

## THE NATURE OF THE LEGALITY OF CRIMES OF NECESSITY

### طبيعة الشرعية لجرائم الضرورة

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مؤخرة. أستاذ قسم علوم القرآن والتفسير كلية العلوم الإسلامية الجامعة الإسلامية العالمية للدراسات الشرعية والإنسانية

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### Abstract

The scholars - may God Almighty have mercy on them - have limited the necessities without which there is no life in five faculties in which all the molecules necessary for life fall. A person's life is cut off, and if there is a difference between the nations regarding the preservation of these necessities, it is in the manner of preserving them, not in their origin. The research has been called the nature of legitimacy for crimes of necessity; Because the meaning of necessity is a comprehensive meaning that touches on many matters, and a person must be characterized by reconciliation with himself and with others, and the noble Islamic Sharia has considered that any aggression that occurs against these universals or one of them is considered a crime in the eyes of Sharia that deserves the punishment specified by the Sharia. Islam did not leave the matter in vain, as the Almighty said (كَمْ كُنْتُمْ كَاذِبِينَ) but rather set the limits

And enact the way to know what is beneficial that must be sought and commanded, and what is harmful must be avoided and abstained from. And all of this came through the provisions that God enacted for his servants. As these commands and prohibitions are the sections of the ruling with which the Islamic street addressed the taxpayers. In this research, I dealt with some of the rulings on a number of issues in advance by defining them and explaining their divisions as follows: Definition of governance and its divisions, intention and permission, legal nature of necessity, comparison between Sharia and law in the nature of necessity,

I have interpreted the verses, explained the hadiths, criticism and deduction, and listed the opinions of scholars and tried to explain the most correct one. Using the analytical method, then it showed the teachings to which the verses guide us, which must be applied in dealing with people through the applied approach.

**Keywords:** nature, legality, crimes, necessity.

### ملخص البحث

لقد حصر العلماء - رحمهم الله تعالى - الضرورات التي لا حياة بدونها في كليات خمس تندرج فيها كل الجزئيات اللازمة للحياة، وهذه الضرورات مراعاة في كل الشرائع، والقوانين البشرية، لأن ضرورتها لا تخص أمة دون أمة، بل هي لجميع المخلوقين بمنزلة الهواء الذي إذا فقده الإنسان انقطعت حياته، وإذا كان قد حصل اختلاف بين الأمم في حفظ هذه الضرورات، فإنما هو في كيفية حفظها لا في أصله. وقد سميت البحث بـ **طبيعة الشرعية لجرائم الضرورة**؛ لأن معنى الضرورة معنى شامل يتطرق إلى أمور كثيرة، والإنسان يجب أن يتصف بالإصلاح مع نفسه ومع غيره، هذا ولقد اعتبرت الشريعة الإسلامية الغراء، أن أي اعتداء يقع على هذه الكليات أو على أحدها يعتبر جريمة في نظر الشرع يستحق مقترفها العقاب المحدد من قبل الشرع، ولم يترك الإسلام الأمر سدى، كما قال تعالى: (كَمْ كُنْتُمْ كَاذِبِينَ) بل وضع الحدود. وسن الطريق لمعرفة ما هو مصلحة يجب طلبه، ويأمر به، وما هو مضره يجب اجتنابه والكف عنه. وكل ذلك جاء عن طريق الأحكام التي سنها الله لعباده. حيث إن هذه الأوامر والنواهي هي أقسام الحكم الذي خاطب به الشارع الإسلامي المكلفين. ولقد تناولت في هذا البحث بعضاً من الأحكام في عدد من المسائل مسبقاً بتعريفها وبيان أقسامها كالآتي،  
**تعريف الحكم وأقسامه، العزيمة والرخصة، الطبيعة القانونية للضرورة، المقارنة بين الشريعة والقانون في طبيعة الضرورة.**  
وقد قمت بتفسير الآيات وشرح الأحاديث والنقد والاستنباط وصردهم آراء العلماء ومحاولة بيان الراجح منه. مستخدماً المنهج التحليلي، ثم بينت ما ترشد إليه الآيات من تعاليم يجب العمل بها في التعامل مع الناس من خلال المنهج التطبيقي.  
**الكلمات الافتتاحية: طبيعة، الشرعية، جرائم، الضرورة.**

## INTRODUCTION

The scholars, may God Almighty have mercy on them, have limited the necessities without which there is no life in five faculties in which all the molecules necessary for life are included. His life, and if there was a difference between the nations regarding the preservation of these necessities, it is only in the manner of preserving them, not in its origin. These necessities are: religion, the soul, offspring, the mind, and money, and there are those who say a sixth necessity, which was considered in the heavenly laws, and among nations that preserved a remnant of instinct, which is to preserve honor, and if some peoples had corrupted their nature and did not take care of it, that is not it indicates that it is not a necessity in itself, but the lack of care of these peoples indicates the corruption of their nature. However, many jurists combined it with the necessity of preserving offspring and considered them to be one thing.

