

INVESTIGATING THE LEGAL PRINCIPLES OF LEGAL RECONCILIATION IN CRIMINAL MATTERS

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Abstract: Spiritual dignity is the most important human capital, whose importance does not equal anything other than value. This prestige and prestige gives him the opportunity to take part in his social role. Therefore, the loss of life after this person's life brings many tools and opportunities to him, such as those who are accused or guilty of any reason, in a heavier position. Because they are faced with a lack of judicial review of their dignity and reputation, which is necessary to restore it or, in other words, restore reputation. In this regard, the government plays a role in another sense, or in other words, responsible for the reputation of those who have been damaged to their dignity and reputation, which sometimes directly imposes obligations on governmental institutions, including the public prosecutor, and sometimes government agencies. It makes the person or groups required to do the work

(compensate for the unjust charges against the individual), the same is true of the perpetrators; the notion of dignity in the concept that is the subject of this article is the expression. It is to repair the damages caused to the dignity and dignity of those who. In the area of criminal matters, judicial proceedings have been taken and damaged by their honor and reputation in this area. In this sense, the defendants have been acquitted and the defendants are also mistaken.

Keywords: restitution, accused, offender, condemned, government, General

Introduction

The human being, as defined in the Qur'an and the original Islamic teachings, is defined on the basis of the removal of the dust of disbelief and the

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4. Which institution is responsible for restoring dignity? What are the general remedies?

Background research

In this regard, the magnanimous scholars (Aminian 1346, Soltani 1390, Saber 1381, Jalilzadeh 1387) have written independent articles that merely refer to the issue of restoring legal terminology, and the various dimensions of this issue raised in the present research are not considered in principle. Therefore, the present article Restoration of dignity is unique and does not suit history.

The aspect of research innovation

In this study, repatriative recourse does not take into account what is meant by legal resources; therefore, in an area beyond, the issue of the causes and methods of repatriation has been investigated for defendants, prisoners, and criminals.

Restoration of dignity in the word

Restoration of dignity is a lexical term for a combination of terms that consists of two words of restoration, meaning repentance and dignity.

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Recovery of a person's dignity or rehabilitation of a person, who in Farsi sometimes mistakenly refers to the rehabilitation of a person, that is, the return of the attribute of one The person to him is the same as returning his honor (Dehkhoda, 1993, p. 6, p.

8121).

The equivalent of restorative dignity in Arabic has been rejected by him for his refusal to amend. (Ismail al-Wahib, 1988, p. 68)

Restitution in the legal term

The restoration of the dignity is the establishment of a law which involves the application of methods to eliminate the effects and consequences of the conviction of the convicted person against his future. (Fakharutouzi, 1394, p. 22), another point is that repatriation is the removal of the convicted offender from his criminal record in order to eliminate the deprivations he has been sentenced to a subsequent punishment (Hedayati, 1332, p. 181). Another interpretation can be defined as: repentance is to restore the credibility, reputation and rights of those denied of the victim (all those whose others have renounced their dignity, and the perpetrators of all the deprivations of

social rights and the resulting consequences). The restoration of criminal justice has been divided into legal and judicial jurisdictions. In the interpretation of restorative justice, they have said that if the restoration is due to a court order,

Judiciary is called legal justice, and if it is by law, it is called legal restoration (Ja'fari Langroudi, 1372 p. 59).

How to reflect on the restoration of dignity in the laws of Iran

The General Penal Code 1304 provided articles 56-59 in the third issue of restitution, which included article 56 condemning the conviction in the criminal record of the convicted person. According to article 56, all definite decrees issued to defendants against crimes and crimes must be included in the criminal record of convicts. According to Article 57, if a person is sentenced to a correctional punishment and has not been convicted within five years of the date on which he is sentenced, he will be reinstated and his former conviction will be wiped out from his criminal record. In accordance with Article 58, the same will apply to persons convicted of a criminal offense, provided that within 10 years of the date of the

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completion of the sentence, there is no new criminal conviction. Also, under Article 59, if persons sentenced to imprisonment are punished for a political offense within a year from the date of the execution of the sentence and those who are sentenced to a criminal offense for the same crime, they have not been sentenced again within five years of the date of termination of the sentence. You will be rehabilitated.

