



## Duties and Responsibilities of Victim in the Criminal Policy of Islam

Mohammad Ali Haji Dehabadi<sup>1</sup>; Mohammad Zaher Nasiri<sup>2</sup>

<sup>1</sup> Ph.D. Associate Professor and Member of the Faculty of the Criminal Law and Criminology Department of Qom University, Iran

<sup>2</sup> Ph.D. Candidate in Criminal Law and Criminology of Al-Mustafa Al-Alamiya University (PBUH), Iran

E-Mail: Dr\_hajidehabadi@yahoo.com; Mohamma1352sh@gmail.com

<http://dx.doi.org/10.18415/ijmmu.v11i8.6088>

---

### Abstract

Criminological studies focusing on the victim has paid attention to the rights of the victim and his support for half a century. The result of this approach is the adoption of international regulations, including the declaration of fundamental principles of justice for the victims of abuse of power, in support of the rights of the victims. This is while the doctrine of criminal policy of Islam has paid attention to the victim for centuries and in proportion to his role in the occurrence of the crime, both rights and privileges have been considered for him as well as duties and responsibilities have been assigned to him. In the meantime, what has been neglected or overlooked in victimology studies so far is the discussion of the duties and responsibilities of the victim and the role of these duties and responsibilities in the managing delinquency and victimization. The present article is a research about the duties and responsibilities of victim in the criminal policy of Islam, which was carried out with a descriptive and analytical method and citing authentic religious sources. The result is that victim assignments are a part of the criminal policy of Islam, which is designed to control crime, prevent victimization and support the victim. These assignments have a wide scope that includes before, during and after the victimization and it turns the victim into a constructive actor in this field.

**Keywords:** *Victim, Duty and Responsibility; Criminal Policy of Islam; Preventing Victimhood; Victim Support*

### Introduction

In the development process of criminal science, the third side of the crime<sup>1</sup>; That is, the victim and his role in the formation of the crime and the pursuit of justice, later than the other two sides, attracted the attention of scientists for criminal science<sup>2</sup>. The bias of criminal sciences in the West has been from

---

<sup>1</sup> - it is meant crime, criminal and victim (Farhad Shahideh, 2013, p. 17); Mass triangle has another term (Ali Safari, 2005, No. 33-34, p. 268).

<sup>2</sup> - About the causes of this delay (Abdul Ali Atari, 1999, p. 28).

the crime to the criminal and then to the victim<sup>3</sup>. The criminological tendency and social movements to support crime victims put the victim from the margins to the text of scientific discourse in academic centers and gradually caused the emergence of two branches of victimology (Najafi Abrand Abadi, 2005, numbers 52 and 53, p. 14): The first branch has a scientific and criminological aspect and seeks to explain the role of the victim in the occurrence of crime and its prevention methods. The second branch has an ideological aspect and aims to support the victim and to strengthen him/her in the criminal justice process (Raijian Main, 2013, No. 46, p. 176). The result of these two scientific and practical campaigns is holding several international symposia and the approval of "Declaration of Basic Principles of Victims of Crime and Abuse of Power" in support of the victim and his/her rights. However, in both scientific and supportive branches of victimology, the responsibility and duty of the victim has been less mentioned (Maguire, Morgan and Rainer, 2013, vol.2, p.835).

While, the examination of Islamic texts<sup>4</sup> and jurisprudential-ethical works emanating from them shows that the legal position of the victim in the criminal policy of Islam is composed of two components, right and obligation. This combined position is the result of Islam's comprehensive legal, ethical and criminological view of the phenomenon of victimization and the victimized person. Based on the moral-legal point of view, the victim is recognized as the oppressor and has rights, which the Holy Qur'an interprets as domination in some instances (Surah Isra, verse 33). But based on the criminological point of view and taking into account what is called "the way of life and influence of the victim on the occurrence of the crime", the victim is more responsible in proportion to his material contribution and moral fault in the realization of the crime and it acquires the legal position called function. Function is an obligation that is based on special characteristics of the obligated person; Such as knowledge, power, authority and freedom. The existence of these tasks indicates the legal and moral obligation capacity of the victim in interacting with the criminal and the society; a capability that clearly shows the influence of the victim in the victimization process. Extracting the foundations and examples and determining the scope of this requirement by relying on primary and authentic Islamic sources are the goal and mission of this article. The article is compiled in two parts: the first part explains the basics of the problem. The second part gives the extent of the obligation through the explanation of the examples of the functions.

## ***Conceptology***

### **1. Bazeh Dida**

In legal literature, the word "Bazeh dida" refers to someone who suffers losses as a result of a crime<sup>5</sup>. In the declaration of the fundamental principles of justice for the victims, it is defined in almost the same sense<sup>6</sup>. Its English equivalent is "Victim" (Henry, 1971, p. 1569), although this word has a broader meaning from the point of view of the origin of loss. The term "Bazeh dida" in this article refers to a real person who has suffered losses as a result of a crime.

### **2. Taklif (Duty)**

Taklif (**Duty**), in the term of law, is "commands and provisions of the law, or legal requirements" (Jaafari Langroudi, 2001, p. 177). In jurisprudence, it is defined inciting or restraining the obligated person by reason or Sharia (Amoli, Martyr First, n. d., p. 83). Ahl al-Sunnat jurists have considered taklif (Duty) to be an arduous matter (Al-Tahanavi, 1996, vol. 1, p. 505). The meaning of the Duties of the

<sup>3</sup> - Najafi Abrandabadi, preface to the book "victim and victimology", 2000, pp. 12-9.

<sup>4</sup> - It means the Qur'an and hadiths.

<sup>5</sup> - Article 10 of the Criminal Procedure Code of Iran defines the victim as follows: "The victim is a person who suffers losses due to the occurrence of a crime". In the beginning of the 1990s, Dr. Mehdi Ki-nia, by writing the article "victimology, entered this word in legal literature of Iran (Raijian Asli, 2011, p. 18).