And the noble Islamic Sharia has considered that any attack on these colleges or one of them is considered a crime in the eyes of the Sharia, whose perpetrator deserves the punishment specified by the Sharia, and Islam did not leave the matter in vain, as the Almighty said (كَلِمَاتٍ مُّسْتَقَرَّةٍ): but rather set the limits. . And enact the way to know what is a benefit that must be sought and commanded, and what is harmful must be avoided and refrained from. It was His commands and prohibitions. What God Almighty forbade it is a sin any crime. The worldly punishment for him is obligatory if it can be proven and judicial evidence is carried out on it. The Qur'anic and Prophetic orders and the legal prohibitions are what reveal what is required by law and what is forbidden by law, and it is what contains within it a statement of the crime through an Islamic perspective determined by the law of heaven that was revealed to Muhammad bin Abdullah, may God's prayers and peace be upon him. Accordingly, Islamic legislation in most of its concept is called and is intended by Islamic jurisprudence, and according to the expression of one of the jurists that: that is, legislation is the same jurisprudence and the concept of each of them does not differ from the other. Detailed". God Almighty has created a comprehensive heavenly law for people to abide by its provisions and be held accountable for violating it, and God Almighty, the Almighty, did not leave an action without a ruling, whether this action was beneficial or harmful, and he obligated people to perform beneficial actions and refrain from harmful actions, and that these provisions included everything and dealt with All the places dealt with by man-made laws, and even more than them. Islamic Sharia deals with all human actions in all aspects of his activity, and defines the limits, and establishes them on the basis of justice and equality. Among the legal rulings is what is discussed in worship, and some of them are research in transactions on the widest scale, whether these transactions are related to family affairs, crimes, punishments, or anything else that is in the interest of man and keeps harmful things away from him. However, Islamic jurisprudence included all the branches of man-made laws that we know nowadays from different branches and added to them, because Islamic legislation tends to reform its rulings in two aspects: the relationship of the slave to his Lord, and his relationship with his fellow human being, and in other words it aims to reform the soul and soul of man with the intention of fix his actions. And all of this came through the provisions that God enacted for his servants. As these commands and prohibitions are the sections of the ruling with which the Islamic street addressed the taxpayers.

### Definition of judgment and its divisions:

Judgment in Islamic law is divided into two parts, mandated rule, and man-made rule. As for the mandated ruling, it is: "God Almighty's speech related to the actions of those who are assigned as a matter of necessity or choice." The ruling is the language of attributing one thing to another either positively or negatively, and the legal ruling: is the speech of God Almighty, and the discourse is directing speech towards others for understanding, or it is the speech intended to be understood by the one who is prepared to understand so that he can hear it and be able to bring it and implement it. The Almighty directs what has been reported to the listener or those in his judgment, and as for His saying in the definition, which is related to the actions of the entrusted, beware of it that is related to His Noble Essence, such as the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقْوَاهُ): and related to inanimate objects such as the Almighty's saying: From God Almighty, however, it is not a ruling, as it is not related to the actions of those who are accountable by necessity or choice. And the requirement is the request and it is divided into a request to do and a request to leave, and the request for the action if it is firm, then it is obligatory, and if it is not decisive, then it is recommended, and the request to leave, if it is firm, then it is forbidden, and if it is not decisive, then it is makrooh, and as for the choice, it is permissibility, so the five provisions entered into these two The two terms for that are the five mandated rulings: the obligatory, the recommended, the forbidden, what is makrooh, and what is permissible. And there are jurists who include permission and determination in the mandated ruling, because what is required is to move what is the subject of the prohibition to the permissible, or what is required on the basis of inevitability and necessity to the permissible abandonment within a known period, it is a door between moving from a mandated ruling to another, because Mandatory Shari'a rulings demanded those who are charged with actions, and demanded them to desist from others, and it may expose the taxpayer to what makes the assignment difficult and unbearable, or it can only be performed with extraordinary hardship. But it is possible to perform it in a sentence, so God Almighty permits the one who is obligated to leave the action that the legislator demands, such as the sick person in Ramadan is permitted to break his fast on the condition that he spends it on several other days. And the one who is in charge of the assignment is the duty, and the person must abide by it, such as the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ): so establish the act of an order, and the command is definitely obligatory. Therefore, performing the prayer is obligatory and the one who neglects it is punished, because he left something known from the religion by necessity and the forbidden, which is what the one who does it is condemned by Sharia. Like the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْرَبُوا زِينَةَ الَّذِينَ هُمْ يَكْفُرُونَ): and the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْرَبُوا زِينَةَ الَّذِينَ هُمْ يَكْفُرُونَ): The first, and in the second verse, it is forbidden to simply approach adultery, and that the cause of the absolute prohibition is the obligation to finish and stay away from what God has forbidden and forbidden. And the third section of the mandate It is the choice, and its meaning: the taxpayer has the