But the reflection of restoring prestige in the post-revolutionary laws is another story. In some laws, rehabilitation was introduced in the general sense (not in its special legal sense). Article 58 of the Islamic Penal Code also stipulated that if, by virtue of the fault or mistake of the judge, in the matter or in the implementation of the sentence on a particular case, the punishment or The guilty party is guarantor of the Islamic law in case of fault, otherwise the damages will be compensated by the government and, in the case of spiritual harm, if the judge's fault or mistake leads to the destruction of a person's reputation, he must To restore his dignity. Prior to the amendment of the two articles of the law and the annexation of a memorandum to the Islamic punitive law of 1377 in the

Islamic Penal Code of 1370, there was no material about the repatriation of material. In article 62 of the repeated addendum to the Islamic Penal Code, it was argued that a definitive criminal conviction for intentional crimes, in the wording of the law, would deprive the sentenced person of the rights of the convict.

The same article in article 25 of the Islamic Penal Code of 1392 states: A definitive criminal conviction for intentional crimes, after the execution of a sentence or time limit, during the time period specified in this article, deprives a convicted person of social rights as a subordinate punishment: (A) Seven years in prison sentences of imprisonment and life imprisonment from the date when the original sentence ceases. B) Three years in sentencing to amputation, remission of retribution, repudiation and imprisonment up to grade four if the crimes committed are more than half the amount of damages. (C) For two years in limited punishment, member of the retributive punishment if the offense of the crime is halved, less than or equal to the death penalty, and five degrees of imprisonment.

Note 1 states: In non-cases, the conviction is entered in the criminal

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record; however, it is not reflected in the certificates issued by the relevant authorities, except at the request of the judicial authorities for the purpose of determining or reviewing the penalty. Note 2 states: In the case of past offenses, if the execution of the penalty is suspended after the final verdict has been passed by the private plaintiff, its effect will also be eliminated.

Note 3 also deals with the use of the amnesty and conditional release, and states that in the amnesty and conditional release, the consequential effect of the conviction will be eliminated after the abovementioned period of time after the amnesty or the end of the probation period. The convicted person is deprived of social rights during the probation period, as well as at the time of execution.

Article 26 of the same social law law describes Article 25:

Paragraph 2 of Article 26 refers to this special restitution in the special legal sense of it and states: "Everyone who has been deprived of his or her social rights as a consequential punishment shall, after the expiration of the period specified in Article 25 of this law, be reinstated and the consequential

consequences of his conviction Except as regards clauses (a), (b) and (c) of this article which permanently deprive them of the rights. As you can see, the scope of repatriation, as reflected in the law, has characteristics: first, in previous laws, including Article 62 of the Islamic Penal Code of 1370, as well as in the Penal Code of 1392, only refers to the reinstatement of legal authority. . In Iranian law, there is no provision for restorative justice. It is said to be of this kind

Dignity is mentioned in the bill No. 3831/1394 of 1318, which has been submitted to the Majles by the Ministry of Justice. In Article 163 of the bill, we read: the convicts who have been punished or executed for one of the legal causes have been released and five years have elapsed since the day when the original punishment was terminated or their retirement expired. , The sentenced person is sentenced to death sentences, with the exception of convicted offenders who have been convicted of a criminal offense, who are sentenced to death after ten years, subject to the other conditions mentioned above.

Who is accused?

In the definition of the accused, they say that someone who has been considered a crime but has not yet been identified as having committed a crime is also being used against the offender (Ja'fari Langroudi, 1993, p. 614), who said that he was a victim of a crime and that the crime was still being slandered And if it's started, the final vote is not over. Following the issuance of a definitive verdict on the charge and the prosecution of his crime, he is guilty (Hemo, 2007, p. 324). In a general view and sociology, one can be accused of supposedly violating social norms and invading the rights of others. Whether he ignored the right of a particular person or violated the rights of the general public, that is, it is alleged to have been a crime in his area, but this claim has not yet been proven, and his innocence may be established. (Fakhr-otuzi, 1394, p. 53) The word "accusation", which is infallible in Arabic, also means the suspicion of a person or group in a word (Al-Humiri, 1413 AH, p. 1111, p. 7315). However, it should be noted that any accusations based on objection Slander is to the person or group, in the sense that at first someone makes a slander (meaning committing a crime) and the

person or group is in the charge of suspicion.