<sup>6</sup> - Article 1, the first part of the declaration: .the person who is the object of crime or tort as the victim of a robbery is the person robbed. Black's law Dictionary, P. 1569.

victim is all Sharia, legal and moral requirements, whose addressee is an actual or potential victim, and which are established for the purpose of managing the phenomenon of victimization.

### 3. Criminal Policy

Criminal policy refers to all criminal and non-criminal strategies and measures, antecedent and posterior, which are organized against crime and deviance<sup>7</sup>. The criminal policy of Islam means the measures and strategies that have been devised in the legal and moral system of Islam to deal with crime. The requirements and responsibilities of the victims (the subject of this article) are part of these measures.

## Foundation of Duties and Responsibilities of the Victim

The nature of duty and responsibility is mixed with obligation and limitation. The origins of this requirement lie either in the nature of the legal system or in the nature of the relationship between the victim and the offender. The origins of the first type are the legal foundations of the victim's duties, and the origins of the second type are the criminological foundations of the duties and responsibilities of the victim.

### 1. Legal Foundations

The nature of the legal system requires two things, one is justice and the other is order. Both the concepts of justice and order cause the victim to limit his reaction against the criminal and the society, and make the duties and responsibilities towards him.

#### 1-1) Justice

One of the prominent manifestations of justice in the Islamic legal system is criminal justice, which is characterized by two different paradigms: punitive and restorative. Punishing justice means the reciprocal, similar and predetermined reaction of the society and the victim against the criminal (Najafi Abrandabadi, 2012, No. 3 and 4, p. 11). From the point of view of Islamic criminal law, equality between crime and punishment in crimes is recognized as a rule. This concept of justice is the creator of some duties and limitations of the victim in the reaction against the offender. According to this concept of justice, the criterion of reaction against the criminal is the crime itself, in terms of type, quantity and quality; this means that the reaction against the criminal should be exactly the same as her criminal act, neither less nor more. The Holy Qur'an has recognized the right to reciprocate in intentional murder, but it considers and forbids the violation of this similarity as extravagance in murder (Isra, 33). In this sense, criminal justice is the basis of the victim's obligation to identify his reaction against the crime and the criminal. In such a way, that any intentional transgression of the border of justice and retribution will face legal consequences such as retribution or Tazeer punishment (Khomeini, n. d., vol. 2, p. 535).

#### 1-2) Public Order

In the Islamic legal system, the issue of order and security is an inviolable principle that governs and prioritizes the exercise of any right. The last advice of Imam Ali (AS) is to observe discipline (Nahj al-Balagha, sermon 47). Observance of public order in the field of social behavior is the principle, even for the victim who is often recognized as the right one. He is obliged to organize his reactions against the crime and the criminal within the public order and demand the right within the framework of this order, and he can never cause disorder under the pretext of vindicating the right. For this reason, with the exception of special cases, the victim must claim all his life, financial and dignity rights through the law and in accordance with order. In such a way that a violation of this rule in some cases requires

<sup>7</sup> The set of methods by which, the social body (community board) organizes its responses to the criminal phenomenon (Delmas Mort; quoted by Hosseini, 2013, p. 27).

punishment, therefore, the public order is the basis and origin of other tasks and responsibilities of the victim in the criminal policy of Islam.

## 2. Criminology Foundations

The science of criminology aims to answer the question of what, why and how to deal effectively with crime (Hajidehabadi, 2018, pp. 17-18). Victimology with its two sides, scientific and supportive, while explaining the contribution of the victim in the development of crime, seeks to find ways to prevent victimization and support the victim. (Rajiyani Asli, 2013, p. 24). In the criminal policy of Islam, many tasks and responsibilities of the victim based on the two approaches of preventing the victim and supporting the victim have been devised.

### 2-1) Preventing Victimization

The term prevention in criminology mostly refers to the prevention of crime. But in victimology, prevention of victimization is meant; that is "employing non-criminal and criminal measures to prevent or reduce the possibility of being the target of a crime" (Haji Dehabadi and Baharloui, 2014, p. 162). Prevention of human victimization due to various factors, including crime and deviance, is one of the main goals of religion and its highest goals. Along with all Islamic religions, the sole purpose of Islamic Sharia is to protect human beings and values related to them. The approach of preventing human victimization against crime is clearly visible in all jurisprudential and moral rulings and regulations related to victimization. Many tasks in Islam are established based on the policy of preventing victimization and protecting potential victims (Mirkhalili, 2008, p. 375); duties such as the prohibition of evil, the obligation of piety, the rule of legitimate defense, the obligation to observe hijab, the necessity of drawing up a document and taking witnesses in the transaction, the obligation of making a will for the rights of minor children, avoiding entrusting property to fools, the necessity of keeping property in suitable place, etc. are the Examples of this type of duties.

### 2-2) Support for the Victim

After the actualization of the victim, the victim suffers physical, financial, mental and psychological damages, especially in violent crimes (Abdul Ali Tavajjohi, 1999, p. 33). Supportive victimology, based on human tendencies and human rights, in order to pass from this stage, considers the victim to deserve comprehensive support from the society and the government (Haji Dehabadi, 2008, p. 243). In Islamic thought, whose motto is to support the oppressed against the oppressor<sup>8</sup> and to save one human being as the salvation of all human beings (Maedeh, 32), supporting the victim as an oppressed person has a special place. Part of the duties and responsibilities of the victim is based on supporting and repairing the injuries inflicted on him, like the obligation to protect one's life against the harm caused by crime. Self-preservation is a duty that is in priority in conflict with many other duties. As it in the case of emergency, it causes the violation of many Sharia prohibitions. The obligation to protect one's self appears, before the occurrence of crime, in the face of legitimate defense and appears after the occurrence of crime occurs, in the form of the obligation to remove harm from one's self. The basis of such a duty is nothing else than protecting the life and physical health of the victim.