choice between doing and leaving, as this does not result in leaving an order or a prohibited act. An example of this is: the Almighty's saying (لَا تَجِدُ فِيهَا مَسْجِدًا مِّنْ قَبْلِهَا وَلَا مَسْجِدًا مِّنْ بَعْدِهَا وَلَا مَسْجِدًا مِّنْ قَبْلِهَا وَلَا مَسْجِدًا مِّنْ بَعْدِهَا) :and the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَجِدُوا فِيهَا غَوْلًا) :These matters benefit from the ruling that it is permissible for a person to do or leave it, and there is no penalty or punishment for that. This is the first section of the ruling, which is mandated ruling.

As for the second part of the ruling, which is the positive ruling, it is: "What necessitates making a thing a cause, a condition for it, or an impediment to it." This ruling is called man-made, because it requires setting up reasons for causes, such as making adultery a reason for the lashing of the adulterer in the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَجِدُوا فِيهَا غَوْلًا) :and God's saying: God Almighty has made theft a reason for amputating the hand, and this is a legal ruling because it is learned from the Shari'a in that theft does not necessitate the punishment itself, but rather by making the Shari'a, it is a causal ruling.

This and the reason in the language: what can be reached to a purpose, and from it the rope is called a reason and the path is a reason, because of the possibility of reaching the intended purpose, and its application in the terminology of the legislators to some of its names in the language. As for the terminology of the fundamentalists: "It is every apparent and disciplined description that indicates the legal evidence that it is a definition of a legal ruling".

As for the second type of positive judgment, it is the condition: "And it is the one who necessitates non-existence, and its existence does not necessitate existence or non-existence." Or what its absence includes a wisdom that necessitates the opposite of the rule of the cause while the wisdom of the cause remains, it is the condition of the judgment, and the legal judgment in that is only the Lawgiver's judgment on the description as a preventer or a condition and not the same as the condemned. An example of this is the Almighty's saying (يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَجِدُوا فِيهَا غَوْلًا) :In this noble verse, God Almighty requires that they bring four witnesses who testify to the truthfulness of their statement in what they accused Aisha, daughter of Abi Bakr al-Siddiq - may God be pleased with all of them - in the incident of falsehood that you threw. And they deserve punishment for this village.

The third type: is that the ruling is an impediment, which is divided into the impediment of the ruling and the impediment of the cause. As for the impediment to the ruling: "It is every apparent and disciplined existential description that necessitates a wisdom, which requires the existence of the antithesis of the rule of the cause while the rule of the cause remains." An example of this is paternity that prevents the flow of retribution between the father and his son, in application of the hadith of the Messenger, may God bless him and grant him peace, "A father is not led by his son." No inheritance for the murderer, as stated in the hadith of the Prophet, may God bless him and grant him peace: "There is no inheritance for the murderer." As for the impediment to the cause, it is: "Every description that violates the wisdom of reason for sure is like religion in the chapter on zakat with the possession of the quorum." However, there is a group of fundamentalists who include intention and permission in the categories of positive governance and divide it into five sections.

As it has been proven by induction, that the positive judgment either requires making something a reason for something, or a condition, or an impediment, or a justification for a license instead of intention, or it is correct or incorrect. He began to list the sections of positive governance until he said: "The fourth chapter is on the will and the license." Whether determination and permission are from the sections of the mandated rule, or they are from the sections of the positive rule, it is important for us to stand on the truth and the nature of each of them in order to know the location and location of the crimes of necessity in the pure Islamic jurisprudence.