The role of judicial review in defeating the accused's dignity

Anyone charged with a criminal offense and prosecution of this charge will be subject to judicial review of damages to his dignity and reputation. Since the charge stage, step on the one hand, the protection of human rights requires that the occurrence or non-occurrence of a crime be identified and, as a result, be returned to the rights of the rightful owners, and punish the offender and the offender, but, on the other hand, the prosecution of the charge causes the individual's freedom and rights Or accused persons). Regardless of whether the attribution of a criminal offense to a person involves defaming him. Hence, when he is examined from the perspective of judicial review, he makes a mistake. These include: a. Enabling him to interrogate: One of the duties of the prosecution and the charges is to discover the truth. The discovery of the truth means acting in the form of actions to be taken to determine whether or not a crime has occurred, and the first element is the interrogation of the accused that the interrogation's soul causes her

disregard for herself and leads to her intercession, while causing a nuisance to her. .

B: The issuance of security for the accused: various types of supply and even the lightest ones, such as the promise of not leaving the jurisdiction, with the promise of Sharaf (the obligation to attend the promise of Sharaf) is struck by the integrity of the personality and the human rights of the accused; Necessity is prescribed.

A: Permissibility of investigations If the subject of the charge is lawful, we know that investigations into allegations of compensation are not prejudicial. For example, if someone has been accused of committing adultery or sodomy and denies it, sending an accused or accused to forensic science and research and baccalaureate in order to establish a crime is contrary to Shariah and Narada, while in the allegations related to the practice of investigating It is open and the judge can investigate for science (Fakharatouzi, 1394, p. 56).

The accused have been acquitted and convicted wrongly in this debate

The main difference between the accused and the convicted person is that the person sentenced is sentenced to

a criminal conviction against him and may even be punished according to the sentence; while the accused has been acquitted, someone who during his judicial proceedings has his innocence Proved and ordered to be acquitted. Despite the difference we have mentioned, these two are in the same basic and central direction. This basic axis is the realization of the wrong element of both (the accused is acquitted of being guilty of mistake). The misconception is clear because of both positions.

The judiciary does not really have to do anything about the two, it's about convicting the wrong thing about issuing a verdict. Also, in the case of the acquitted person acquitted, this is to find out the charge and the validity of the interrogation and to restrict him. For this reason, the most important condition that the law considers interrogation of allegations related to the rights of others is to recognize the charge. Under this condition, interrogations from the accused will only be carried out if there are sufficient reasons for the crime and the charge to There is an accused; as stated in Article 121 of the Code of Criminal Procedure Act, 1290, a trainee must not summon or summon anyone,

except for sufficient reasons to summon or hold. Article 168 of the Criminal Procedure Code of 92 (13) states: "The prosecutor shall not summon or summon a person as an accused, without sufficient reason to charge him."

However, what is being done about the acquitted person is subject to the wrong title of the judicial authority, and the fault of the wrongdoer there will also be proved; in this way, action to restore the accused to the defendant and eliminate the wrong effects It is necessary to come.

The witness is that the judicial process involves defamation and defamation on the honor and dignity of the people; as the Imam Ali (AS) says in verbal form: (Ameli, 1410 AH, p. 4, p. 377) In this narrative, It is hard and tough, and its connection with the harm that comes to the dignity of a person is that entry into judicial litigation leads people to defend themselves to carry on things that they may not deserve and their position, and difficulty Which in the words of the Prophets is the result of such consequences; as Martyr Thani writes in this statement: the order of the Prophet is that the engagement and Za cause people to get the things that he did not deserve and to hardship and hard

place. (Hem, 1417 AH, p. 13, p. 383). In the words of the jurists, the principle has been taken into consideration that the judicial self-examination and the presence in the parliament it is true that there was a mistake in every case accused of being guilty of allegation, but the mistake of the judiciary is only implicit in the fact that, without any reason for accusing the accusing person, he has been summoned and interrogated and prosecuted. It is clear that without these reasons, the principle of judicial review is not unreasonable and does not count as a judicial error; therefore, we mistakenly assumed the acquitted accused in this assumption.

As a result, Allamah Helli writes that "Irela Lanansan al-Jabashir is a professor of law, but a great pleasure in the pleasures of al-Muna's'b al-Jalilah al-Tukilī" (ibid., P. 15, p. 24). Accordingly, other jurists have stated that the justifications And they will not be summoned to the court, even if they are charged and the need for judicial review, but the judge will go to them and go to investigate. (Najafi, 1400, p. 40, p. 134, Tusi, 1393, p. 8, p. 155, Heli., 1414, p. 2, p.

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The reasons for the need for repayment

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have been acquitted and convicted wrongly

Excusing the accused or declaring that the verdict is incorrect will not restore the person's prestige; therefore, it should be considered that if, through judicial review, a person is injured by a person's moral rights, and that his dignity is restored to him.

