

## Islamic juridical and legal study on sexual crimes with death penalty from the Shiah and Sunnah viewpoint

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### Abstract

Pays "legal study and legal sexual crimes punishable by death by the Shia and Sunnis," the study due to the limitations of human sexual relations, including issues that in addition to religious teachings, in different historical epochs by the legislators and legal systems as has been customary. Now, despite cultural differences and ideological view of the man and his character, we ban such as sexual offenses, the legal systems are different. In Islamic law, the punishment for certain sexual crimes and ordained often legal) limit (call given that the current Iranian penal provisions in this field, reflects this approach. Evaluation of these crimes on criminal law and the law of ancient letters can bea ancient law and the teachings of the Abrahamic religions such as Islam and Judaism, according to human nature. Shi'a jurists of the death penalty for sodomy know whether it is marriage or non-marriage, but Ayatollah Khomeini to accept non-marriage-just whip . to public comments dominant Sunni scholars case of incest) any ones that are (at it and say this person murders of human risks has declined to bestiality. at the same time, the philosophy and goals of punishment of crime in sexual crimes, the law of letters and religion are fundamental differences in sexual offenses in criminal law in Iran, which is inspired by the jurisprudents in both fixed and discretionary can be investigated. The hadd crimes against chastity, the legislator under the headings; punishment for adultery in Article 36 of the Penal Code, Sodomy in Article 801 of the Penal Code, the lesbianism in Article 821 of the Penal Code, as pimping in Article 861 of the Penal Code and a Hadd Article 861 of the Penal Code has paid to this category of crime and punishment that each type, quantity and quality specified in the law is considered. This study is terminated with the result and suggestions.

**Keywords:** jurisprudence, law, sex crimes, death, Shiites, Sunnis

### A: Introduction

Some of the issues related to the objectives of punishment jurisprudence in the area of criminal law. What if the entities concerned to know the purpose of punishment is punishment, it fits with their individual social benefits and to apply, and consequently, the possibility of the realization of justice becomes greater. Explaining the goals of punishment, as well as the spirit of obedience to the law to punish offenders who arrive on the increase; When criminals know the general forces

them to fulfill their Mslthayy in relation to society required or punishment receptive easier and less insist to escape. Talk about the goals of punishment for sex crimes is more important, it's important that the issue of sovereignty in the field of private behavior linked mode. The fact that many sex crimes are done secretly, trying to discover and explore and search for citizens to prove they will connect. Citizens are not willing to interfere in its sovereignty in the area of personal Vpnhany. Governments are low due to excessive interference in citizens' private behavior, their public acceptance and

legitimacy crisis faced lost or fall into the vortex are depressed.

Sexual offenses such as adultery comprehensiveness of some cases and in general its role in the spread of these crimes are also on the importance of its depravity and destruction of a society adds. The importance of these crimes that have long chapter from different countries to discuss these crimes are dealt with.

Islamic criminal law, there are specific rules and regulations regarding the crimes of chastity, the necessity of explaining the goals of punishment in these crimes multiply.. While the dominant system in most of these crimes evidence to prove guilt in such a way that normal conditions be impossible. This is while in the common law "crime" is the phenomenon to the general powers all their power to employ to discover it. This approach needs to study law apart from the goals of punishment in other crimes.

#### (B) Statement of the problem

beheading with a sword, destroying walls on the person. considering the different conditions can be created. Since the death penalty is the punishment severe, irreversible and in some death sentences, including the death penalty for sodomy in some opinions Sunni or Shiite death penalty for the subject of some jurists, in this study Msdayq they argue the death penalty for sex crimes, principles and scrutinizing been investigated. The punishment that has been predicted in Islamic criminal law, sexual crimes, which are punishable by death for committing certain criminal acts of the perpetrators, he runs on. it is not permitted, so the judge to reduce, mitigate or delay is not allowed immediately after its implementation must precede provide proven guilty. On the other hand, in the case of fixed rules and can not be changed, if modern machine tools and execution role in the evolution of their implementation, to the extent applicable executions extent by modern instruments, or should the same way that in Islamic texts projected to be implemented. In this study, these and similar issues discussed dealt with.

#### (E) research questions

1. According to verse of the Quran "and La Tqtlva hearted facing the shrine of Allah except Balhq and lack Jlna killing me Mzlvma Lvlyh Sultana Fela Ysrf per Alqtl Anne Kahn Mansour" (Isra ': 33) Why religiously accountable for some of the acts committed, punishment execution is intended?

2. What reasons does the death penalty?

3. The evidence and legal foundations of the death penalty for sex crimes What? And why such a decision has been taken?

4. instances of sexual crimes punishable by death according to the jurists Sunnis and Shiites What?