## The Range of Duties and Responsibilities of the Victim

Victimization puts the victim in interaction with various persons and institutions. This interaction entails tasks and responsibilities for the victim. Some of these tasks are substantive and refer to the relationship between the victim and the crime and the criminal, and some others are formal and refer to his relationship with authorities and judicial authorities. In this article, we discuss the substantive tasks of

---

<sup>8</sup> - "You must be the helper of the oppressed and the enemy of the oppressor" (Nahj al-Balagheh, sermon 47).

the victim through the explanation of its examples. Before explaining these examples, two points are worthy to mention.

The first point: it is intended from the duties of the victim all moral, jurisprudential and legal duties. Ethical duties are duties arising from moral norms that due to moral considerations governing social relations, the victim must observe them. The meaning of jurisprudential duties is the obligations arising from the Shari'a rulings that the basis of their obligation is the commands and Shariah rules. And the legal obligations mean the requirements arising from the relevant laws, whose implementation is guaranteed by the public power. The set of these requirements defines the boundaries and normality of people's behavior in relation to social phenomena. The boundary between the victim's behavior and the victimization is also determined in the light of these legal, moral and religious norms, some of which are studied under the title of duties and responsibilities of the victim in this article.

The second point: In the legal-ethical system of Islam, there are many essential tasks for the victim. Some of them have an anterior aspect and refer to the situation before the injury, and some others have a posterior aspect and refer to the situation after the injury. We examine the range of assigned tasks in these two categories of tasks

### 1) Duties and Responsibilities before the Crime

Studies of victimology, in order to explain the role of the victim in the occurrence of crime, have reached the conclusion that many victims are not a passive element in the process of crime occurrence, rather, they play a role in their victimization with their behaviors and lifestyles<sup>9</sup>. Based on this role, the victims are categorized into classes (Burgess and Reger, 2015, pp. 88 and 89). The duties and responsibilities of the victim in the criminal policy of Islam are designed to prevent the victim from participating in the victimization process and to strengthen him in preventing the harm of the crime of himself. Some of these assignments have negative and some positive aspects. In the following, we will first examine the negative assignments and then the positive assignments.

#### 1-1) Refusing to Participate in Victimization

The meaning of participation in victimization, its legal meaning, means any kind of involvement in the execution of the crime and playing a role in the occurrence of its material element, whether this participation is in direct form (stewardship) or indirect form (causation). In the revelatory thought of Islam, the life of the body, soul, organs and parts of man is God's trust (Najafi, 1423, vol.8, p. 370) and it is considered the point of departure and elevation of a person (Keniya, 2018, vol. 1, p. 454). Rather, all the rights of individuals are gifts from God, and any seizure and use of these rights that contradicts the Sharia and its higher purposes is considered illegitimate (Ardabili, 2014, vol. 1, p. 98). Therefore, protecting the health of the body and soul before others is the religious duty of man himself as the trustee of this divine deposit (Amoli Shahid Sani, 1412, vol. 1, 384). The Holy Quran considers this trustworthiness to be a characteristic of believers (Surah Mominun, 8). Based on this revelatory view of man and his possessions, no one has the right to knowingly and voluntarily participate in the process of harming himself and causing harm to himself, his property, and his privacy. Therefore, suicide and any harm to the self has been prohibited in the Qur'an "do not kill yourselves. Indeed Allah is to you merciful" (Surah Nisa, verse 29). That is, the merciful God not only does not allow someone else to kill you, but also does not allow you to surrender yourself to destruction with your own consent (Makarem Shirazi, 1992, vol. 3, p. 356). In the narrations of Ahl al-Bayt (AS), the above verse is also interpreted as a prohibition of suicide (Hawazi, 1415, vol. 1, p. 472). The sanctity of suicide and self-harm is agreed upon by all Islamic jurists (Sabhani, 1415, vol. 2, p. 166). Therefore, Islamic Sharia, based on a

<sup>9</sup> - The fourth part of Hans von Hentic's book entitled (Offender and Victim) published in 1948, is dedicated to the role of the victim in the development of crime and explains his place in the process of actualizing the criminal idea (quoted by Najafi Abrandabadi, 2014, No. 52 and 53, p. 11).

preventive policy, obliges the potential victim to refrain from any participation in the occurrence of crime and self-harm and in this way, do not cause loss of life, money and dignity to himself.

Examples of the participation of the victim in the occurrence of self-harm are mentioned in the Islamic Penal Code. As mentioned in the last paragraph of articles 507 and 512 of this law. In both cases, the victim intentionally and voluntarily participates in his victimization. The duty of refraining from participating in victimization refers to the prevention of committing such behaviors. And according to the jurisprudence and law of the Islamic Republic of Iran, it is supported by the guarantee of executions such as the fall of the guarantee from the offender or its transfer to the victim. In the last paragraph of Article 507 of the Islamic Penal Code, the intentional collision of the victim with a pit or a slippery object placed on the path by the perpetrator only causes the delinquent not to pay the blood money<sup>10</sup>. However, in Article 512 of the same law, the participation of the victim in the occurrence of harm causes the transfer of damages from the perpetrator to the victim<sup>11</sup>.

Therefore, the obligation to refrain from participating in the victimization, although it is not mentioned as a duty in the relevant laws, but the legal effects of its violation, such as the fall of the responsibility of the offender or the transfer of responsibility to the victim, are mentioned in the jurisprudence and the relevant law of the Islamic Republic of Iran.

### 1-2) Refraining from Helping Victims

The duty of refraining from aiding the victim is to prevent the victim from committing any behavior that is legally considered as aiding and abetting the victim and it includes all forms and legal examples of assisting in crime, such as inciting, enticing, persuading, and facilitating the commission of a crime<sup>12</sup>.

From the point of view of jurisprudence, it has been explained under the title of "the rule of the sanctity of aiding in the crime" (Tabatabai Haeri, n. d., p. 314) or "the sanctity of aiding in the crime" (Naraghi, 1417, p. 75).

