

Ways of Respecting Human Dignity in Islamic Law

Sorayya Muniri,¹ Mohammad Reza Kazimi Golvardi²

Received: 01-01-2017 / Accepted: 20-02-2017

Qur'anic verses and hadiths certify that Allah has bestowed dignity upon mankind. Therefore, man essentially deserves respect. Islamic law has primarily made use of two ways to safeguard human dignity. First, there are prohibitions in Islamic law that safeguard man's dignity. Second, the penal laws of Islam restrict punishments to those cases where they are absolutely necessary. In this article, we will briefly examine these two ways.

Keywords: human dignity, Islamic law, penal law, prohibitions.

Introduction

Today, various schools of thought and international organizations advocate the respect of mankind and human rights. On the other hand, currently, a world-wide ideological assault upon Islam is being conducted, and this religion is being portrayed as a religion that encroaches upon human rights. This is leading to the misconception that Islam does not respect human dignity. In the context of such an

1. Lecturer, Islamic Azad University, Hashtrood Branch, Iran (sorayyamoniri12@gmail.com), corresponding author.

2. Assistant Professor, Islamic Azad University, Mashhad Branch, Iran (mr_kazemigolvardi@yahoo.com).

ideological attack, the following question may be asked: how does Islam preserve human dignity?

Actually, there is not a lot of literature on this subject. Nevertheless, a few writers have preoccupied themselves with it. A text that discusses human dignity is Ayatollah Javadi Amuli's *Karamat dar Qur'an (Dignity in the Qur'an)*. This book emphasizes a mystical interpretation of dignity. Another one is Dr. Ismail Rahiminijaad's *Karamat-i insan dar ahkam-i kayfari (The Nobility of Man as Manifested in the Punishments of Islamic Law)*, in which some positive laws receive critical appraisal. A considerable number of papers have also discussed this topic of human dignity from the perspective of the Qur'an and hadiths. Also, the proceedings of a conference on Imam Khomeini and the realm of religion contains some valuable information on this subject. However, the present study is an analytical-cum-descriptive study that shows in detail the ways in which Islam values and focuses on human dignity. The question arises regarding the ways that Islam has safeguarded human dignity. Keeping this question in mind, some Muslim scholars have studied the various ways in which Islam respects human dignity. However, it has seldom been the case that a single work studied all of the ways that Islam has respected human dignity—a void the present work tries to fill.

The Meaning of *Karamah* (Dignity)

Arab lexicographers provide various definitions for this word, a few of which we will point to hereunder. Sometimes they say that it denotes the honor and respect that lies in the essence of the entity concerned. In his book *al-Tahqiq*, Mustafawi puts it thus: "*Karamah* (dignity) is the opposite of *hawan* (meanness), in the same way that *'izzah* (honor) is the opposite of *dhillah* (baseness) Hence, *karamah* signifies the essential sublimity of an entity. So, *karamah* is far from *isti'la'* (regarding oneself superior to others). Therefore, characteristics such as generosity, forgiveness, and honor are just

some markers of dignity” (Mustafawi 1360 Sh, 46-47). In other words, dignity entails being free from meanness and baseness; therefore, one who has dignity is the one who is absolutely free from any meanness. Hence, karamah is a lofty ethical and spiritual value. In this regard, Javadi Amuli regards dignity as an essential trait. It is not as a relative quality attributable to a person only in comparison to someone else (Javadi Amuli 1366 Sh, 21-22). Rather, a person possesses karamah even if no other human being exists. However, generosity is a relative quality, since a person is generous when he gives to others. This is because a person may be destitute but dignified. Based on the aforementioned discussion, karamah pertains to the kind of value and status that all people have due to the effect of the divine Spirit that is breathed into all of them. Hence, it is prior to religion, denomination, skin color, nationality, and so forth. So, due to this essential dignity, all people stand on a par with one another, and their respect and value derive from it.¹

Safeguarding Man’s Dignity in the Islamic Code of Law

As the final and most complete religion, Islam recognizes and safeguards the dignity of mankind in its codes of law. This is practically achieved in two distinct ways.