#### Research Methodology

Data collection is a library of books on the study of Shiites and Sunnis and opinions of jurists and lawyers and the analysis and understanding of the causes and effects of crime and the death penalty for them. For data collection, taking notes and using the site and the application of Islamic law and jurisprudence inmate rights, such as comprehensive, Mktbh Alshamlh, libraries Ahl al-Bayt (AS) is. Concept of

a. Based on the legal system according to its values and principles, actions and criminalize certain behavior and impose appropriate for them Mjazat-Hay stopped. Given that there are many Islamic scholars believe that the god's intentions by introducing legal provisions, in order to achieve the interests of the people to them, do not be criminalizing a behavior within an Islamic legal system , the ends to be ignored. This is valid in all circumstances and individual purposes can they decide on scrapping or disorder. Because this material personal interests and partial and subject to the conditions set time and place or not. The necessary materials are divided into two categories-sufficiency objective is dumped. Interest-sufficiency, it is expedient to set up a government with social systems, and tackle issues Hesba judgment, maintaining the essential materials objective as possible and makes the researcher. As a result, material sufficiency in fact a tool for maintaining and reinforcing materials are concrete. In addition, any necessary expediency can not be inherently incompatible with other essential interests.

#### Sexual offenses These crimes are as follows:

1) adultery following: the intercourse between a man and a woman who is naturally forbidden to him from behind. However, in cases of doubt been penetrated.

2) Sodomy: either to enter or homosexual sex intercourse with a male.

3) Lesbianism: homosexuality of women by genitals.

4) pimping: the collectors and connecting two or more people for adultery or sodomy.

5) qazf of adultery or sodomy to another person.

The legal concept of sexual crimes punishable by death affair of the Islamic policy is avoided. delves into the private lives seem to require such action is and to limit their freedom. " Sexual offenses in criminal law inspired by Iran, which is Shiite jurisprudence in both fixed and

discretionary can be investigated. The hadd crimes against chastity, the legislator namely, adultery, sodomy, too, as lesbianism, prostitution, too, is paid to this category of offenses for which punishment that type, amount and quality of the law specified in the is. " Limit

"Limits, an important issue with a specific criminal jurisprudence and law punishments for certain crimes is meant to be." "Retribution say much in terms of scope it is given in Scripture and tradition," Alzanyh and Alzany Fajldva Mnhma matte cover the entire unit. " In legal terms, the meaning of some of the discussion, according to the meaning of the term, some specific measures that corporal punishments for certain crimes specified by the law.

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According to the new Penal Code, the punishment is said that the type, quantity and quality specified in the law.

The religious books sometimes for offenses punishable by a term limit is also used. "The word about fourteen times in the Qur'an, often with the phrase" Hdvdallh "used and the meaning of the divine commandments and prohibitions, or in other words God's commandments. Hence, the Quranic concept of jurisprudence is wider than common sense."

"In the Hadith, the limit is applied to several meanings, among other things, that literally means to deter and punish certain (legal definition), unspecified punishment or any punishment."

In the hadith and fiqh sources, emphasizing the implementation of its numerous advantages, sometimes referred to the wisdom of legislation, including reasons related to some effort to run around, to prevent abuses of the pillars of society and public interest, ie, body, intellect and property of people listed. It also said the physical pain and discomfort caused by running too, will strengthen the deterrent force of criminal guilt expedient, too, will interfere with important interests, implementation or discounts will be temporarily shut down. intellect and property of people listed. It also said the physical pain and discomfort caused by running too, will strengthen the deterrent force of criminal guilt. "

However, from a legal perspective, proven offenses, too, is very difficult and requires a lot of evidence.

Given the above, what about, broadly agreed by all scholars of Islam is:

1 - adultery 2 - qazf 3 - drinking 4 - Steal 5 - waging war, and what looks suspicious it is noteworthy, however, is of sodomy, lesbianism and sodomy and adultery-Msahqh- Art dad.ma of which are broadly in Shiite jurisprudence degree crimes punishable by death are known, will be discussed.

### Adultery

The legal definition of adultery refers to the closeness between a man and woman get married.take. If done near the entrance, the women say. Therefore, although unrelated touch or see the girl's body, not adultery, and adultery is forbidden, but the verdict is not current.

Last year that the Prophet was in Mecca, a few months before the migration to Medina, the verse was revealed ban adultery and fornication were warned that "indecent" and "Bdrvshy" is:

"Vela Tqrbva Alzny Anne Gunn Fahshh Vsa' Sbyla" "Surely lewdness and adultery not approach it has been the worst way."

In one verse of the Holy Quran that describe the faithful had come, with idolatry and adultery built murder, had been warned that anyone who commits adultery is a sin worthy of punishment: "These include La Ydvn with the ideals of God except Allah Balhq Vela Vela Yqtlvn shrines spirited penile Yznvn I Da'vat Yfl Ylq Sama" "God, no God to those who do not, and do not kill the soul that Allah is rightly respected not only, and do not commit adultery anyone is punished so hard [on Judgment Day] will. " In the seventh or eighth sentence clearly stated in the Qur'an men and women were told to punish adulterous women and adulterer is one hundred lashes in public. And Drdnbal this verse, another verse states that the adulterous marriage is totally forbidden and any man or woman should marry a woman or adulterer.