The jurists have considered the most important reason for the sanctity of aiding in the crime the honorable verse "And you shall not help in sin and oppression" (Surah Maedah, verse 2). Legally, the existence of the title of aiding depends on realization of the result and the unity of intention between the aider and the principal offender (Commentary on Article 126 of the Islamic Penal Code). But from the point of view of jurisprudence, the necessity of these conditions has been doubted. Imam Khomeini, with a preventive approach to crime, has said: "It may be said that because aiding in the crime encourages and dares the criminals to commit the crime, the Shariah demanded that the criminal should not be helped in any way (even unintentionally) until he feels Alone and frightened to desist from committing a crime" (Khomeini, 1415, vol. 1, p. 214). Sheikh Ansari has considered the realization of the aiding in the crime dependent on the unity of intention between the aider and the principal offender or the involvement of the aider in creating proximate causes (even though without intention) (Ansari, 2004, p. 492). According to some researchers, the common meaning of the words Taawon (cooperation), Eaanat (assistance) and Moaawanat (aiding) includes all forms of involvement in the criminal act (Alidoost, 2013, pp. 90 and 91).

Based on this point of view, the title of assistant in victimization includes all the behaviors of the victim that are customary to help the occurrence of victimization. As this general perception can be

<sup>10</sup> - If a person does an act that causes damage to another person on the roads, etc., he is the guarantor of the payment, unless the injured person intentionally deals with it with knowledge of it and the possibility of avoiding it

<sup>11</sup> - If a person stops in places where stopping is not allowed... and another gets injured or dies due to a collision or slip without paying attention to them... he is the guarantor of the money and other damages unless the passerby... If he deliberately deals with it, in this case, not only will he not be awarded the damage, but he will also be responsible for the damage caused.

<sup>12</sup> - Paragraphs A, B and C of Article 126 of the Islamic Penal Code consider the most important examples of aiding and abetting in a crime to be persuasion, threat, enticement, conspiracy and deception, preparation of means to commit a crime, and facilitating the commission of a crime.

confirmed by the saying of Imam Sadiq (AS) who said: "The oppressor, his helper and the one who is satisfied with his oppression, all three are partners in oppression" (Aamoli, 1409, vol. 16, p. 52).

In addition to these general reasons, religious texts prohibit people from committing behaviors that are in accordance with specific examples of vice such as incitement, enticement, and facilitation of victimization. We mention a few cases.

**Prohibition of covetousness:** The Holy Quran prohibits believing women from being submissive and gentle in speaking with strangers. The reason for this prohibition is to prevent the temptation of the sick hearts and to protect women from being victimized (Surah Ahzab, 32).

**Prohibition of incitement:** the incitement of the offender is the result of the uncontrolled behavior and speech of the victim (Javan Jafari, Shahideh, 2013, number seven, pp. 70-42). On this basis, the traditions consider anger control and maintaining the language to be the cause of human security and health (Shayiri, n. d., p. 117). Whoever can suppress his anger, may God fill him with peace and faith (Koleini, previous, vol. 2, p. 113). Another tradition considers maintaining the language as a charity for the preservation of the human soul (Ibid).

**Prohibition of facilitating:** In a narration, it is forbidden for a woman to be alone with a strange man in one place. The philosophy of this prohibition is expressed as follows: "No man or woman should be alone in a secluded place unless Satan is their third" (Saduq, 1413, vol. 3, p. 252). Maybe it is because being alone makes it easier to commit a crime.

Based on the general reasons for the sanctity of assistants in crime and specific Quranic and narrative teachings, Committing any action or speech that provokes and entices the criminal or facilitates the victimization of the criminal is prohibited from the point of view of Islamic criminal law, and a person is obliged to refrain from committing such behaviors.

### 1-3) Avoiding Dangerous Situations

The term "dangerous state" was first proposed by Garofalo in the science of criminology (Keiniya, 2008, vol. 1, p. 19). "Dangerous state" refers to the situation of people who are more likely to commit a crime than normal people. This state is determined by evaluating the criminal capacity and the degree of adaptation of people to social life (ibid.). Dangerous situations are the result of the presence of people in a dangerous state and include any situation where the risk of crime and victimization is higher than in other places.

The obligation to stay away from dangerous situations in Islamic criminal policy refers to preventing people from unjustifiably being in dangerous situations. From the point of view of Islamic jurisprudence and ethics, no one has the right to put himself and his related values in danger without a valid excuse. The necessity of refraining from being in dangerous situations can be proven based on two types of reasons:

First, there are general reasons and documents that generally forbid people from being in disastrous situations, such as this verse: "Do not throw [yourselves] with your [own] hands into destruction" (Baqarah, 195). According to this honorable verse, a person has no right to expose his food to destruction and "to pass through dangerous roads without the necessary precautions, or to eat food that is highly likely to be contaminated with poison and... he is responsible in all these cases where a person unnecessarily endangers himself" (Makarem Shirazi, 1992, vol. 2, p. 36).

The second is the reasons advising people to protect themselves in relation to crimes and special situations, such as the obligation of taqiyyah, which is explicitly emphasized in the hadiths on its protective aspect. Taqiyyah is the shield and refuge of the believer. He who does not have Taqiyyah does

not have faith (Koleiny, 1407, vol. 2, p. 221). Some traditions forbid the presence of humans in certain situations. Imam Ali (pbuh) said to one of his companions: "Don't make your honor and reputation the target of the arrows of people's words... avoid gathering places in the markets, because there are the presence of Satan and the dangerous arrows of sedition" (Nahj Al-Balagha, Letter 69). All the reasons clearly prove the duty of avoiding dangerous situations for all those who are at risk in some way. This duty is actually a warning to people who knowingly or unknowingly expose themselves to the risk of crime due to their carelessness and lifestyle. The effectiveness of this jurisprudential-moral proposition depends on its correct and timely education to such people, because much victimization is the result of the crime victims' ignorance of dangerous situations and the consequences of being in them.

