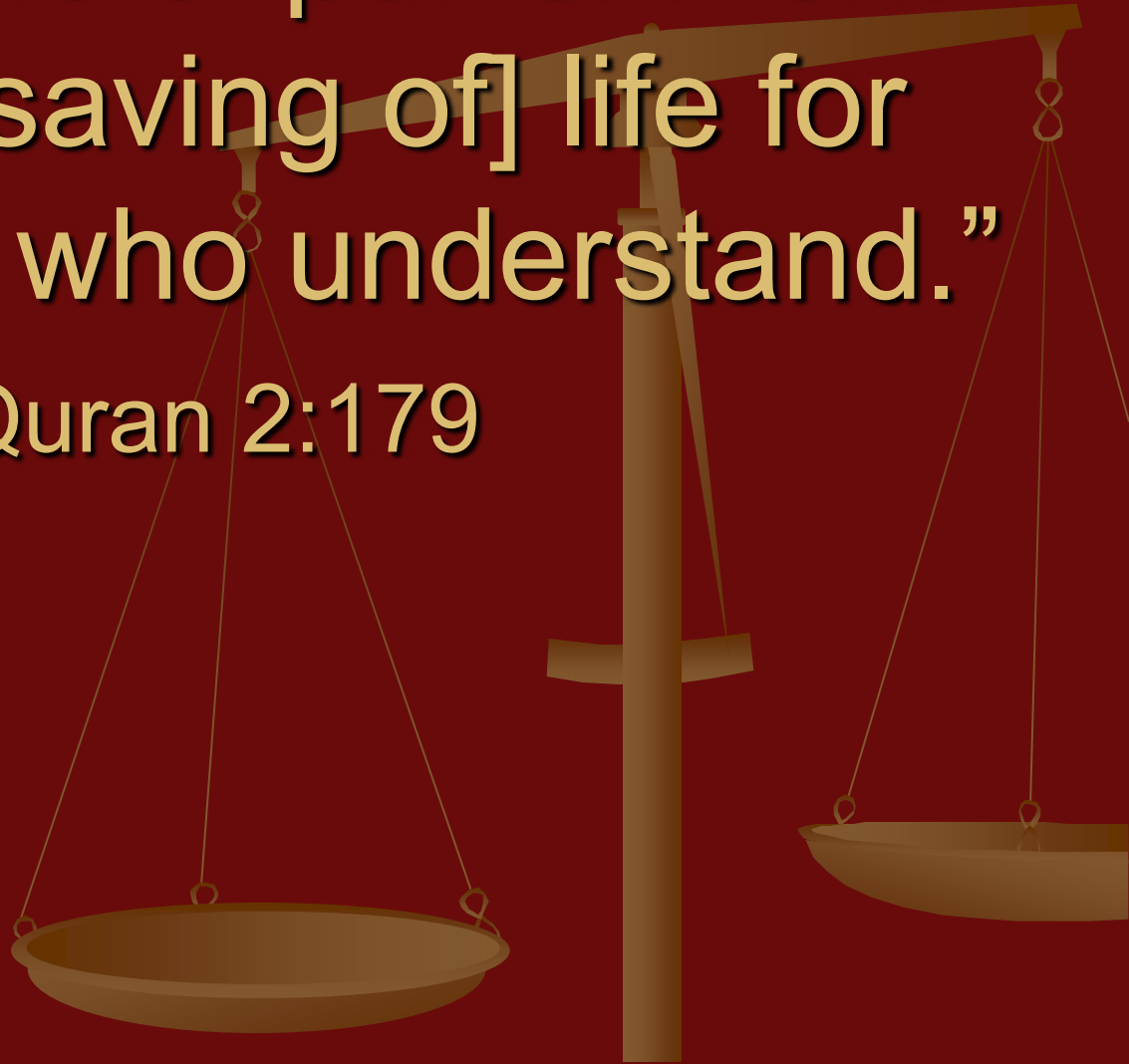


# Avoiding the Application of Penalties

- “Avert the infliction of the prescribed penalties as much as you can, and if there is any doubt, let a man go, for it is better for a judge to make a mistake in forgiving than to make a mistake in punishing.”  
–Muhammad
- For other minor crimes, penalties such as imprisonment, flogging, deportation and fines can be imposed by the state.
- Fines are not a recommended penalty because the rich can pay easily.

“In the laws of punishment  
there is [saving of] life for  
you, o you who understand.”

Quran 2:179



# Penal Codes in Islam

Dr. Teresa Leshner