"Alzanyh Valzany Fajldva Mnhma mite cover whole provinces Takhzkm us to compassion surely Kntm Tvmnvn God forbid fi religion me Valium Miscellaneous Vlyshhd Zabhma Tayfh Ali " adulteress and the adulterer, to check each one hundred lashes, and if you believe in Allah and the Day should you take mercy towards them, and should be tormented to watch a group of believers. "

The adulterer is one hundred lashes set in verse. But compared to some of the provisions Dygrysabt is in the following:

A) the adultery boy with girl, in addition to imprisonment for one year is one hundred lashes.

B) in incest and adultery infidel rape and murder of a Muslim woman is required.

C) in adultery (married woman or a married man) by stoning is prescribed.

D) Adultery by a man without a wife in addition to whip the woman's husband had to shave the head adulterer and the adulteress nor adulterers, banished there for a year.

E) The fifty lashes that are too Mamluk.

And) the Mbz that servant released him run that part.  
G) patients who do not tolerate hundred lashes with a bunch of twig that is composed of hundreds of stick-thin body once he turns.

Married woman who commits an indecent act, in Koran stipulates that her husband should bring four witnesses who saw action in the eyes, and then look at the woman's home. And stressed that men and women are guilty of lewdness should be corporal punishment, but punishment if they repent, no one has the right to:

1. For the honor and dignity of others, Islam, to prove adultery, four witnesses is required, and even if the three witnesses attest, all three whip eat, but to prove murder, two witnesses is enough. "

2-witness to adultery, must be a man and a Muslim, to prove the crime, would be very subtle. "Arbh Mnkm"

3. The evidence of adultery is not obligatory. "Van Shhdva"

4-in not convince the judge to his knowledge, Certificate is required.

5-punishment of an adulteress, detention at "home", not a public prison, that you may learn more corruption.  
6-arrest woman at home, because they do not corrupt the society and deprived of marriage and the right to pleasure not found.

7. For the purification and cleansing of society, criminal incarceration is necessary.

8. life imprisonment the punishment for married women who have committed adultery.

Some of the Jews who had adultery, the hope of salvation from the penalty of Sngsarkh in Judaism come to judge the Prophet arrived, oblivious to the judgment Sngsarkrdn Islam adulterers, because they saw Islam as the same sentence, refused to accept the decree The Prophet did not.

The verse is addressed to Prophet said: "The scribes in harm to you and your ideas for the school and the Muslim community concern. But God promises that if interest to know the symptoms do not concern" (Van Shop Nhm Phelan Yzrvk Shyya).

According to the views and opinions of Islamic jurists and lawyers, in four women will be the capital of execution in all cases is not equal, these four are:

dultery, incest, rape, Muslim fornication with a Muslim woman who will talk about each of them the appropriate amount. Ihsan About Ihsan Male few requirements:

1. wives.

2. have sexual intercourse with her (to withdraw from the ruling Dhani Becker) 3. Whenever he could he take sexual pleasure.

4. adult male. 5. A wise man is.

So if the man's wife marriage is not marriage As Imam Sadiq said: bound by marriage to be permanent. As for the second condition Muhammad ibn Muslim from Imam Baqir (as) Okay, indicating the fact that if wives but did not approach her, marriage is not, the claim of consensus has been provided. he said: marriage is a man who has a wife and could not communicate with him day and night. So if the spouse is not well-off man, resulting sentence will not be bound. So if a person is traveling or in prison, is out of bound, as Harith narrated from Imam Sadiq (AS) says, If a man commits adultery detained in prison, one hundred lashes eats. The absence of common criteria and travel, and absolute virtue out of bound travel, the more in number theory in 1165/7 22/02/1366 Judiciary's Legal Department. But the trip due to a hadith by Imam Sadiq (as) that it has been considered as shortening the prayer and the fatwa of Imam RH Farsakh to have said that, with this much away, one out of bound ; the decree No. 58-9 / 2/1371 second branch of the Supreme Court also confirms this claim. The provisions of Article 86 and Article 88 implies also confirms it. Some Rjyh to end divorced marriage, but divorce irrevocable promise to her death from outside are good; the provisions of Article 85 and Rule (Almtlqh Rjyh wife), indicating the means. There are other reasons such as pregnancy out of marriage-bound woman from a male spouse is possible, Verdict No. 472-14 / 7/1370 Branch 4 of the Supreme Court overseeing this sense; the patient's husband and his inability to establish a relationship the rate of sexual No. 43-27 / 6/1373 branch 16 of the Supreme Court and there is a difference between couples who Verdict No. 285-25 / 5/1371 second branch is the Supreme Court, they bound out of the .