#### **1-4) Obligation to Defend Oneself**

Legitimate defense, despite its conditions in all legal systems, is the inalienable right of every human being whose society is unable to protect his life, property and honor for any reason (Ardabili, 2014, Vol. 1, p. 285). What distinguishes the Islamic legal system from other systems in terms of defense is that Islam considers the legitimate defense of one's life and honor, and in some cases, property, to be a Shariah duty for every obligated person (ibid., p. 286) whose non-compliance will face the perpetrator with the guarantee of execution in the afterlife (Odeh, n. d., Vol. 1, p. 474). Imami jurists consider defense of life and honor to be obligatory (Allameh Hali, 1413, vol. 3, p. 571). Self-defence is as obligatory as the defender's strength and power, and it is not permissible to surrender. This fatwa is found in many Imami jurisprudence books. The meaning of privacy in this fatwa is the honor of a person (Ardabili, previous, p. 130).

From the point of view of Ahl al-Sunnah jurists, defending the honor of every person who has been assaulted is also a shari'a duty (Audeh, previous, vol. 1, p. 474). Regarding the defense of life, the Hanafi, Maliki, and Shafi'i schools consider it obligatory, and only the Hanbalis consider it permissible to defend life (Zoheili, 1405, vol. 5, pp. 755 and 756).

However, regarding the defense of property, almost all jurists of Islam consider it permissible, except in special cases; In such cases, such as money that the preservation of human life depends on, or money that has been entrusted to the defender, is considered obligatory (Aamoli Shahid I, previous, vol. 2, p. 59 and Najafi, vol. 41, p. 652).

The legal effect of the obligation to defend is the lack of civil and criminal liability of the defender. Legitimate defense against justified factors is considered a crime and causes the punishment of the act committed by the defender to fall<sup>13</sup>. Therefore, if the action of the defender leads to the loss of the attacker's life or property, if he is eligible for defense, the attacker's blood or property is a waste.

#### **1-5) Necessity of Resorting to Public Authorities**

Someone who can prevent the danger of crime by resorting to public forces, is it legitimate for him to defend himself or not? Rather, in such a situation, the only way to avoid the danger is to resort to the public forces. In jurisprudential texts, this obligation is not explicitly mentioned, but the jurists have mentioned conditions and levels for legitimate defense, from their sum, the existence of such an obligation can be deduced.

The Imami jurists, based on the philosophy of the legitimacy of defense, which is to avoid harm, have mentioned two important conditions:

---

<sup>13</sup> - Article 156 of the Islamic Penal Code stipulates that punishment falls from the act of the defender.



First, that the way to avoid harm is exclusive to defense (Shahrudi and others, 1417, vol. 2, p. 563); it means that the only way to get out of the danger of being victimized is defense. Therefore, if there are other ways to avoid losses; Like resorting to public forces, in such a case, defense is not legitimate.

The second condition is that a person should take advantage of easier levels in proportion to the danger that threatens him (Najafi, previous, p. 651). If the risk of a crime is avoided by an easier method such as shouting or asking for help, he should be satisfied with that and should not resort to a higher level (hard defense) (Marashi Shoushtri, 1427, vol. 2, p. 62).

Considering these two conditions and the importance of saving souls and hearts in Islam, it can be said that in order to ward off danger, if resorting to government forces is possible, the victim's first duty is to resort to public forces. Because in such a situation, first, defense is not formed and secondly, resorting to one's government forces is an easier form of defense, which takes priority over other levels of defense. Therefore, despite the possibility of resorting to the public authorities, the victim is obliged to ward off the danger of the crime by resorting to it. In Sunni jurisprudence, the first principle in facing the danger of crime is to take refuge in the public authorities and defense becomes legitimate only if it is not accessible (Al-Sadiq Abul Hassan, 1412, p. 180). So, one of the substantive tasks of the potential victim is the need to appeal to the public authorities.

## 2) Duties and Responsibilities after the Crime

As a victim of a crime, after being victimized, the victim has duties and responsibilities both towards himself, towards the society and towards the criminal; with the explanation that these assignments are usually jurisprudential-moral in nature and are supported by the guarantee of internal and otherworldly implementation rather than legal. In the following, we will examine the most important posterior tasks of the victim.

### 2-1) Necessity of Treatment

The health of a person's body and mind is God's deposit and gift, and maintaining it is his shari'a duty. Fixing the physical damage is like getting rid of it, it is the religious duty of the injured and affected people (Amoli, al-Fawad al-Tawsiyyah, 1403, p. 431). Its obligation is the same for forced (natural) and optional (human) causes (Tabatabaei Yazdi, Al-Arwa Al-Wothqa, 1419, vol. 2, p. 173). Contemporary jurists believe in the necessity of treatment with reassuring medical devices. The reason for this obligation is considered to be rational rules, such as the obligation to ward off harm, to preserve the soul, and to respect the importance of induction into danger (Mohseni, 1424, vol. 1, p. 315). In addition to these, there are certain traditions that indicate the necessity of treatment, like the narration that says: "Whoever hides his illness from the doctor has betrayed his body" (Amodi, previous, p. 622).

Previous jurists have doubted the importance of therapeutic measures. This doubt was due to the suspicion of medical methods in the past. Otherwise, by ensuring the effect of therapeutic measures, as has happened today due to the progress of medical sciences and techniques, no one doubts the necessity of therapeutic measures (Jumma Bakro, 1434, p. 32).

Obliging the victim to treat the injuries caused by the crime, in order to prevent the development of these injuries and their subsequent consequences, such as the costs of treatment on the life of the victim, the offender and society, is very important from the point of view of criminal policy because sometimes the victim, motivated by stubbornness, revenge, or receiving more damages than the offender, may deliberately fail and delay in removing the first damage and preventing its progress.

Therefore, his duty to eliminate the loss from himself and prevent such consequences is a kind of prevention of bearing and imposing more costs. Therefore, in the case of physical injuries, the victim is legally obliged to take the necessary measures immediately to save himself and to stop or to reduce the

harmful effects of the crime. This task can be supported by establishing special regulations and facing violators with punitive reactions and social exclusions.