1. It should be noted that here the word “essential” does not imply something inseparable from the individual, as it does when used in philosophy. Rather, what is meant is that every individual has essential dignity. His dignity is not acquired by him, and he carries his essential dignity unless he commits an act that infringes upon it. It is only in such cases that Islam regards the perpetrator entitled to receive a due punishment. This is essentially to protect the spiritual/material well-being of other people, as well as the community as a whole. Even when someone commits something detestable, the person does not lose his essential dignity. The matters that have been mentioned in this article are related to the kind of dignity that was just explained—that is, inherent dignity, not acquired dignity.

Safeguarding Human Dignity in the Laws That Pertain to the Spiritual Dignity of the Man

Islam has some prohibitions that manifest its respect for human dignity. Below, some of them will be discussed:

A. Prohibition of Accusing Someone of Adultery or Any Crime That Violates a Person's Reputation (*Qadhf*)

The author of *al-Wasilah* maintains that any act that harms another person's reputation (Tusi 1408 AH, 408). As such, *qadhf* consists of accusing someone of adultery or sodomy even while the accuser is well aware of the sense of the accusation but irrespective of whether the accuser is aware of the sense implied or not. Such an accusation brings about eighty strikes of lashes, a punishment endorsed by jurists (Najafi 1404 AH, 41:402-18). The reason for this is that Islam has prohibited defaming people in general and the attribution of *qadhf* in particular. Hence, it stresses respecting human dignity and it attempts to protect the honor of man from all sorts of harms. Regarding the crime of *qadhf*, the 4th verse of surah al-Nur refers to *qadhf* as *ramy* (literally, shooting) in the sense of accusing people of some crime and abusing them with such an accusation, as it is like shooting an arrow at them. In such cases, God has stipulated that in order to prove the crime, one must present four witnesses. This is while, in the case of manslaughter, only two witnesses are required. The reason why four witnesses are required is that usually people tend to accuse one another, intentionally or unintentionally, when there is no reason to do so. In addition, the one who commits such a crime must receive a severe punishment. He will receive eighty lashes, the accused will be absolved of the crime, and the accuser's future testimonies will not be accepted. Also, he will be cursed by God in this world and the next. The rationale behind such an Islamic verdict is obviously respecting people's dignity, and this shows that one of the essential goals of the Islamic code of law is protecting people's dignity and self-esteem. Another reason is to stop the spread of social and moral corruption that will negatively affect the Muslim community. When corrupt

people are free to abuse others and accuse them of improper acts without being taken to account, the honor and dignity of people would always be liable to being destroyed. A husband would always suspect his wife of indecency and doubt in the legitimacy of his child. This argument is also supported by a reliable report in which Imam Ali al-Rida (a) answered a question raised by Muhammad ibn al-Sinan (Shaykh al-Saduq 1386 AH, 2:480). In this report, Imam Rida (a) says that the reason that qadhf has been prohibited is that it brings about corruption in the land, a person's descending from his father is called into question, inheritance becomes problematic, parents become reluctant to educate their children, and so forth. It follows that such crimes must receive severe punishment owing to the corruption they lead to. In short, Islam places a high degree of value on people's reputation, dignity, and self-esteem and respects these things to the utmost degree.

B. Prohibition of Backbiting

Backbiting is the disclosure of people's covert vices in a way that they would not like. Backbiting can be done by words or deeds, such as pointing to someone or imitating them. The reason why backbiting is forbidden is that it harms man's reputation and dignity. Since backbiting leads to someone's reputation being harmed, it is categorically prohibited in Islam (Karaki 1414 AH, 27). This is because God has regarded harming a believer's reputation as abominable and as detestable as eating his flesh. For this reason, preserving a believer's reputation is as essential as safeguarding his life. According to Ayatullah Khu'i, the believer's reputation has been compared to his flesh as both of them can be harmed; reputation is harmed by backbiting and flesh by being eaten. Nobody would want to eat his brother's flesh. The basic sense of decency that all human beings have does not permit such an atrocious act. Likewise, the human intellect rejects backbiting, because it entails harming a

believer's reputation (Khu'i n.d., 1:319). In an annotated version of the *Kitab al-Makasib*, it has been mentioned that the dignity of the believer has been symbolically said to be equal to his flesh, and we can conclude from this expression that nothing should harm his dignity in the same way that his body must not be harmed by anything (Ansari 1410 AH, 3:307).