The first reason for the offense and its effect Obedience means the self-being of being in two stages: First, in the stage, the charge is taken that the adultery is considered as the first principle.

Second, after considering the subject of the charge and proving that it was unfounded, and as a result, the defendant was bribery.

In this stage, the offense is guilty of innocence, not because of his innocence; hence, the prosecution is included before the trial stage, so if the prosecutor's office is prosecuted for innocence and issued an order Prohibiting the prosecution, the acquittal of the accused is obtained and its works and equipment are obtained.

Doomed works

First: Eliminating the charge (loss of doubt): The nature of the charge is doubtful and doubtful about a person. Basically, in the definition of the accused, they say that the accused means someone who doubts about him. This is a suspicion of the occurrence or non-occurrence of the past in the past. In criminal matters, this allegation is a criminal offense. The criminal act sometimes involves the violation of the rights of other people in public or in private; so, in the case of such a person, there is doubt about the subject of whether he has committed such a current in order to deal with him forbidden? The type of doubt that exists is also the subject. After the innocence is confirmed, such a person doubts and doubts disappears, which means the removal of the charge.

Second: the prohibition of imposing restrictions on the time of charge (supply contracts)

Among the various types of provision of services, other than temporary detention, which has a punitive nature, the other appointments do not have the nature of punishment, but it is nonetheless a limitation of his personal freedom, since these are in the lightest allegations made by the accused

person or his individual Is considered to be deposited with the court and the presence of the accused will be ensured in the proceedings.

Third: The return of a person to the situation before the charge in terms of religious law (prohibition of investigation and audition in his life) One of the intellectual rights of humans is the prohibition of exploration and investigation in their lives. Investigating the accused is not punishable or punishable in nature and applies in any case where the person has not reached the stage of knowledge. Interrogation is also one of the examples of research on such issues.

Fourth: the return of a person to the situation before the charge in terms of eliminating the charges against him: This is what, in comparison with the previous cases, has a positive and positive nature and is the reason for the need for repayment, but the previous cases were of a dubious nature. This part is based on two pillars Minor and Kobra, each of which requires proof:

Zakhravi: The failure to act in order to restore the dignity and restore the honor and dignity of the accused is a rebuke of new sanctity and rebellion against his dignity.

Rabbi Kubravi: After proving one's innocence, it is forbidden to invade his dignity and spoil his hatred.

The result, therefore, is not allowed to act in order to restore the dignity and restore the honor and dignity of the injured person.

Second reason: the incriminating evidence is related to the judge's mistake (the common reason for the defendants being acquitted and convicted by mistake)

It is stated in the 131st Constitution of the United States: if, by virtue of a fault or a mistake made by a judge in relation to a matter or in the implementation of a judgment in a particular case, a person is harmed materially or in spirit, if guilty, the guilty of securing the Islamic standards is guilty, otherwise Damage is compensated by the state and, in any case, the defendant is rehabilitated. This is the question that is posed

Is the compensation for the damage to the judge also within the limits of the requirements arising from the mistake of the judge? The damage to the soul is a loss that affects the dignity or emotions of the person.

Referring to the sources of jurisprudence, we find that from the

point of view of religion, the obligation to compensate for the loss of goodness can be attributed to these sources. The reasons are as follows: First: Documentation of the jurists in the guise of the guaranty and responsibility of the government in the event of financial and psychological losses, is a well-known narrative, according to which Amir al-Momenin said: the mistake of the judges that causes the loss of life or amputation of somebody Is. (Clayni, 1388 AH, p. 7, p. 354) apparently includes the narrative of physical harm, but the jurisprudents have developed it in a crucial way. In the same areas where the narrative sentence develops indispensably, it will also develop at the expense of the dignity that is far more important than the loss of wealth. It may be said that this narrative is related to those who have been mistakenly accused; in the context in which our discussion of the accused is acquitted and the defendants are wrong, the narrative does not include the place of discussion.

We will respond to the following: The title of the convicted person was wrongfully punished and not punished.