### 2-2) Crime Reporting and Notification

In Islam, crimes have two statuses, Haq-Allahi and Haq-ul-Nasi (public and private)<sup>14</sup>. The aspect of Haq-ul-Nasi (private) of the crime is within the discretion of the victim. One of the manifestations of this authority appears at the stage of announcing the crime and starting the legal process. In the basic regulations of Islamic procedure, the announcing crime is the right of the victim in relation to the private aspect of the crime; this means that he can start the proceedings by reporting the crime and filing a lawsuit in court, and he can refuse to do so for any reason. For many crimes especially sexual crimes, Islam's criminal policy is based on hiding the crime (Sadeghi, 1999, No. 28 and 29, p. 161). It is said in the narration: "You should cover the flaws as much as you can". (Nahj al-Balagha, letter 53).

But this policy is desirable to the extent that the principle of covering up the guilt does not conflict with other more important principles, such as establishing justice, ensuring order and security. Because in the event of a conflict, the more important principles come first and the principle of covering guilt is rejected. Therefore, if the victim's failure to report and to announce the crime causes the perpetrator to become arrogant and as a result, a wide violation of justice, order and public security, the competent government can limit the freedom of individuals and oblige them to report and announce the crime (Najafi-Tawana and Fadaei, 2017, No. 19, p. 165). In addition, non-disclosure of the crime and its concealment by the victim in some cases is an example of cooperation in oppression and helping the oppressor, which is prohibited in the verses (Ma'idah, 2). In such cases, the responsibility of reporting and notifying the guilt will definitely replace the duty of covering it and all people; especially the victims who witnessed the violation of their rights are obliged to report the criminal incident to the public authorities, otherwise they will be accomplice of oppression and example of this narrative: "The perpetrator of oppression, the person who helps to commit oppression, and the person who is satisfied with the occurrence of oppression, all three are partners in the realization of oppression" (Hor Amoli, 1409, vol. 16, p. 52).

Therefore, in cases where the interests of the individual or the society require the notification of the crime, it is the duty of the victim to report the crime. In order to implement justice and to fight crime effectively, the Islamic government can turn this Shariah duty into a legal requirement and oblige the victim to announce the crime by establishing a specific guarantee of performance (Najafi Tavana and Fadaei, previous, p. 170) and in order to avoid violating the rights of the offender and delaying the proceedings, consider a specific time for announcing the crime.

### 2-3) Forgiving the Offender

As the moral system of Islam encourages the wrongdoers to compensate for their mistakes, it also recommends the righteous people to forgive the sins of the wrongdoers. The Holy Quran considers healthy social relations to be based on the two foundations of justice and benevolence: "Indeed, Allah commands justice and good conduct" (Nahl, 90). In order to regulate healthy social relations, we are bound to observe both justice and good conduct. For this reason, in the discussion of victimization, Islam, in addition to recognizing the authority of the victim in the form of the right to retribution and compensation (justice), always advises the victim to forgive (good conduct). Even in intentional crimes, after legislating the right of retribution according to the requirements of justice, the Holy Qur'an immediately recommends forgiveness of the criminal and considers this forgiveness as a manifestation of God's mercy (Baqarah, 178). In another place, she described the forgiveness of retribution with the term "charity" and considered it to be the reason for the pardoner's sin to be ignored; "whoever gives up his

---

<sup>14</sup> - Article 8 of the Criminal Procedure Law of the Islamic Republic of Iran.

right as charity, it is an expiation for him” (Maeda, 45). The Holy Qur'an prescribes the right to respond in kind (justice) to any evil done, along with it, it also generally recommends forgiveness (good conduct) and considers the reward of the one who forgives to be with God; “and the retribution for an evil act is an evil one like it, but whoever pardons and makes reconciliation, his reward is from Allah” (Shura, 40).<sup>15</sup>

In the narrative sources, regarding the crime of murder, a chapter of the narrative has been narrated under the title: "The Chapter on being admirable of Forgiving Retribution on the Guardian" (Amli, 1409, vol. 29, p. 119). This indicates the prominent position of forgiveness and good conduct, next to justice, in religious culture. It is stated in Sunni sources: "Whenever a dispute was brought before the Prophet in which there was retribution, the Prophet ordered forgiveness" (Sajestani, 1410, vol. 2, p. 365); That is, the command to pardon in retribution has been the continuous practice of the Holy Prophet (PBUH).

The recommendation for forgiveness is only for criminals who deserve it from a moral point of view; Such as accidental criminals and those who have committed crimes without prior decision, under the influence of immediate emotions and natural incentives. Institutionalizing the moral duty of forgiveness, among those societies and tribes that mistakenly consider revenge as a form of honor and zeal, is of great importance in order to prevent the spread of revenge and preserve the population.

#### **2-4) Criminal Rehabilitation**

The moral system of Islam, in addition to the mechanism of forgiveness, which prepares the past relationship between the victim and the criminal, also offers a constructive solution to the restoration and reconstruction of this relationship in the future and the rehabilitation of some criminals by the victim. This solution is the moral proposition of "compensating evil with good". The Holy Qur'an has stated this moral statement in order to create a constructive relationship as follows: "Repel evil in the best way" (Momonun, 96); Recompense evil in a way that is better (repay evil with good). The solution of a good reaction against a bad action removes all the bitter effects of the bad action and fills its place with love and sincerity; The same reality that the noble verse speaks of: “Good and bad are not the same. Get rid of evil in the best way. Suddenly, someone who is an enemy between you and him becomes as if he is a close and intimate friend” (Fosselat, 34); Repel evil with good so that stubborn enemies become warm and intimate friends.

In this honorable verse, as God Almighty has ordered to respond to evil with good, He has also expressed the philosophy of this type of interaction, which is to create love and friendship and rehabilitate the other person. The moral statement (turning evil into good) has also been recommended in hadiths.