In addition, there are some other striking instances in the Islamic traditions that show the high degree of value that Islam places on people's dignity. Muhammad ibn al-Fazl related from Imam Abu al-Hasan al-Rida (a) that he instructed the former not to reveal anything that would harm the dignity of his brother in faith, for, upon infringing upon this divine rule, he (and by extension, anybody else who commits this action) would be considered as those who intend to spread obscenities in the community of believers. These are people who definitely deserve the harsh divine punishment (Majlisi n.d., 72:215). All of these anecdotes signify that the laws of Islam stress the safeguarding of people's dignity and status.

However, there are instances in which it is permissible to reveal people's secret vices or misdeeds. In such exceptional cases, the limit concerns the vices that are well-known. Hence, the vices that are known by everyone mark the limit for the permissibility of such a revelation, but it is absolutely forbidden to disclose his real character in the place wherein he is not known (Khu'i n.d., 341-42). It is also permissible to talk about the vices that a person commits in public (Khomeini n.d., 1: 422). There are also other cases where it is permitted to reveal the vices of other people: when one must testify to someone's crime, when one must give someone advice with regards to an issue, and so forth.

C. Prohibition of Probing into People's Personal Affairs

Another modus operandi devised by Islam is the prohibition of probing into people's personal and private affairs. Hence, probing into

people's private affairs is strictly prohibited due to obvious religious and rational reasons (Qur'an 49:12; 24:19; Shaykh al-Saduq 1413 AH, 3:38; *Nahj al-balaghah*, Letter 53).

When we evaluate the reasons for the prohibition of spying on people's private affairs, we see that in order for a person to live a healthy life, it is necessary for him to enjoy dignity and respect. Therefore, damaging a person's dignity and prestige is tantamount to harming his life. It follows that Islamic law never permits anybody to defame someone else by means of probing into their private life and disclosing their secrets.

Although probing into the private affairs of people is strictly forbidden, its prohibition would not be annulled when a bigger threat jeopardizes individual lives or the Muslim community in general. It is evident that stopping such threats is more important. It is in the light of this importance that Shaykh Ansari maintains that backbiting is forbidden due to the harm the other party receives; however, if there is a greater concern, more important than preserving a person's reputation, it must be given the priority (Ansari 1415 AH, 1:342). It must be noted that this prohibition only makes sense with respect to people who wish to hide their defects. Hence, in the case where the person does not wish to hide their own defects, the prohibition is removed (Shirazi n.d., 3: 80). In other words, the prohibition of uncovering one's sins is only effective when covering them is necessary and crucial. Thus, Muslim scholars say that explicit sins must be prohibited. Therefore, as a general rule, the police are not allowed to conduct secret investigations into the private lives of people (Mawardi n.d., 252).

2. Ways in Which the Dignity of Human Beings Has Been Preserved in the Laws of Islam

Islamic laws have envisaged several ways to maintain people's dignity even when an attempt is being made to prove that someone is guilty of

a crime or someone is being punished. Here are a few of these methods:

A. Removal of Punishment by Means of the Slightest Misgiving

This is one of the ways by means of which punishment is averted from the suspect. In Islamic law, there is a rule that states that a punishment must be averted when some serious suspicion exists. It implies that the Islamic penal code tries to avert the punishment with the emergence of the slightest doubt, and it follows that the execution of a punishment requires very strong proofs. The result of this method is the safeguarding of the dignity of human beings as one of man's basic rights.