Therefore, the narrative is inclusive. Secondly, the accused have

been acquitted and the defendants have been wrongly misunderstood, the inclusion of the narration based on the sprawl of the areas is clear, but the priority because the criteria and areas of liability towards the lost member are damage caused by judicial review and the judge's wrong judgment on the property. The person has arrived, and given that honor and spiritual reciprocity have a lot more value and importance than a member, such as a finger, there will also be liability in the same areas as for spiritual damage; therefore, the conflict between some jurists who have violated the appearance of the narrative and Even in the inclusiveness of the narrative, they have doubts about the mistake of the property. The witness is that some of the jurists have expanded the content of the narration to some properties, although there is no mention of property in the narrative; for example, the Allameh Majlesi is under the Hadith Mingard: it does not matter whether the judge's decision is wrong in Qisas or in Mali that cannot be undone.

Secondly, Beit Almal is designated as the institution of government to provide Muslim material, and is responsible for compensating the

losses incurred by individuals, as Ardebil scholar

In explaining the cause of being responsible for Beit Alalam, he writes: If the judge makes an error in the ruling and, as a result of his injunction, he has incurred physical or financial losses, there is no doubt that the indemnity is indispensable and the guarantee is fixed; therefore, if it is possible to compensate the contributor. The institution is taken from it, otherwise it is the responsibility of the non-profit organization; a substitute has been established for the sake of the material of the Muslims; and if such liability is not to be committed without obligation, then no one may be compensated for it and, as a result, the activities of the Muslim Brotherhood shall be closed down. (Ardebili,

1403 AH, p. 12, p. 40)

Thirdly, the evidence of the respect for the dignity of the Muslims and the importance of them is that it is obligatory in the event of the loss of honor and dignity to be compensated for.

Fourth: A narrative that verifies the guarantor of the judge in general and states that every fatwa is the sponsor of the guaranty (Kelini, 1388 AH, p. 7, p. 409). Of course, this narrative appears to warrant financial responsibility, but

again in the same areas as the compensation. It also proves the losses incurred in the dignity and dignity of individuals.

The third reason is the expiry of the apparent effect (the common ground is on the defendants acquitted and convicted in error)

One of our beliefs is the existence of true religious law. According to this view, the sacred law has the rules that exist on the scene, and our consciousness or ignorance influenced those sentences, and the absence of these rulings or their alteration. This view accepts that in many cases there is no real truth in the recognition of pragmatic judgments and, in the short run, we can only resort to remedies that the same person has ordered to determine the sentences and, of course, the possibility of error in some cases. In such a situation, it actually conflicts with appearance, that is, it is possible that something is actually forbidden and appears to be based on the legitimate and legitimate ways in which it is prescribed. According to our scientists, the validity and validity of apparent judgments (both in rulings and in matters) until it is really clear and its opposition to the appearance is not

revealed, because after this time, the appearance of judgment is lacking in authority and, naturally, its effects also resolve. According to this introduction, we say that the distortion of the dignity and integrity of the accused who through the proceedings

Judicial charges are imposed on him as well as imposing restrictions on him, on

the assumption that the accused is innocent and in fact innocent, but it is prohibited to do so on the basis of the legitimate reasons available in the seemingly lawful and permissible manner.

The third reason: Justice. The duty of government and the reason for the need to restore dignity. If the damaged property of a person who is charged with wrongdoing or a wrong and unjust sentence against him is not compensated for wrongdoing, he has gone astray and, if his damaged damages are compensated and restored, is subject to justice. The necessity of justice as a ruling that pertains to the state and the ruling person requires action and compensation for the damage done. The verses of the Qur'an refer to this claim, including: " **إِنَّ اللَّهَ** " (Nisa, 58) God commands you to deliver the trustees to

their owners, and whenever you do not see the judgment among the people, Decree justice. Also, there are narrations that refer to this theme, including Imam Sadiq (AS), who said: Fear God and justice. Verily, you blame a group that does not treat justice. It is also narrated from the same Prophethood that God will for a time and for certain determine those who possess power and authority. If they were treated righteously among people, God commands the owner of the time to take care of them and extend their time. But if he has behaved wrongfully, God commands the owner of the age to quickly cut off his days. (Haramali, 1409 AH, p. 15, p. 294) Rehabilitation measures have been exonerated and the defendants have been misled

First Way: Public Announcement

The use of the Shari'a Declaration has been well documented; in some cases Shari'ah has emphasized the name and offense of the offender and his introduction to society as a method. According to the eleventh verse of Surah Nour, one of the wives of the Prophet (pbuh) was accused of committing acts of prostitution. Disciples and some unknowing people complained to the

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Prophet's wife (PBUH) and caused great distress to her. In seeking his innocence, God Almighty reciprocated his innocence for public and public affairs, and thereby reinstated him. In this verse we read:

I do not know how to deal with it, but it's just a matter of time, but it's just a matter of course, "said the author." Those who fabricated this great lie, imagine a group of shame beings in which you were not in it. Every one of them will be punished for the same amount of sin that he has committed, and among them who cares most of them, a great punishment will be incurred.