#### A :Shiite jurists

"By tradition current among the jurists sentence of stoning and verbal Prophet and Imams (AS) have been demonstrated and with the traditions of the infallible Imams (AS) entered the probative sentence by stoning verse is an abrogation is that at the same time, jurists these traditions to assume authenticity of the document, the dissimulation they carry. However, stoning sentence

at the time of the Prophet (PBUH) is executed and in time, some Azkhlfa and at the time of Imam Ali (AS). Therefore, proof that one can agree on jurists and scholars of Islamic law, the reasoning does not need more than this. Azarqh the only attestation of the Kharijites that only the Qur'an and Sunnah as the source of Islamic laws and practices accepted in the stoning create doubt that they are not significant in terms of quantity or arguments. "

In Islamic law, the Sharia stoning for adultery is stoning or, in the adulterers bound to apply under certain circumstances. To implement the necessary legal conditions be fulfilled to prove adultery.

According to a Shiite jurist Ibn Idris "in the event of death by stoning for adultery in Islam is applied.

He Bnabrnr "prove that it meets the general conditions prove adultery in Islam, so that oneself or confess four times while full, independent and free, or four men, three men and two women or two men. Be the witness must testify in the presence of each other. If the adulterer and claim to have knowledge of the prohibition of adultery and the potential validity of the claims, the legal limit lapses. If the adulterer repents before witnesses also, be annulled. "

Bnabrnr Ayatollah Khoi "legal limit of adultery is adultery in the first Brahtyat eats a hundred lashes. Then he gets stoned. Stoning is that men are buried to their waists and women up to their chests and beat him to death with small stones. Witnesses initially confessed himself to be stoned to begin, and if the judge starts. It is said that the group requires at least one person or three people and according to the other ten. The legal limit is your special someone's neck should be stoned. After the execution, fornicators and adulterers are shrouding. Pray and then bury him.

In other words, when the interest of Islam and the Muslim community demands, we can further sanctions, but limits the resources run out?

We should answer many jurists in terms of Islamic law are effective, especially in terms of the malevolent, with plenty propaganda against the Islamic power suspicion and discord are referring to Islamic punishments, undermine and insult Islam in the minds of the people and the world provides, the implementation of this species do not prescribe penalties.

Lost.Such entry traditions can also be trusting. For example, expression of Imam Ali (AS) that "the man in the land of the enemy, the punishment will not because I fear overcome zeal and the accession of the enemies." it makes attaining real human interest, rather than merely the interests of the self task, such as pilot assignments. Therefore, in the law, obedience is not

ruling soon. "God or human rights, the ruling could refuse to implement far.

Imam Khomeini (RA) in response to a question about the stoning sentence says:

"Stoning is still not advisable. We have many enemies, against us and promote our own act we provide no cause to enemy propaganda. "

#### Bojnordi says

Muslim interest lies not in itself lead to or greater than the loss to be followed, will lose his executive powers.survey raised its interest, so now is not the lack of implementation of such penalties not only against Islam, but is in line with Islamic law.

#### B: Sunni jurists

Denies stoning, voted the greatest jurist Mu'tazilite, Ibrahim al-Mobile is Mu'tazili and his disciples. Mo'tazelahs of early jurists, the Quran's allocation unit are not permitted and therefore opposed by stoning. Maliki jurist and a prominent narrator, Ibn Abd al-Malik ibn Anas Al-Qurtubi Mvtay in its long history, the denial of death is attributed to the Khawarij and some of Mu'tazilite. His legal theory attributed to all the Kharijites and the Mu'tazilites majority:

"I wholes Alkhvarj Almtzlh Ykzbvn Bhza head." All Kharijites and many Mu'tazilites deny all these cases [referring to hadiths narrated about the stoning] " Also ibn qutaybah part of his book is devoted to the view of jurists who knew the Quran opposes stoning. But in modern times the opposition of Sunni jurists are stoned. Ahmad Subhi Mansour among Sunni doctor, a former professor at Al-Azhar University, stoning against Islam and believes that such legislative there's even true in the Torah.

Doctor Muhammad Alshhrvr, Quran Syria expert also believes that "stoning of distortions Jews of Yathrib, which gradually became Muslim jurisprudence. Believes that the stoning of young long before the Islamic Shari'a prescriptions Shd.alshhrvr Jesus in the second chapter of the book "Women jurisprudence" as opposed to stoning for adultery knows Quranic texts. The Sunni scholars in Iran, Ahmed Mufti Zadeh and Naser Sobhani were denied stoning. Sheikh Gamal Al-Banna and al Abvz-hrh other opponents of stoning are among the Sunnis. " Nsrhamd Abu Zeid, Egyptian scholar of the Koran in book circles Alkhvf has doubts about whether the punishment of stoning is part of Islamic legislation. The great Sunni scholar Sheikh Abdullah Allayly Lebanon in late life sentence out of legislation introduced Islam and contradicts the Koran. Sheikh Abdullah Allayly believes that the only pretext supporters stoned, sayings that have

not crossed the faith. He stoning tradition of goats writes: "This hadith is the phrase (Thrny cleanse me! O Messenger of Allah!) Arrived. The use of words, but of interpreting Islam in the former was known among the nations. "

### **Lesbianism**

Homosexual women, one of them is sexual perversion. Islam, lesbianism as a crime and has set a limit for punishment.

narrative have narrated, that the Prophet (PBUH) whip in the first verse of Surah Noor was revealed when he said: this is the cure and the way that Allah in Surah Nisa verse fifteen is promised.