The abovementioned methodology of the Islamic penal code is supported by several accounts reported by both Sunni and Shiite sources. There is a hadith in which the Prophet (s) declared the following: "Ward off punishment by means of doubts" (Shaykh al-Saduq 1413 AH, 4:74; Hurr al-'Amili 1409 AH, 18:363). Elsewhere it is asserted that punishments must be warded off from Muslims as far as possible, for if a judge makes a mistake, it would be much better than punishing an innocent person (Tirmidhi 1403 AH, 2:438; 4:33). When we look at the conduct of the Infallibles, we see similar cases in which such matters have been emphasized (Nuri 1407 AH, 18:44). Muslim jurists have also made references to such cases. If a thief claims that some property had been given to him as a present or that the original owner had given him the right to use it or that it had belonged to him but the original owner claims otherwise, then the punishment will be raised. From a judicial perspective, the denial of the owner takes precedence. However, the thief will not be punished, for the benefit of the doubt (Najafi 1404 AH, 41:494; Shahid al-Thani 1426 AH, 3:457).

In his book *Shara'i' al-Islam*, Muhaqiq al-Hilli holds that if an unmarried woman gets pregnant, she is not to be punished, unless she

confesses four times that she had been involved in an act of adultery. Explaining this view, Najafi, the author of *Jawahir al-kalam*, indicates that the woman might have got pregnant owing to a simple mistake; hence, merely getting pregnant does not necessarily indicate fornication. This stands in stark opposition to the view of Malik who regards that such a woman must definitely be punished. Najafi holds that the woman cannot be interrogated either (Najafi 1404 AH, 41:295).

B. Strict Measures to Prove a Crime

One of the ways of safeguarding people's dignity in Islam is the application of strict measures for proving the actual perpetration of crimes. In the beginning, it is necessary to consider some instances of such strict measures.

1. The Limits of Probing into a Crime in Penal Procedures

There are stark differences between the manner in which a crime is proven in the Islamic penal procedures and the other secular codes of law. Islam does not allow the use of certain methods to prove a crime. For example, there is a famous dictum that states, "There is no oath-taking with respect to punishment," and a rule that states, "The claimant must bring forth evidence, and the denier just takes an oath." However, such rules are not used in the Islamic penal system. Thus, when the claimant fails to prove his claim, the verdict would be issued in favor of the defendant. This is due to the principle of the legal principle mentioned above. In his *Tahrir al-wasilah*, Imam Khomeini says that taking an oath has no effect on the execution of a punishment. Rather, punishment can only be proven by means of substantial evidence or a confession. They are not proven by oaths. In this regard, it makes little difference whether the punishment pertains to a divine right, such as adultery, or it is a right that is shared between the people and God, such as qadhf. Taking an oath is legally reliable only at the request of the claimant. However, one cannot, for instance,

rely on it in the case of the cutting off of a burglar's hand, which is a divine right (Khomeini n.d., 2:429-30).

2. No Verdict Can Be Passed Against an Accused Person Who Is Absent

A great number of sins are related to infringing upon divine rights. However, they are related to people's dignity. Therefore, it is absolutely necessary to deter issuing a verdict about them until they are physically present. In this way, they would be able to defend themselves and in the meantime, the judge would be able to collect more evidence. In such cases, the general Islamic policy is that no verdict can be issued against a person who is absent (Najafi 1404 AH, 40:222-24; Muhaqqiq al-Hilli 1408 AH, 4:77).

3. Marginal Witnesses Cannot Impose a Religious Punishment

Marginal witnesses with regard to the cases where a divine right is concerned or the cases midway between those of the divine right and people's right are not acceptable as testimony in the court of Islamic law (Shahid al-Thani 1426 AH, 1:531).