### Intent and Permission

Imam Al-Ghazali - may God have mercy on him - says in Al-Mustafa: "Know that determination is a definite intent." God Almighty said (فَإِن تَابَ) :that is, an eloquent intention, and He named some of the Messengers the men of determination to confirm their intention in seeking the truth. As for determination in the tongue of the Shariah: "It is an expression of what obligated the servants to obligate God Almighty." As for the license in the tongue, it is about ease and ease. It is said that the price is cheap if it decreases and it is easy to buy, and in the Shariah: "It is an expression of what the taxpayer was able to do for an excuse and was unable to do it with the presence of the forbidden cause." This mitigation, or it is what is legislated for a difficult excuse in special cases, or it is the permissibility of the prohibited with evidence along with the evidence of prohibition." The license is also defined by their saying: "What was legislated because of a justification for the failure of the original ruling." Accordingly, the determination is a general ruling that is the original ruling, and it includes As for the license, it is not the original ruling, but rather it is a ruling that came to prevent the continuation of the obligation in the original ruling, and in most cases it transfers the ruling from the level of necessity to the level of permissibility, and it may transfer it to the level of obligatory, thus the original ruling falls completely and this and the license There are many reasons: one of them is necessity, such as one who is in a distressed state and fears death for himself, and finds nothing to eat except the dead carcass, then he is entitled to eat it, rather he has to eat it. Imam Al-Ghazali says: "...But it is called Tanaw For the dead is a license and the fall of the Ramadan fast for the traveler is a license. On the whole, this name is used in fact and metaphorically, for the truth is in the highest rank, such as the permissibility of uttering the word blasphemy due to coercion, as well as the permissibility of drinking wine, and destroying the money of others due to coercion and starvation and snoring with a morsel that is only acceptable to the wine that is with it. And as for the metaphor that is far from the truth, you call it what has been lowered







then there is no point in punishment because the defendant was surrounded by exceptional circumstances that prompted him to act. This is a complete depiction of the impediments to punishment.

Some also argue that necessity is considered a form of moral coercion, so whoever is in a state of necessity is coerced into the act that saves him from it. This opinion is criticized, for whoever is in a state of necessity, a person does not engage in violence, neither on his body nor on himself, in order to push him to commit the crime, as it is his action not only from a material point of view, but from a psychological point of view as well. The state of necessity is not imposed on whoever is in it. A specific act, but he must imagine a way to get rid of it, and choose the action that he deems to be the way to get rid of the danger that threatens him. Moreover, this opinion is incorrect when the one who is threatened with danger is a person other than the one who committed the act, such as the doctor who kills the fetus in order to save the mother in a difficult birth, because It is not true that the doctor is subject to coercion, and among the jurists who consider necessity a reason for permissibility in some cases, and an impediment to liability in other cases, and in this regard, Dr. In which the act of necessity is committed in order to ward off a grave danger that threatens the soul of others, not the soul of the perpetrator, because the commission of the crime was not the result of an influence on the will. or equal in value. The result of this is that necessity in his doctrine does not have a single nature, but rather it is an impediment to liability in some of its forms and a reason for its permissibility in others.” Contemporary legislation includes what defines the nature of necessity by explicit text, and some of them suffice to explain its ruling and stipulate its conditions. The point is that the dispute is in the legal nature. Necessity is nothing but a branch of the dispute in its basis and cause. The different opinions that were expressed to justify exemption from responsibility in the event of necessity revolve from the legal point of view around two doctrines: a doctrine that searches for the reason for the exemption in the person of the offender, and a doctrine that searches for its reason in the act committed under the pressure of necessity.

First: According to the first doctrine, an act committed under the pressure of necessity is considered a crime, even if the perpetrator is not punished. Based on this, necessity is one of the obstacles to responsibility, and the owners of this doctrine differed in its justification.

Some of them refer to coercion on the grounds that whoever commits the crime under the rule of necessity is in fact coerced to commit it, although he retains a measure of his choice, but this amount is small and does not count because his field of choice is greatly narrowed, and he is unable to Facing necessity, except for extraordinary people, and these cannot be measured against.

And this opinion is defective - as previously - that it is not suitable for justifying the exemption except in some form of necessity, which is the one in which the meaning of coercion is realized, according to the above, and it is not suitable for other forms in which the offender is abstract from all the meanings of oppression.

And some of them base the justification of the exemption on the uselessness of punishing the one who commits the crime under the rule of necessity, because whoever commits a crime in such circumstances is not bad and deserves to be blamed, and the punishment will not achieve the desired goal in his person, as he is not in need of reform, and there is no benefit from Reprimand him because whoever is in such circumstances, you will not be reprimanded e penalty.