The second solution is the punishment of the person who initiated the charge

The second method of restitution has been acquitted to the accused, as well as the defendants by mistake, to punish the person or persons who charged with the prosecution and, as a result, to bring the accused to justice or conviction.

Workaround III: Restorative measures

The purpose of these actions is to restore the dignity that has been damaged by maladaptive or grave charges. Whose actions include the

appeals of the detainee: one of the easiest tasks that the responsible institutions are obliged to do is to justify the accused's acquittal and the defendant who was wrongly issued a verdict against him. The Prophet Muhammad (PBUH) The brokerage sent to a district, commanding seven things that among them there was a personal help that had gone wrong with him. (Humiri, p. 71), and also in the tradition of Imam Sadiq (AS), the Prophet (pbuh) said to a man: Do you want to guide you to work to bring you into paradise? And when the man expressed his enthusiasm, he made remarks, saying: "Among them, they said: help the person who has wronged him, and if you can not help, guide him in what is best for him. (Clayni, 1388 AH, p. 7, p. 114) Among the remedial measures can be called for the promotion of social status, the government is obligated to compensate for the damage sustained to his position and to improve his social position.

Provided.

Fourth solution: the possibility of answering

What can be used from religious teachings is that the accused who is charged with wrongdoing and the defendant who was wrongfully

sentenced against him are oppressed and who are from the area.

The person who has charged has been wronged. In verse 148 of Al-Sura al-Nisaa, Allah says: "Allah Al-Jahr al-Bayr al-Qa'ul Al-Qawl Al-Iman Zalam and Al-Qur'an Allah Al-Sa'aylimima" Allah does not like to speak evil words, except by someone who is oppressed. Commentators in this verse note that, according to this verse, an oppressed person has the right to make explanations for self-defense that involves oppression. (Fayz Kashani, 1418 AH, p. 1, p. 25). The following verse contains narratives with the same theme, including the owner of the Assembly of Al-Bayan: Imam Baqir (AS) said: "Allah is guilty of insulting and insulting He does not love others, except from someone who has been oppressed, who does not have the right to take revenge on someone who wronged him. (Al-Turshi, 1415 AH, p. 3, p. 131). However, this verse and the following is interpreted, the Shari'a is the solution to which the accused has been acquitted and also convicted of wrongdoing in order to restore his dignity. Defending himself slowly and publicly discovers the justification and wrongdoing that he has committed against the accused and

the perpetrators of the unjust sentence.
(Fakharatouzi, 1394, p. 160)

Shariah view criminals

In the logic of the Shari'ah, they are paying attention to two points in the existence of the offender: first, his humanity and the other committing the crime and crime in his hands. In religious logic, the culprit is a criminal person, and each of these two aspects has its own particular requirements and

Requirements

Therefore, we can not ignore his human aspect and not allow him to take on the aspect of committing crime and crime. Therefore, in the behavior of innocent leaders (PBUH) there are various manifestations of this kind of look at the offender. First, amnesty and kindness are not forbidden to the perpetrators, and for example, Amir al-Momenin (AS), after executing the punishment for robbery, orders a group of thieves to take them to the guests and receive them with oil, honey and meat during treatment. And they will be there until they recover (al-ki fi, 1388 AH, p. 7, p. 267). Second, the perpetrator is not supposed to be without spiritual sanctity, and for this reason, we see that the

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Prophet, after executing the punishment for the resurrection and hearing his cursing from the mouths of the people, says:

People do not curse him because the punishment that was imposed on him was his atonement (Ibn Babaie Qumi, 1413 AH, p. 4, p. 25). Thirdly, in this logic, the crime of an illness and offender is an illness that should be treated as much as possible and, accordingly, punishment does not take place in order to take revenge, but is aimed at treating the offender or preventing the spread of the disease to the community.