4. The Judge's Prevention of Confession in the Case of the Divine Right

While jurists do not recognize the judge's intervention in obtaining confession from the suspect, they regard it highly recommended (*mustahab*) for the suspect not to confess the sins that involve divine rights (Najafi 1404 AH, 41:129). Moreover, they regard it permissible to cast doubt into the soundness of the confession made (Muhaqqiq al-Hilli 1408 AH, 4:70). This is because in the case of divine rights, God favors His servants' repentance. This is because the repulsiveness of the sins concerned should not be modified through an act of confession. When someone confessed to a sin, the Imams (a) used to question whether the sin had actually been committed. In other words, they would make excuses for the person who confessed to a sin so that he stops confessing. In order to clarify the aforementioned rule, an anecdote must be related. Once a man by called Ma'iz went to the Prophet (s) and confessed that he had committed fornication. Upon

receiving such a confession, the Prophet (s) said that perhaps it had not been fornication; rather, it had just been a kiss or a touch, or perhaps the person had just looked at the other party (Sajistani 1410 AH, 2:345). It has been related from Imam Sadiq (a) that once a man confessed to Imam Ali (a) that he had committed sodomy with a young man and requested to be morally cleaned of the sin. Imam Ali (a) replied that perhaps he had been hallucinating and had not really committed such an act (Hurr al-'Amili 1409 AH, 25:161-62).

5. Continuous Justice until the Issuing of the Verdict

If two witnesses testify but then their unreliability is proven, the verdict of punishment cannot be upheld. This is because in the case of divine rights, the general trend is toward mitigation of punishment as soon as the least doubt arises (Shahid al-Thani 1413 AH, 14:294).

6. Restrictedness of Evidence Used to Punish Suspects

In Islamic legal and penal procedures, reliable evidence is so strict, restricted, and conditional that it is very difficult to prove that someone is actually guilty. This is much more difficult in the case of sexual sins, which shows that God does not want to disclose such sins; rather, He wants to preserve the dignity and respect of people.

7. Rejection of Unrighteous Witnesses

The testimony given by someone who is known for his irreligious deeds, such as drinking wine, fornication, and so forth, as well as someone who is subject to an accusation by means of his testimony is not acceptable (Shahid al-Thani 1426 AH, 3:150).

3. Preserving People's Dignity and the Strict Measures for Proving Sins

Islam places special emphasis on people's dignity and tries to preserve it so long as feasible. In this way, it makes it very difficult to prove a crime so that the accused person's dignity may not be harmed. By doing so, the crime that may actually have taken place is not disclosed, and this helps people preserve their innate human dignity.

What is more, in this way, crime stories would not spread among people by being passed from one person to the next. Hasan al-Najafi, the author of *Jawahir al-kalam*, holds that the reason why Islam demands that four just people testify to a sin like fornication is to preserve people's dignity and to keep such sins hidden from the general populous (Najafi 1404 AH, 29:155).

In *Rawa'i' al-bayan*, Sabuni declares that the rationale of the lawgivers is to prevent accusing the feeble out of malice or for any other trivial reason (Sabuni 1401 AH, 2:46). He holds that Muslim investigators must cover the faults of other Muslims so as to consider their dignity (Sabuni 1401 AH, 2:74). Similar treatments can be found in the Qur'anic verses and the hadiths of the Infallibles (a) (Majlisi n.d., 72:215). This account illustrates the standpoint of Islam with respect to the safeguarding of people's dignity and status. There are severe and strict measures to prove that someone has committed a crime so that people's prestige is not harmed. Hence, it seeks to prevent punishing people for any and every trivial reason. This is because, if not anything, these punishments lead to the punished person's sense of inferiority. In effect, this is an attack against the person's dignity. The gist of this point is the wisdom of what Imam Ali (a) mentioned in his letter to his elder son, Imam al-Hasan (a): "Keep yourself far above any condemnation [that might be leveled against you]" (Nahj al-balaghah, Letter 31).