The Holy Prophet (PBUH) said in a hadith: "Pray for the one who has cut you off, forgive the one who wronged you, and forgive the one who deprived you, and do good to the one who has done you wrong"<sup>16</sup> According to these verses and narrations, it is the moral duty of the victim to repair his relationship with the criminals who deserve to do good, to adopt the method of love, correction and rehabilitation and in this way to try to improve his character. The duty of rehabilitating a criminal is different from the duty of pardoning him. In verse 40 of Surah Shura, these two moral duties are separated. According to some interpretations, only forgiving another is not enough, but he must be rehabilitated (Qaraati, 2006, Vol. 8, p. 418). And he revived the relationship of love and affection between him and himself (Siyuti, 1416, Vol. 1, p. 490). Therefore, from the moral point of view, in addition to forgiving the offender's mistake, the victim must also try to improve his relationship with him and rehabilitate the offender's character by providing and repairing the shortcomings that made him commit the crime and in this way to revive and restore the relationship of love and affection between him and himself. The task of rehabilitating criminals includes two categories of criminals:

<sup>15</sup> - Also refer to Nahl, 126.

<sup>16</sup> - Attributed to Imam Sadiq (AS), (Misbah al-Sharia, p. 159).

The first one is criminals with diminished responsibility, such as children, madmen, and fools, who are less responsible for their mistakes from a legal and moral point of view.

The second one is criminals who victims themselves have contributed more or less to their becoming criminals with their lifestyle and behavior. A victim who, with his aristocratic and luxurious lifestyle in a society full of class gaps, has caused anger, envy and resentment among the poor and the lower ranks of the society, and in this way, unintentionally provokes them to commit crimes, from the moral point of view, rather than having the right to punish and punish such criminals, they should shoulder the duty of reforming, rehabilitating and taking care of their needs and remove the feeling of enmity from their hearts with kindness. This is a moral duty.

### **Research Findings**

The findings of this research can be listed as follows:

1. By studying Islamic sources, it was found that according to his legal, moral and criminological status, the victim is responsible for his duties and responsibilities in interaction with the crime, the criminal and the society.
2. The nature of these duties and responsibilities, some legal, some sharia, and some moral, were recognized. The sum of these tasks expresses the boundaries and norms of the victim's action and behavior in the interaction with the victim in the criminal policy of Islam.
3. The range of tasks and responsibilities of the victim includes a wide range of moral and legal requirements before and after the victimization. The first group is designed to prevent victimization and to strengthen the victim in preventing self-harm, and the second group is designed to support the victim and to remove the effects of the crime.
4. In the criminal policy of Islam, the most important bases of duties and responsibilities of the victim, the legal principles of order and justice, and the criminological goals of preventing victimization and supporting the victim were recognized.

### **References**

- The Holy Quran.
- Nahj al-Balagha.

### **Rules**

1. Islamic Penal Code approved in 2012.
2. Procedure Law, approved in 2012.

### **Books and Articles**

1. Ardabili, Mohammad Ali, **General Criminal Law**, Tehran, Mizan Publishing House, 41<sup>st</sup> ed., 2014.
2. Amodi, Abd al-Wahed, **Tasnif Ghorr al-Hekam and Dorar al-Kelam**, Qom, Preachings Office, 1<sup>st</sup> ed., 1987.

3. Al-Thanavi, Mohammad Ali, **Kashaf al Istelihat Al-Funun Uloom**, Beirut, Lebanon Publishing House, 1<sup>st</sup> ed., 1996.
4. Tavajjohi, Abdul Ali, **policy of supporting the victims**, Qom Higher Education Complex Magazine, 4<sup>th</sup> ed., 2018.
5. Jafari Langroudi, Mohammad Jafar, **Expanded on Legal Terminology**, Tehran, Ganj Library, 2<sup>nd</sup> ed., 2001.
6. Juma Bakro, Kamal al-Din, **Ahqamat al-Tadawi wa al-Dawafa fi Al-Fiqh al-Islami**, Kuwait, Darlzia Lalanshar va al-Tawzi'a, 1<sup>st</sup> ed., 1434.
7. Javan Jafari, Abdul Reza and Shahideh, Farhad, **the role of female victims in committing sexual crimes**, Criminal Law Research, number seven, summer, 2013.
8. Haji Deh-Abadi, Ahmed, **Compensation for the damage suffered at the expense of the government and public institutions**, Qom, Research Institute of Islamic Culture and Thought, 1<sup>st</sup> ed., 2018.
9. Haji Deh-Abadi, Mohammad Ali, **Applied Criminology**, Qom, Al-Mustafa International Publishing Center, 3<sup>rd</sup> ed., 2018.
10. Haji Dehabadi, Muhammad Ali and Baharloui, Rehanah, **general measures to prevent victimization from the perspective of the Quran and Islamic traditions**, Journal: Quran, Fiqh and Islamic Law, 1<sup>st</sup> year, number 2, summer 2014.
11. Hor Amili, Muhammad Bin Hasan, **Wasal al-Shi'a**, Qom, Al-Al-Bayt Institute, 1<sup>st</sup> ed., 1409.
12. Khomeini, Ruhollah, **Tahrir al-Wasila**, Qom, Dar al-Alm, 1<sup>st</sup> ed., n. d.
13. Raijian Asl, Mehrdad, **Supportive Victimology**, Tehran, Justice Publishing Institute, 2<sup>nd</sup> ed., 2018.
14. **Three comparative discourses in victimology**, Judiciary Legal Journal, No. 46, 2013.
15. Rostayi, Mohsen, **Vocabulary of Justice approved by Iran Academy (1314-1320)**, Treasure of Documents, No. 21 and 22, 1375.
16. Zoheili, Wahba, **Al-Fiqh al-Islami and Adellatoho**, Damascus, Dar al-Fikr, 2<sup>nd</sup> ed., 1405.
17. Sajestani, Suleiman Abu Daoud, **Sunan Abi Daoud**, Beirut, Dar al-Fikr al-Nashr and al-Tawzee, 1<sup>st</sup> ed., 1410.
18. Siyuti, Jalaluddin Abd al-Rahman, **Tafsir al-Jalalin**, Beirut, Al-Nour Publishing House, 1<sup>st</sup> ed., 1416.
19. Shatabi, Ebrahim Abu Ishaq, **Al-Mufafaat**, Beirut, Dar al-Nashar-Dar al-Marafa, n. d.
20. Shahroudi, Mahmoud, a group of researchers, **Al-Jawahir Fiqh encyclopedia**, Beirut, Al-Ghadir Lal-Tafta and Al-Nashar and Al-Tawzi'ah, 1<sup>st</sup> ed., 1417.
21. Shahideh, Farhad, **Victimology (The role of the victim in committing a crime and determining the punishment)**, Tehran, Majd Publications, 1<sup>st</sup> ed., 2013.