Take the first throwers in the following verse: "I Alfahshh Yatyn Vallaty Nsaykm Fastshhdva Lyhn Rbh Mnkm Frames per Shhdva Famskvhn cottages cardboard or even death Sbyla God" (An-Nisa / 15), "and of their wives that they do - - four [men] of their own witness want, then if they bear witness to the homes Bazdarydshan until they die or Allah created the way for them. "Witness the emergence, and its appearance is another verse that the tone of the verse is understood that the punishment is not permanent and soon repealed because it says:

Cardboard Lhn Sbyla Allah (or God's cure them) and no reason not quote that said much about lesbianism flowed for a while, and then so and so it is clear ruling has been other versions of verse as we said about adultery is revealed, including "Rbh Mnkm" he must show that the number of men.

"Frames per Shhdva Famskvhn cottages" in this sentence is imprisonment for keeping the woman in question relate to the testimony of the witnesses, not on the principle of indecency, and short, only when life imprisonment sentence from the ruling be issued when four witnesses to testify on the woman's action, and if the witnesses do not testify sentence can not be imposed, though the ruling is certain to issue it, and that's one of the texts to Allah is the Muslim Ummah, as compared to he said acts of forgiveness and tolerance.

"Philosophy sanctions on men and women men over women is that it is against nature that God has for man and woman (and opposition to the building innate and natural, stimulates the body and soul will). And because of this is that if men and women are gay, the human race is cut off, and devise social life was prone to corruption, and the world to destroy it. These illicit relations in the human organism and even devastating effects on the nervous system and soul "man of a perfect man, and woman from a complete woman squeezes, so that women and gay men, caught severe impotence and unable to be a good parent to their future offspring and sometimes completely lose the ability to produce

children. Gay people gradually isolation and alienation from society and the alienation of himself in the country, and caught a complex psychological conflict, and if it could not pay its reform and mental health problems are caught.

### **A -Shiite jurists Comments**

Bayan Assembly in the interpretation of Imam Sadeq (AS) has narrated that the person of His Holiness asked from verse 15 of Sura Nisa said: "This verse has been abrogated, someone else asked for copies of those days that was not how he treated was? He said in this case that if a woman commits adultery against her. And four people locked in a house that bore witness to him, and with him, not talking, and Bskhnsh not listen to him, and with him takeoff and landing were not only Tamsh water and took him to die or later God provided a way for him are those who build, and it was that his lashes if they are unmarried, and if married were to be stoned. "

His sentence is life imprisonment, detention cemetery that will eventually put to death the woman, and said: "Even Ytvfahn Alamut '(until death overtakes them), what it is, the interpretation of life imprisonment is also not in prison, but said they hold in homes until they die, it is also clear proof that the work has called on Muslims to be easy, and the rigor negligible. The whipping sentence life sentence abrogated, and it is essential that the current judgment regarding the adulterous in later life of Prophet Muhammad (PBUH) was sent down, and after the death of His Holiness was current among Muslims, and the imprisonment of the demise of His Holiness does not act at all.

This judgment or decree elementary and non obsolete, or legal ruling abrogating verses, after the speech, however, fails to Abu Moslem. God knows the meaning of commentators-and-a verse implies that the sentence is adultery for married women, because in verse has won only women's names.

In a hadith from Imam Ali ibn Musa al-Reza (AS) sanctions homosexuality philosophy reads:

"Llzkran mentioned sanctions, and Alanas Llanas, Lama Rkb per Alanas and we printed the above, and Lama per Atyan mentioned above and Alanas Llanas, I Alnsl interruption, and corruption Altdbyr, and damage to Dunya" And Bayan Assembly states that Ibn Abi Al-Dunya (in disapproval Mlahy) and Bayhaqi and Ibn soldiers from Jafar ibn Muhammad ibn Ali (PBUH) has narrated that two women from the Imam asked: "Is she the woman falling in other books forbidden by God, you know. He said: Yes, this is the same woman who lived during the reign of virtue and the women who were with clay. he, then Ja'far said: this Msa'lh teach to all women. "

## B- Comments Sunni jurists

Ibn Hazm also believes that: "If a woman Faraj Faraj another woman to rub, until ejaculation is this abomination and a sin on him!"

When this is nothing more than the act he did not commit is permissible unless he is not going to come out, that it is absolutely not violated because God Almighty is in the Holy Quran (we are ḥarām what you detail we have; Sura tips) and this time it is not articulated things that the Lord, because God has said so !!! solvent (Ho Alzy you to fast creation on earth we all overseeing Stow then Bekele object to Alsma' Fsvahn seven heavens Vhv Aleem) (Baqarah / 29) "God created everything on earth for you, unless we do this abominable (detestable) We know because of Akhlaaq and his virtues and bad people know why some people hate fatwa and some have given fatwa permits and permissibility. "

### Panderism

To collect and linking two or more people for adultery or sodomy, prostitution is said.