4. Popularization of Detestable Deeds and Strictness in Proving the Guilt of the Accused:

Another reason why Islam has strict rules for proving that a crime has actually been committed is because it does not want the inclination to commit misdeeds to spread throughout society. Preventing a public tendency to commit sins is a legitimate ground for calling the existence of such sins into doubt. If the majority of the populous begins leaning towards sin, this will be a serious spiritual threat for the community as a whole. It is for this purpose that recounting the details of sins committed

is strictly prohibited in Islam. The Qur'an is explicit in this regard: "Indeed those who want indecency to spread among the faithful, there is a painful punishment for them in this world and in the Hereafter" (Qur'an 24:19). In this regard, Allamah Tabatabai holds that the term "indecency" pertains to all detestable deeds (Tabatabai, 1417 AH, 17:93). Any kind of detestable or indecent act that circulates in society falls under the jurisdiction of this concept (Makarim Shirazi 1374 Sh, 14:402). Thus, repeated punishment will destroy the wrongdoer's dignity and lead him to commit the detestable act repeatedly. This would eventually turn him into a completely vile and evil person. In fact, an undervalued person would never rebuke himself or herself for committing sins. Khwajah Nasir al-Din Tusi says: "Never make it a habit to rebuke people, for it brings about obscenity and makes the individual inclined to commit the acts being prohibited. This is because man is inclined to practice whatever he is being prohibited from doing" (Tusi 1364 Sh, 224).

5. Removal of Punishment by Repentance

Another way to remove punishment is repentance. Since a major goal of prophets is the education of people, punishment of criminals is always considered a last resort. This is because punishment goes against human dignity. Hence, it cannot educate the person being punished. In the light of this principle, Islam favors concealing sin through enacting repentance. The conduct of the Infallibles (a) and the common practice of Muslim scholars affirm that they put an emphasis on the concealment of the sins committed. When we look at the conduct of the Infallibles (a), we see that when someone came to them and confessed to a sin, they encouraged them to repent. They also encouraged people to confess to their sins in private. What is more, they rarely accepted that a sin being confessed to was actually committed (Bukhari n.d., 4:178; Kulayni 1367 Sh, 7:188; Hurr al-'Amili 1409 AH, 28:37). According to religious scholars, repentance

is always better than confession. In his book *al-Mabsut*, al-Shaykh al-Tusi states that crimes that infringe upon the divine right are of two categories. The first are those that are covert and about which people are unaware. The second are those that are widely known. Tusi also states that a covert sin should be concealed by the person who has committed it (Tusi 1387 AH, 8:177). Although he initially indicates that due punishment must be applied in the case of a sinner, later on he declares that it is more desirable not to confess but to lean towards repentance (Tusi 1387 AH, 8:41-42). Ghazzali says that when a grave sin is committed, such as drinking or fornication, it is not necessary for the person to declare it before any authority; rather, he must keep it a secret (Ghazzali 1319 Sh, 767). Tusi also explains that one of the reasons for preferring repentance over punishment is that a wrongdoer may later on be subject to further rebukes; hence, it is logically acceptable to avoid another nuisance (i.e., being rebuked) (Tusi 1364 AH, 691-92). One can conclude from this discussion that the Islamic judicial procedure seeks to educate people and teach them to repent at the time of committing of a sin. It is in the light of such an aim that in crimes the popularization of which affects the public atmosphere, repentance is an escape so long as the aftermaths of those hidden crimes are not more severe. In other words, repentance guarantees that the accused person finds an opportunity to repent and his dignity and that of his family are not harmed.

It deserves to be mentioned that repentance must be in proportion to the gravity of the crime concerned. It follows that the mechanism and procedure of repentance is never the same for all kinds of crimes. Hence, the harm that the crime has caused must be adequately compensated for by means of a practical form of repentance. For instance, in the case where someone has accused someone of adultery, the accuser should openly announce that he has made a mistake and that his accusation was untrue. According to the fourth and fifth verses of surah al-Nur, from here onwards, such a person's testimony is

devoid of all value in the court of law. However, if such a person confesses that the accusation he had made was baseless, then his testimony shall be acceptable. In the case where someone has made an armed revolt against the government, repentance can nullify the punishment. In this regard, it deserves to be mentioned that there are two types of penalties at work here. The first is a penalty related to the public right that brings about punishment in proportion to attempt to revolt. The second is a penalty vis-à-vis the individual or individuals that were harmed in the course of the revolt. The first category is termed the divine right, and the second one is called the public right. Hence, the rebel's repentance would nullify the punishment related to the divine right, not the public right (Shahid al-Thani 1413 AH, 15: 14; Muqaddas Ardabili n.d., 665). The reason goes back to a relevant Quranic verse. The rebel must turn himself over to the police. This is because practical repentance must be proportionate to the attempt made to rebel against the government. This is enough to nullify the due punishment.