Reasons to restore criminals

1. The first reason: the right to claim

For this reason, the argument relies on two pillars, one of which is a queer aspect and the other has a cobra. First, it must be proved that restoring the dignity of the offender and repairing his damaged reputation is his right. Man has two aspects of physical and spiritual. By enforcing the perpetrators of the offender, both his physical and spiritual integrity is both violated. As the punishment expires, he has to take steps to eliminate the aggression of his

physical integrity and can not be condoned by claiming that the nature of these acts is inappropriate. At the end of this era, steps should be taken to eliminate the invasion of his spiritual integrity, and in the absence of such measures, in fact, the offensive continues to be against the spiritual integrity of the offender. 2. The government's responsibility is to protect this right. Then it should be argued that this right is protected by the legislator and that the Islamic government can not ignore it. This is referred to in the Qur'an and the traditions, including: A: We sent our prophets with signs and miracles, and We revealed to them the book and the standard of justice so that the people are truthful and righteous.

B: Say, my master has commanded me to righteousness. Or in the narration of Amirmomenin says: "I swear to God that this shoe is torn up with me more than

you are, unless I have a right."

2. Second reason: Purpose of punishment In explaining the interests and goals of the covenant, there are usually five goals of preserving the generation, preserving the soul, preserving the property, keeping the

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intellect and preserving religion. Ibn Fahdahli writes: certain divine punishments (around) to welding and welding of cables and wires for cables and wires Wires and flexes, elbow, hip, knee protectors. (Hadid, 25) . The Emperor of the Future (Araf, 29) . Vallee Haye Eli I Amrtkam Elana Enim Faqa (Nahj al-Balaghah, Feyzislam, p) 102.

Therefore, the lawfulness of adultery is to protect the family, retaliation due to the maintenance of the population, the apostate limit to preserve religion, the theft rate to preserve the wealth and the limit of drinking water due to human reason. (Ibn Fahdallahli, 1407 AH, p. 5, p. 7) Among the goals that the prosecutor has for punishing criminals, there is a need for him to be restored, such as: 1. Eliminating the barriers to utilizing the potential of the community: the occurrence of crimes in society causes Part of the capabilities and the ability of the community to be destroyed or endangered. This does not apply to crimes against property, but also to crimes against individuals or crimes against public safety and security. One of the aims of the punishment is to prevent repetition of crimes and, as a

consequence, strike against the opportunities and forces of the community. This goal can be deduced from some narrative interpretations that impose Islamic punishments on the fertility of the community and its utilization and consistency and establishment of the community. 2. Treating and treating the offender: In the logic of treason, the main purpose of punishment, cure and practice is either for the offender or for the community affected by the crime. The Great Shiite Faqih, Fakhr al-Moqqin, writes: "The purpose of the Shi'ah is to establish religious punishment, to restrain secrets and to take care of good and good deeds." (Heli, 1387 AH, p. 1, p. 400) or Imam Ali (as) says: To execute the punishment for those closest to avoid aliens and not to blame people. (Tamimi Maghreb, 1383 AH 2, p. 422).

3. Third Reason: The Criteria for the Execution of Islamic Penalties The legislator of the Shari'a, as prescribed for the punishments in question, has set a set of goals, has laid down rules and regulations for the enforcement of these punishments: 1. The necessity of refraining from excess in the execution of punishment: as mentioned in the traditions. In the

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Qur'an, we read: These are divine boundaries, do not violate it, and everyone from

Imam Baqir said: "The punishment that is performed on the earth is purer for it than it is for the forty rosochebs to be forgiven." Sama'at al-'Abi Abdullah ('a) is the culprit of al-Qa'ul al-Jahan (al-Hadd, p. 17) Muhammad ibn Yahya'An Ahmadbn Muhammad ibn' ibn'An al-Hasan ibn Saleh al-Tawri "An'Abi Ja'far (as) Qal: in Amir al-Momenin (AS) Yazdib ajahla Maqlaqz Qanbarfzadeh Threefold Shabbat Fakahad Ali (AS) I Qanbar Salaitsa Sasaat (Kelini, p. 7, p. 260).

It is rampant, it is oppressive. 2 The principle of the necessity of the proportionality of the offense and punishment is the second most important criterion that has been accepted by the jurists and accepted by it, is the principle of the necessity of the proportion of the crime and the punishment, which is based on acceptable and reliant principles, which is also accepted by the Shari'a, in verse 126 of Surah Nahl: As a result, I would like to say, "If you want to punish someone, then repudiate what you have seen." And in verse 194 of the Qur'an,