"Pimping" the active weight of the material is aboard and leadership, in its literal definition is "contradictory Alqvd Souk, Yqvd Aldabh I Ysvqha Imam and I Khlfha" who took the animals string and move forward is leader but he drove behind it, called the drive. Therefore, the first meaning of "pimping" is Almtqdm. Someone who is ahead. But in the specific terminology and metaphors about committing a criminal act that resulted in the bringing together of two individuals for acts incompatible with chastity is used. As it is written: "Between Man and Women serving Alqvad Llfjvr", "Alqvad, Aldyvs" and "Ali Alfajrh able to attract beneficiaries Alfjvr the problem, Hyahalhm".

## A Shiite jurists Comments

Jurists, generally as a result, from the word "leadership" are used in the same metaphorical meaning, but the meaning it has seen significant difference among them. Although apparently not a certain respect Aqtsar the meaning of the first and only legal punishment in only anecdotal documentary "pimps", as it has been said, but most scholars to have been committed last two words. In the following discussion considers the views of some jurists who believe, is listed:

The first group: the men and women of the narrative prove and gather a consensus between men who know are:

1-Sheikh Mufid: "And I stood against Albynh Baljm between women's and Men's Men and Alghlman Llfjvr." "And the evidence is that the mix of men and women or

men and young men to do the forbidden act"<sup>2</sup>-Shaykh al-Tusi: "Men and women's and Men and Alghlman Jamea between Llfjvr".

"A combination of men and women or men and young men to do the forbidden act"<sup>3</sup>-Hilli: "Men and women's Alqvad Ho Jamea between Llzna and between Men and Alsbyan Llvat." "Pimping mix of men and women or men and young men to perform sodomy"<sup>4</sup>-researcher solution: "As for the belt between Men and women's plural Fahey Llzna Men and Alsbyan Llvat him."

"Pimping consensus among men and women for adultery, men and women or between men and men, even boys for sodomy"<sup>5</sup>-Ibn Idris: "Jamea between women's and Men's Men and Alghlman."

"Consensus men and women or men and young men to do the forbidden act"

6-Najafi: "As for the belt between Men and Women Fahey plural me his gloves between Men and Men Nisa Llzna He even Sbyana Llvat."

"The combination of man and woman, between men and women for adultery or between men and men, even boys for sodomy"

7-Imam Khomeini: "Hey plural belt and between the Man and His Women Llzna Alsbyh he Balrjl Man Sabee Llvat him."

"The combination of men and women for adultery and prostitution create or boy or man and man or boy for sodomy"

So from the perspective of those jurists, leadership consists of men, too. So in terms of their leadership, criminal act is to bring together two people for committing immoral acts, takes place.

The second group of women gathered together the analogy between the public lexical priority or to have it. Some jurists are of the view that respect, as follows:

1. The second martyr: "and plural belt between the subject and Allvat and Alshq Alzna Alfahshh me."

"The combination of subjects of prostitution, pimping created for sodomy and adultery and lesbianism"

2-Mousavi Khoi: "Hey per Allghh belt and shoulder straps forbidden between Alshkhsyn Ljmhma Ali Alvty Almhrm."

"Prostitution is prohibited and the word quest for between two to been penetrated and sodomy"

The above statements clearly indicate that these "leadership" as crimes against chastity triple conjunction between the parties to adultery, sodomy and lesbianism know. But the deceased owner of the jewelry in rejecting this view, saying: "And Lem searched Athqqh Bell and

Bell Larfa Stsm Ali al-Awwal Khobar Alaqtasar Fi." Because first the leadership between men and women is figurative. Secondly, it is clear from the hadith, Imam Sadiq (as) the term "pimping" what is now normal not picked up after the narrator explains, Imam (AS) expressed its mandate. The narrator of the "prostitution" of the Imam asked the Imam (AS) said: pimping is not. But should he be rewarded. I ransomed narrator says "pimping" between men and women are forbidden to collect. Imam says: (He is not prostitution) he "authors" between men and women is forbidden to do. The narrator says the same.

### (B) Comments Sunni jurists

It seems the only public law scholars in prostitution, comments are close to the Shiite jurists who just quote three of them are:

1-Shrshty: "I gathered he was the statesman he Amratyn Abdul his servants." "Prostitution is prohibited and the word quest for between two to mixtures and sodomy.

2. Ibn Hamza "plural belt between Alfajryn Llfjvr." "Pimping been penetrated people and sodomy"

3-bin Saeed Hzly: "Between Men and gynecology and women's and Men and Alghlman Jamea Llfjvr ...".

