

Criminal Laws in the Light of Islamic Criteria: Rereading the Fourth Principle of the Constitution in the Light of the Rules, Expediency and Human Rights

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DOI: 10.22096/HR.2021.523215.1285

[Received Date: 16/01/2021 Acceptance Date :04/04/2021]

Abstract

According to the fourth principle of the Constitution, criminal laws must comply with Islamic criteria. Despite this, the Constitution and other laws do not set standards for compliance with Islamic norms. On the one hand, there is a great deal of disagreement among Shiite jurists regarding the Shari'a punishments, both in principle and in the possibility of executing these punishments, in its conditions, in the number and rulings of the Hodud; On the other hand, according to the Shari'a criteria, none of these views is superior to the other views and, in other words, it is not more religious than the other. In this article, by presenting and criticizing each of the possible conceptions of "compliance with Islamic norms", finally referring to the governing principles and rules, and considering international and domestic interests as a secondary rule, it is concluded that the most limited views should be considered about the Hodud, and filled the vacancies of the punishments with the flexible institution of Taazirat, which is a sharia institution.

Keywords: Fourth Principle; Dar'a Rule; Hodud; Ta'azirat; Secondary Rulings.

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