Second: According to the second doctrine, the committed act is not considered a crime, as it is not subject to the penal code because necessities allow prohibitions. Moreover, the state of necessity is based on the sacrifice of one right in order to preserve another right. If the sacrificed right is not the preserved right, then its sacrifice is obligatory, because the public interest requires the prevention of more severe harm with what is lighter. Maintaining one can only be done by sacrificing the other, for this reason this act does not matter to the social body and the law does not interfere with it. This doctrine is based on the differentiation between rights. This opinion issues the state of necessity as “an impediment to punishment.” And as we said, there are scholars who consider necessity a reason for permissibility, and some of them consider it a reason for permissibility in some cases and an impediment to punishment in some cases, or a permissible reason in some cases and an impediment to responsibility in other cases. And some of them see it as a reason for exemption from criminal responsibility, because an ordinary man would, if found in that case, commit the crime in order to ward off serious harm for himself or the soul of others. Impediments to responsibility, as they raise responsibility and do not permit the act, and the text of Article 61 of the Egyptian Penal Code is explicit in this sense by saying: “There is no punishment for a person who commits a crime that I have resorted to committing by the necessity of protecting himself or others from a grave danger to the self that is about to fall into him or someone else, and he was not Because of his will, he entered into his solutions, and he is not in his power to prevent him in any other way.” For this reason, it was said that the reason for the exemption is the compulsion in which the offender is, and it is an explanation that is consistent with some of its forms, and it is moral coercion in its special meaning and the urgent necessity in which the meaning of coercion is realized, but it is not correct in other forms in which there is no meaning of the meanings of coercion. It is more appropriate to say, in such cases, that the reason for the exemption is the social interest that is expected from the exemption and the absence of the benefit from punishment, because whoever commits a crime in such circumstances does not deserve to be blamed, and it is not a reason for its permissibility, because the texts of the Civil Code are clear-cut, However, the Egyptian legal system does not consider necessity a reason for permissibility. Article 168 of the aforementioned law states that whoever causes harm to others in order to avoid greater harm to him or to