"Pimping between men and women with women and men gathered for a forbidden act" The analysis of the first paragraph and second paragraph, of the questions and answers concerning the meaning of prostitution between Imam Sadiq (as) and Ravi stated, given that leadership is not common among both men and women, otherwise the Imam (AS) that It was not alien. So how can we reconcile between women out of leadership concept, but between men gather examples of enumerated it? If the ruling criterion that only contains the text of the hadith areas and between men and women. If their reason other than tradition, because lesbianism and sodomy are both Kbayr, it should be both. between men and women has withdrawn, it may be the other priority claim is dichotomous. Such as sodomy and lesbianism is worse than adultery.

### Capital punishment in sexual offenses

It seems that Islam in the administration of justice does not Mmashaty with detailed explanation and description of the basis for these crimes, to maintain peace and security is moral.

Here are the criteria to be assessed whether religious rulings or holy legislator without criterion for whether the sentences are imposed? And if any Mlakaty for rules, whether these criteria are met and the achievement of the human intellect? the commandments earned as a result of such changes alter the religious order? I should say that, if the provisions are subject to

the standards and criteria to be accessible through reason and also be varied by changing the conditions, criteria, laws will change in itself and in One of the principles that underpin authoritative Islamic law, the principle of citizenship of Islamic law and corruption unit is located.

Famous fundamatalists proceeded believe that good and evil exist in Belongs sentence. But scholars such as the late Akhund, considered their interest in self-judgment, the majority of jurists on the citizenship provisions that are specific criteria of materials and corruption, are unanimous, unlike Ash'arites who deny the faith and the inherent evil things, compliance with the provisions of the corruptions that, in some narrations from the infallible Imams also denied to them due to having similar views have been criticized and blamed. In the hadith that when Imam Sadiq (AS) was asked about forging Halal and Haram and its quality, he replied: "No verdict has been fake and unless legislation is due to what." Parliament late in the interpretation of the narrative says:

"It means that God did not decree legislation, but to the wisdom of the wise and no solvents are not permitted, except by virtue of its faith and did not prohibit forbidden, unless the evil is not what they are allowed to Ash'arites ; the negation of counterfeiting laws and deny any purpose, rational good and evil. "

In the same way, when Imam Reza (AS) asked about Muslims believe God forbid something lawful or not, except to worship servants - that God rules in the legislation in terms of the interest and not evil, but only in terms of the servants have been worship: His Holiness states "such people in severe error and loss of work is obvious, and then cites the things that indicate that the provisions are benefits and disadvantages." As it was stated comply with the provisions of the corruptions does not Shiite scholars and scientists also believe the Sunnis.

Ghazali says: "Beauty provisions of Shari'ah-function materials are the servants of the servants of the sentences Vshar on the basis of appropriate materials for canonization effort to have the bounty to the people."

Section IV: The criteria to changing conditions and requirements change When it was discovered, reason has the potential to areas that in many cases resulted in verdicts and materials acquired into their legislation, to see whether the above change or by changing the conditions constant materials Vmqtzyat be modified. Three theories on the subject by scientists has been mooted:

First theory: The provisions that have been enacted to guide the human society are of two types: fixed rules and changing laws, rules rulings prove that criterion; that interest in them is always changing conditions and



The late Allameh Tabatabai says: "a series of laws with the passage of time and advancement of civilization and it changed the rules that are related to specific circumstances, but a series of other related to the" principle of humanity "that the magnitude of common among all men, in all ages and in all circumstances and is unchangeable. "

Commenting on the above, the expression of human needs, Allama writes: "The requirements in the face of laws and rules embodied in the human mind is divided into two distinct parts:

2-laws and the temporary or local or other aspects accounted for by differences in lifestyle, finds differences. Of course this section with gradual progress, civilization, and transform the social figures and the creation and destruction of new and old ways of turnover. "

the second part is to realize that the rules can be changed according to different materials and different times and places finds. Based on the above, it can be deduced.

Perhaps for this reason that Ibn Sina Avicenna and counterfeiting laws on the status of the transaction, which is about the relationship between man and man, says: "We need a lot of scenarios, particularly in transactions transferred to ijihad because for the time there are various rulings can not be seized. "God's hand.

Second theory: no changes made to the affirmation of the religious orders. One of the contemporary scholars by dividing the provisions of the law on governmental regulations and the provisions of secondary, primary and secondary Vtvzyhaty writes: "It is true that the second sentence - initial order - remains constant and does not change, time to Drmhtva are any circumstances if they want any change ... and at this point there is no difference between the transactions and worship Vhmgy are immune from change. "

Check crime against chastity of the new Penal Code On the other hand, despite criminalization made in this regard, penal policy based on preventing the spread of prostitution through the investigation of crimes against chastity and morality ban public. In this respect, the legislator in Article 43 of the Public and Revolutionary Court Hearing Procedures in Criminal Matters, the implementation of the research is banned in crimes against chastity, but in order to safeguard the moral atmosphere in society and protect the rights of private prosecution, the ban on the judge was prohibited from doing research on the subject, but the new Penal Code, the ban on investigating crimes against chastity strengthened and cases of principle raised to a minimum. According to Article 241 of the Act: "In the absence of

forensic evidence on crimes against chastity and the accused deny any investigation to discover the hidden and concealed from the public is prohibited."