D. The Infallible Imam's Pardon of the Transgression on the Right of God and Human Dignity

Another instance of the respect given to human dignity in Islam is the Infallible Imam's pardon of the accused person. This rule applies to a person who is accused of a crime, yet he has not come to the court. Once he confesses to his crime, the Infallible Imam gives him another opportunity if he repents. In this case, the Infallible Imam can decide whether to forgive the accused person if it is in the interests of both the sinner and the community. The motif behind this pardon is manifold: the sinner finds himself on the threshold of being severely punished, he sincerely repents, and he is shown respect and is forgiven. This respect, which is shown to all human beings, even sinners, is a principle that is capable of being observed in all religious

rulings.

The conduct of the Infallible Imams conveys this very educative trend. Their conduct is replete with displays of respect that they used to show to each and every individual. They never thought of disrespecting anybody; rather, they always reinforced the innate human dignity that all partake of. For example, once, a young man confessed before Imam Ali (a) that he had stolen something. Upon hearing this confession, Imam Ali (a) replied that he deemed the young man worthy of being pardoned, because he could recite surah al-Baqarah. In this way, the Imam (a) helped the young man preserve his innate human dignity (Hurr al-'Amili 1409 AH, 28:41).

Moreover, in the case where a sexual crime is committed, if the culprit confesses the crime and then repents, the Imam is free to pardon or punish him, regardless of whether the punishment is stoning or execution, because if repentance can nullify a harsh punishment, it can obviously nullify a milder one (Shahid al-Thani 1426 AH, 3:420).

As for denial after confession, it is said that confession imposes punishment, and a denial of an earlier confession has no effect on it. However, the denial of a confession that has imposed punishment such as stoning to death nullifies it, though lashing or other punishment may still apply. It follows that although confession proves the sin committed, denial is just a pretext for not executing the due punishment. This is grounds for averting the punishment of stoning, since it harms the dignity and reputation of the individual concerned. This applies to the case of an individual who commits fornication.

In the case of discretionary punishment (*ta'zir*), when the sin is related to divine rights, the Prophet (s) or the Imam (a) may pardon the person. In this way, the person may not acquire the habit of performing the sin. In other words, punishing the culprit or not punishing him is bound up to what the Infallible deems is more

prudent. However, the judge cannot neglect the rights of the public that have been trampled upon. At any rate, pardoning the culprit is a decision that the Imam can make.

Conclusion

The Islamic legal system (Shariah) emphasizes human dignity. Islamic prohibitions aim to reinforce human dignity. The removal of punishments at the discretion of the Imam and as a result of repentance, which has in effect been placed as a proof for the committing of a crime, have all been canonized for the purpose of safeguarding the human dignity of the criminal. This is while, in many other cases, the rationale has been to preserve some benefits that the society as a whole may enjoy. This is in addition to the application of very strict measures to prove the guilt of the suspect. All of these are ways in which the human dignity of the suspect is respected. It follows that the judicial system must pass laws in which the dignity of the individual is respected and considered. In the same way, very strict measures must be applied when attempting to prove the guilt of the suspect.

References

- Ansari, Murtada. 1410 AH. *Kitab al-Makasib*. Annotated by various scholars. Qom: Dar al-Kitab.
- . 1415 AH. *Kitab al-Makasib al-muharramah wa al-bay' wa al-khiyarat*. Qom: Shaykh Ansari Congress.
- Bukhari, Muhammad b. Isma'il. n.d. *Sahih al-Bukhari*. Beirut: Dar al-Ma'rifah.
- Ghazzali, Abu Hamed Muhammad. 1319 Sh. *Kimiya-yi Sa'adat*. Markazi Press.
- Hurr al-'Amili, Muhammad. 1409 AH. *Wasa'il al-Shi'ah*. Qom.
- Javadi Amuli, Abd Allah. 1366 Sh. *Karamat dar Qur'an*. Raja.