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- ( )Dr. Abdul-Khaleq Al-Nawawi in Criminal Legislation in the Islamic Sharia and Positive Law, p. 17.
- ( )Al-Ahkam fi Usul Al-Ahkam by Al-Amdi Al-Maaref Press in 1914 AD, volume 1, p. 135, and waving at the clarification of the text of the revision of Ubaid Allah bin Masoud, famous for the publication of the Sharia, Muhammad Ali Sobeih Press, volume 1, p. 13, and al-Kamal bin al-Hamam in Editing Fi Usul al-Fiqh edition of al-Halabi p. 215 and the summary of Ibn al-Hajib al-Maliki and the footnote Saad al-Din al-Taftazani, volume 1, p. 222, first edition.
- ( )Verse No. 18 Surat Al Imran.
- ( )Verse 47 of Surat Al-Kahf.
- ( )Judge Al-Baydawi in Sharh Al-Badakhshi, Volume 1, p. 33.
- ( )Sheikh Muhammad Abu Zahra in Usul al-Fiqh - Committed to Printing and Publishing Dar al-Fikr al-Arabi, p. 50.
- ( )The obligatory is synonymous with the purpose according to the majority of jurists, and they define it as: He is the one who, according to Sharia, condemns the one who abandons it, insofar as he left it intentionally, i.e. without an excuse. Contrasted with the majority of the tap, because they differentiate between the obligation and the duty. The obligation according to them is: what is proven by definitive evidence and there is no doubt in it from the evidence, and that is like reciting in prayer that is established in the Book. As for what is obligatory for them, it is what has been proven with evidence of my suspicion in which there is some doubt, and that is like the odd odd number that is confirmed by the news of the one. The loan and the duty are different according to the Hanafi school, and they are among the sections of the mandated ruling. See the explanation of Al-Badakhshi by Judge Al-Baidawi - previous reference, volume 1, p. 43.
- ( )From verse 78 of Surat Al-Hajj.
- ( )Kashf al-Asrar, Sharh al-Musannaf Ali al-Manar, by Imam Abu al-Barakat Abdullah al-Nasfi, with a footnote to al-Allamah Muhammad ibn Abd al-Halim al-Laknawi, first edition - al-Kubra Press in Bulaq, volume 1, p. 97.
- ( )Al-Qadi Al-Baydawi in Sharh Al-Badakhshi and with him Sharh Al-Assani, Volume 1, p. 47.
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- ( )Verse No. 32 Surat Al-Isra.
- ( )Verse 187 Surat Al-Baqarah.
- ( )Verse No. 2 Surat Al-Ma'idah.
- ( )Verse No. 2 Surat An-Nur.
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- ( )Narrated by Ahmad, Al-Tirmidhi and Ibn Majah and authenticated by Ibn Al-Jarud on the authority of Omar bin Al-Khattab. See Subul Al-Salam by Al-Sanani, Volume 3, p. 86.
- ( )Narrated by Malik in Al-Muwatta, Ahmad and Ibn Majah. Neil Al-Awtar by Al-Shawkani, Volume 6, p. 84.
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- ( )Al-Mustafa fi Ilm Al-Osoul by Al-Ghazali, Volume 1, p. 98.
- ( )Verse No. 115 of Surat Taha.
- ( )Al-Mustafa Al-Ghazali - previous reference.
- ( )Sheikh Abdul Wahhab Khallaf - the previous reference, p. 121 edition of the year 1406 AH in the year 1986 AD.
- ( )It was also defined as: "The permissibility of the prohibited while standing up for the one who is prohibited." See: Dr. Abdul Aziz Abdul Rahman Al-Saeed in: Ibn Qudamah and his Fundamental Effects - Third Edition in 1403 AH in 1983 AD, p. 60.
- ( )Sheikh Muhammad Abu Zahra in Usul al-Fiqh, p. 51.
- ( )Sheikh Abd al-Wahhab Khalaf fi Usul al-Fiqh, p. 123.
- ( )Al-Mustafa fi Ilm Al-Osoul by Al-Ghazali, Volume 1, p. 98.
- ( )Previous reference p. 89.
- ( )Verse No. 106 of Surat An-Nahl.
- ( )Abbreviation of Ibn Kathir's Interpretation - Abbreviation of Muhammad Ali al-Sabouni - House of the Noble Qur'an - Beirut, Volume 2, p. 348.
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- ( )From verse 3 of Surat Al-Ma'idah.
- ( )From verse 195 of Surat Al-Baqarah.
- ( )Verse 29 of Surat An-Nisa.
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- ( )Sheikh Abdul Wahhab Khallaf, previous reference, p. 123.
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- ( )The late Abdul Qadir Odeh in Islamic criminal legislation compared to positive law, Volume 1, p. 116, Al-Resala Foundation.
- ( )Professor Abdul Hamid Badawi, and Dr. Raouf Obeid in the principles of the general section of the Egyptian penal legislation edition of 1963 AD edition The first pg. 529, as well as Professor Ibrahim Zaki Aknoukh in the case of necessity in the Penal Code 1969 edition, p. 113 and beyond. Permissible reason means "to remove the description of the crime from a behavior. Although this description applies to it; and it is an endorsement by the criminal law of a rule in a non-criminal law that discriminates and authorizes that behavior".
- ( )Dr. Ramses Bahnam in the General Theory of Criminal Law, p. 909.
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- ( )The impediments to responsibility mean: "the occurrence of a full-fledged crime without the perpetrator's punishment, due to the deprivation of the offender of his awareness or freedom of choice" or "they are the reasons that make a person lose his ability to distinguish" and make him unfit to bear criminal responsibility, such as young age - insanity - Sugar. It is supported by this adaptation d. Mahmoud Najib Hosni in the General Section of the Penal Code, pg. 986, footnote (1.(
- ( )By impediments to punishment, he means: "the occurrence of a crime with complete elements without punishing its perpetrator, and that is because the author of the law believes that lifting the punishment is more important than inflicting it. And it is the widest range of the barriers to responsibility. The punishment is lifted despite the availability of awareness and freedom of choice." Awad Muhammad, previous reference, p. 502.
- ( )By impediments to punishment, he means: "the occurrence of a crime with complete elements without punishing its perpetrator, and that is because the author of the law believes that lifting the punishment is more important than inflicting it. And it is the widest range of the barriers to responsibility. The punishment is lifted despite the availability of awareness and freedom of choice." Awad Muhammad, previous reference, p. 502.
- ( )Dr. Mahmoud Najib Hosni in Explanation of the Penal Code, General Section, Pg. 586, footnote (1.(
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- ( )See both Dr. Al-Saeed Mustafa Al-Saeed in the General Provisions of the Penal Code p. 419, d. Awad Muhammad in the Penal Code p. 502.
- ( )Verse 29 Surat An-Nisa.
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- [25]. Dr. Ramses Bahnam in the General Theory of Criminal Law, p. 909.
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