22. Shoeiri, Mohammad, **Jame Al-Akhbar**, Najaf Ashraf, 1<sup>st</sup> ed., n. d.
23. Sheikh Sadouq, Muhammad Bin Ali, **Man La YaHzor Al-Faqih**, Qom, Jamia Modaresin, 2<sup>nd</sup> ed., 1413.
24. Sheikh Tusi, Muhammad bin Hasan, **Al-Mabsut fi fiqh al-Umamiyyah**, Tehran, Al-Muktaba al-Mortazawiyya, 3<sup>rd</sup> ed., 1387 AH.
25. Sadeghi, Mohammad Hadi, **Beze Pushi**, Judiciary Law, No. 28 and 29, Fall and Winter 2018.
26. Al-Sadiq Abul-Hassan Muhammad, **Haq al-Daf-an al-Shari al-Khas**, Cairo, Maktaba Wahba, 1<sup>st</sup> ed., 1412.
27. Safari, Ali, **the way of life and the influence of the victim on the crime**, Journal of Legal Research, No. 41, 2014.
28. **Theoretical foundations of crime prevention**, Legal Research Journal, No. 33 and 34, 1380.
29. Tabatabaei, Mohammad Hossein, **Al-Mizan fi Tafsir al-Qur'an**, Beirut, Al-Alami Publishing House, 2<sup>nd</sup> ed., 2013.
30. Aamili Shahid I, Muhammad Bin Makki, **Al-Dros Fi Fiqh al-Imamiyah**, Qom, Jamia Modaresin Publications, 2<sup>nd</sup> ed., 1417.
31. Aamili Shahid2, Zain al-Din, **Al-Ruda al-Bahiya fi Sharh al-Lamaa al-Damashqiya**, Qom, Islamic Preachings Office, 1<sup>st</sup> ed., 1412.
32. **Masalek al-Afham al-Tanqih Shar'e al-Islam**, Qom, Islamic Encyclopaedia Institute, 1<sup>st</sup> ed., 1413.
33. Allameh Hali, Hasan bin Yusuf, **Motalaf al-Shi'a fi Ahkam al-Shari'a**, Qom, Jamia Modaresin Publications, 2<sup>nd</sup> ed., 1413.
34. Alidoust, Abulqasem, **the indication or lack of indication of the verse "Latawanwa all al-ethm val adwan" on the sanctity of help and cooperation with others and aggression**, Journal of Islamic Jurisprudence and Law, No. 1, 2013.
35. Fazel Hendi, Muhammad Bin Hasan, **Kashf al-Latham and Al-Ebham fi Qavaed Al-Ahkam**, Qom, Jamia Modaresin Publications, 1<sup>st</sup> ed., 1416.
36. Qaraeti, Mohsen, **Tafsir Noor**, vol.8, p. 418, Tehran, Cultural Center of Lessons from the Qur'an, 1<sup>st</sup> ed., 2006.
37. Kilini, Muhammad Ibn Yaqub, **Al-Kafi**, Tehran, Dar al-Kitab al-Islamiya, 4<sup>th</sup> ed., 1407.
38. Kaynia, Mehdi, **Fundamentals of Criminology**, Tehran, Tehran University Press, 9<sup>th</sup> ed., 2018.
39. Lepez, Gerard; Zina, Filizola, **Victimization and Victimology**, translators, Rohuddin Kurdalivand and Ahmad Mohammadi, Tehran, Majd Publications, 1<sup>st</sup> ed., 2000.

40. Mohseni Kandahari, Mohammad Asif, **Jurisprudence and medical issues**, Qom, Jamia Modaresin Publications, 1<sup>st</sup> ed., 1424.
41. Marashi Shushtri, Mohammad Hassan, **New Perspectives in Law**, Tehran, Mizan Publishing House, 2<sup>nd</sup> ed., 1427.
42. Maguire, Mike and Morgan, Rod and Reiner, Robert, **Oxford Encyclopedia of Criminology**, translated by Hamid Reza Malek Mohammadi, Tehran, Mezan Publishing House, 1<sup>st</sup> ed., 2017.
43. Mir Khalili, Mahmoud, **situational prevention of delinquency**, Qom, Islamic Culture and Thought Research Institute, 1<sup>st</sup> ed., 2018.
44. Najafi Ebrandabadi, Ali Hossein, **from classic criminal justice to restorative justice, criminal law doctrines**, numbers 3 and 4, autumn and winter 2013.
45. **Justice for the victims**, Judicial Law Journal, No. 52 and 53, 1384.
46. Najafi Tawana, Ali; Fadaei, Hassan, **Obligation of ordinary people to report crimes in Iranian and French law**, Islamic Law, No. 19, Winter 2017.
47. Najafi, Sheikh Hadi, **Encyclopaedia of Hadiths of Ahl al-Bayt (AS)**, Beirut, Dar Ahya Al-Tarath Al-Arabi, 1<sup>st</sup> ed., 1423.
48. Najafi, Mohammad Hassan, **Javaher al-Kalam fi Sharh Shar'e al-Islam**, Beirut, Dar Ihya al-Trath al-Arabi, 7<sup>th</sup> ed., n. d.
49. Naraghi, Ahmad bin Muhammad, **Awaed-ul-Ayyam fi Bayan Qa'ed al-Ahkam**, Qom, Islamic Propaganda Office, first edition, 1417.
50. Campbell, Henry; **Blacks law Dictionary**, West Publishing co, 1979.
51. **Declaration of Basic Principles of Victims of Crime and Abuse of Power**, (General Assembly resolution 40/34, annex).
52. Fattah, Ezzat; **Criminology: Past, Present and Future**, New York, Acritical overview, E. Fattah, Forward Rock, 1997.

## Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).