Karaki, Ali b. al-Husayn. 1414 AH. *Jami' al-maqasid fi sharh al-qawaid*. Qom: Al al-Bayt.

Khomeini, Ruhullah. n.d. *Tahrir al-wasilah*. Qom: Dar al-'Ilm.

Khu'i, Abu al-Qasim. n.d. *Misbah al-faqih*. Qom: Mu'assasat al-Nashr al-Islami.

Kulayni, Muhammad b. Ya'qub al-. 1367 AH. *Al-Furu' min al-Kafi*. Tehran: Dar al-Kutub al-Islamiyyah.

Majlisi, Muhammad-Baqir. n.d. *Bihar al-anwar*. Tehran: Islamiyyah.

Makarim Shirazi, Naser. 1374 Sh. *Tafsir nimunah*. Tehran: Dar al-Kutub al-Islamiyyah.

Mawardi, Abu al-Hasan 'Ali b. Muhammad Habib. n.d. *Al-Ahkam al-sultaniyyah wa al-wilayat al-diniyyah*, Qom: Daftar Tablighat Islami.

Muhaqqiq al-Hilli, Najm al-Din Ja'far b. al-Hasan al-. 1408 AH. *Shara'i' al-Islam fi masa'il al-halal wa al-haram*. Qom: Ismailian Press.

Muqaddas Ardabili, Ahmad b, Muhammad. n.d. *Zubdat al-bayan fi ahkam al-Quran*. Tehran: al-Murtadawiyyah.

Mustafawi, Hasan. 1360 Sh. *Al-Tahqiq fi kalimat al-Quran al-karim*. Tehran: Bongah Tarjomeh va Nashr Kitab.

Nahj al-balaghah. Edited by Subhi Salih.

Najafi, Muhammad Hasan. 1404 AH. *Jawahir al-kalam*. Beirut.

Nuri, Husayn. 1408 AH. *Mustadrak al-Wasa'il*. Beirut: Al al-Bayt (a).

Sabuni, Muhammad Ali al-. 1401 AH. *Rawa'i' al-bayan fi tafsir ayat al-ahkam min al-Qur'an*. Beirut: Manahil al-'Irfan.

Shahid al-Thani, Zayn al-Din b. Ali al-. 1413 AH. *Masalik al-afham ila tanqih shara'i' al-Islam*. Qom: Ma'arif Islammiiyyah.

Sajistani, Abu al-Ash'ath. 1410 AH. *Sunan Abi Dawud*. Dar al-Fikr.

———. 1426 AH. *Al-Rawdah al-bahiyyah fi sharh al-lum'ah al-dimashqiyyah*. Qom: Arghavan-e Danesh.

Shaykh al-Saduq, Muhammad al-. 1413 AH. *Man la yahduruh al-faqih*. Qom: Daftar Tablighat Islami.

———. 1386 AH. *Ilal al-shara'i'*. Qom: Davari.

Shirazi, Muhammad Husayn. n.d. *Isal al-talib ila al-Makasib*. Tehran: A'lami.

Tabataba'i, Sayyid Muhammad Husayn. 1417 AH. *Al-Mizan fi tafsir al-Qur'an*. Qom: Intesharat Islami.

The Qur'an. Translated to Persian by Fuladvand.

Tirmidhi, Muhammad b. 'Isa al-. 1403 AH. *Sunan Tirmidhi*. Beirut: Dar al-Fikr.

Tusi, Abu Ja'far Muhammad b. al-Hasan. 1387 AH. *al-Mabsut*. Tehran: al-Murtadawiyah.

Tusi, Khwaja Nasir al-Din. 1364 Sh. *Akhlaq-i Nasiri*. Mojtaba Minavi. Tehran: Khwarazmi.

Tusi, Muhammad b. 'Ali b. Hamzah. 1408 AH. *Al-Wasilah ila nayl al-fadilah*. Qom: Mar'ashi.