The provisions of the law Akhyraltsvyb, even on the assumption of a private prosecution in crimes against chastity, the mere denial of the accused and the lack of evidence, carry out any investigation or interrogation in order to discover and prove such crimes has no legal basis is prohibited. Therefore, it appears that the implicit abrogating the provisions of Article 241 should be considered part of the provisions of Article 43 of the Code of Criminal Procedure.

things that are visible and made public and without camouflage characteristic is therefore evident if the offense committed and the interpretation of paragraph 1 of Article 21 of the law of Criminal procedure is committed to Justice visible and enforcement perspective, the crime of chastity Conductometric ban not applicable directly without reference to enforcement and judicial authorities should have the necessary investigation in this regard is usual. In addition, the last part of the provisions of Article 241 of the Penal Code new, often committing immoral acts by force and coercion, or by abduction or deception, or those under Clause 2, Article 224 of this law in order Rape is also the inclusion of a ban on research crimes against chastity is an exception.

Misdemeanor indecent in the new Penal Code Crimes against chastity to attack the material and spiritual life is very important. In order to combat these crimes, comprehensive, evidence of stability plays an important role. In this manner opportunity to know and jurisprudence and legal experts to the conference, review and provide a solution to the issue raised with respect to the capabilities Shiite dynamic jurisprudence are invited to take. Crime detection through systematic and rigorous One of the most important tasks of the criminal trial later. other persons guilty of the community. Before applying the penalty, the offender found guilty of the most important steps that every offender should make it through. Meanwhile crimes that are somehow connected with the dignity of human beings and often hide these masses of human beings from one another, is proving difficult. That is why in Islam is more sensitive to this type of crime is applied. Although some believe that the holy legislator objective of limiting the avenues of evidence in these actions, the crime was not proven. If this is to accept that maybe partly true.

### **Conclusion**

According to the hypothesis presented in the first chapter of this research study design and the following results were obtained:

stoning, burning, beheading, and the like throwing from a long or be notified, a general rule to not allow themselves to commit such a crime, or if committed by it in the most secretive commit Policy has not provable, but on the other it's so hard to put that evidence to prove such a crime and therefore it will not be punished. Of course, this does not mean that if found guilty, offenders are not punished, but as mentioned, in cases where adultery is proven - as if the Prophet (PBUH) and Ali (AS) - the penalty will be applied.

On the other hand, repent to prove adultery by evidence, as well as waiving the penalty for adultery. If prior to proving adultery by evidence, adulterer repents, The corresponding virtual scrapping of repentance, but repentance mentioned in the study, after proving adultery by evidence, it will not be Muscat. Given the above, it is usually a person confesses to adultery is not a crime, while the Prophet (pbuh) and infallible Imams (AS) preferred repentance to confess, so few people find, will be annulled and may be incomplete conditions with testimony, witnesses are hadd is incurred. Akram Ali (aS) martyrdom and lack of social testified and violates all the circumstances, your intuition have suffered a Hadd. In all cases, the difference between adultery and sodomy, is not expressed in terms of confession and testimony to prove adultery, sodomy is also provided. So in relation to sexual offenses, Islamic legislation to enact the death penalty, following the executions but a main goal, intimidation and deterrence general public and thereby Bavz Shdydft law is considered Shdydkhvdqrardadh.

### suggestions

1. Because the human nature of sexual crimes targeting communities, causing destruction and generation Hrs. The foundation of the family undermined, and the grounds of crime and other vices in society and in the absence of appropriate action, such crimes quickly spread what punishment to prevent the escalation of violence and crime, take note.

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3-in proofs of adultery and other offenses against public morals and ethics difference between rape and adultery is not left without forcible sex offenses in both of these directions, strict seen, but it should not escape harsh and violent criminals the sex of justice. While justice demands that Islamic law to such persons and threatened to rape and force women and girls are kidnapped and brutally raped, to be confronted firmly.

, It is essential. Accordingly, the judge will have to uncover the truth and take appropriate action and decisive, so that the spirit of injunctions in Islam implies, effort and using circumstantial evidence and through conventional methods of binding, to punish sex offenders to provide.

5-day science and technology must be at the service of justice, has also led to the discovery of crimes and identify criminals from scientific ways and a lot of criminals and criminal justice and law are caught. they can vote according to reasonable and documented, export and consider appropriate penalties.

8-of-control sexual harassment and violence, acts of cultural, economic, social, legal, law enforcement and judicial authorities is necessary, but the role of the victim and the victim of the crime of the utmost importance. Although this position may effect your performance is sacrificed.

9. Social cleanup and removal of physical and psychological triggers to sexual health of young people, creating harmony between the executive, legislative, regulatory, judicial, and propaganda about the country deal with the manifestations and signs of growth, the spread of violence and sexual abuse, justify the younger generation psychological and social harm illicit sexual relations, learning how to use the Islamic veil and observe chastity of young girls, facilitate marriages and families, special protection to victims of sexual violence and sexual offenses on the one .

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