"Almighty Almighty Almighty Allah loves us for us": so whoever wronged you, you are oppressed in the same manner as oppressing you. Or in the letter of Amir al-Momenin (AS) to the owner: To punish the one who, after being forbidden against you, still insists on hoarding the goods required by the people, lest you be excessive in the practice of punishment. 3. Principle of non-conviction of offenders: This statement of principle cannot be promoted by an offender under the influence of the offender's perpetration of the offense, the crime against other behaviors that he becomes, and behave abnormally, whether this is a punishment. What penalties do not count. The statement of this principle in the basic behavior of religion, along with the following examples, shows that a man committed a sinful act in order to enforce the law of Hajr Ali (PBUH), and he ordered his body to delay the execution of punishment by observing the wounded wounds in his body. (Tusi, 1390 AH, p. 10, p. 257) In another narrative, the Prophet (pbuh) stated: A person with smallpox disease is not punished until he has recovered when he fears that the death penalty will be executed. (Tamimi Maghribi, 1383 AH,

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p. 2; p. 452) After the stoning, the people cursed him; therefore, the Prophet denied them this. (Homo, 1383 AH,

C 2; p. 446)

The fourth reason for the person's erasure is punished: First of all, we note that this reason does not prove the necessity of restoring prestige in all cases, but includes cases in which the crime is subject to a right or a right of personal right, but because it seeks to We have all reasons for proving the restoration of dignity (even for some criminals): In a narration, after the person confessed to Ali himself and was executed as a result of his punishment, the companions of the Prophet They asked if he had been swallowed by the punishment

The Talkah of the Prophet Muhammad (PBUH) is about the Prophet Muhammad (PBUH/ 222) you do not give? The Prophet (peace be upon him) replied: "No, he has been bathing with water, which is tahering till the Day of Resurrection" (Qom; commentary on al-Qami, 1404 AH, p. 451).

Fifth Reason: Government's Responsibility to the Human Resources of the Community. The government is responsible for the dignity and prestige of the people, and it

cannot be neglected, as Ali (AS), in his famous letter to Malik Ashtar, the Egyptian ruler, writes: The farthest and least privileged people in your presence are those who seek The salvation and discovery of the imperfections and secrets of the people are greener and frightening. Because there are typically people with landslides and flaws that the ruler and the government are hiding from all sides, then they never seek to discover those landslides that are hidden from you, because you are only responsible for clearing the society from obvious and apparent pollution. Hide the mysteries of the people of God, so that as much as you can, hide the mysteries and mistakes of the people of the nation, so that God will cover you with the imperfections and mysteries that you like to be wearing

from others (Fayyas al-Islam, 1326, p. 998).

Conditions for the restoration of dignity in jurisprudence and law

1. Time-specific browsing

Is there a need for a certain period of time to restore reputation? The rules for the restoration of legal dignity are subject to specific time-lapse. It is basically defined in the definition of

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legal restoration (passing through the time the law has been determined). But when dealing with this issue, it should be noted that the specific time may be twofold in terms of repayment: first as a subsidiary or supplementary punishment, the second as a condition of reparation. Subsequent punishment is a consequence of a criminal conviction, but it is not a court order, and it is a punishment which, on the other hand, is punishable by a criminal offense. Supplementary punishment is also a criminal offense that is complementary to the original punishment and is subordinate to it, and is subject to second-degree law and excessive punishment for a crime and is reflected in the verdict of the court as the main punishment. (Jafari Langroudi, 1372, p. 580). However, if time is considered to be a prerequisite for the restoration of prestige, the passage of time has no criminal nature and the rules that govern it are not governed. But Note 2 of Article 26 of the Islamic Penal Code.

Act 1392 states: Everyone, as a consequential punishment of civil rights deprived, after periods provided for in Article 25 of the law of defamation and the consequential effects his conviction be removed unless the articles "a" "b"

and "c" This article is permanently deprived of the rights. Article 25, as referred to in Article 25, is as follows: (a) Seven years in sentencing to life imprisonment and life imprisonment from the date on which the original sentence ceases. B) For three years in sentencing to amputation, remission of retribution, rejection and imprisonment up to grade four, if the crimes committed are more than half the amount of the death penalty. C) Two years in the punishment of a whip, a member of the qisas, if the death penalty is half the amount of damages against or less than that, and fifth degree imprisonment.

So it appears that the legislator immediately after the end of the sentence, the offender is entitled to rehabilitate knows, but in some cases denial of the rehabilitated a consequential punishment into consideration and in other cases as a condition of entitlement to rehabilitation, over a specific time valid will . Our concept is based on law that in cases that over time, especially as punishment intended to rehabilitate, selected a particular time is not necessary, that cannot be rehabilitated to Frdm crime as a condition of entitlement to rehabilitate delay The reasons for this are: 1. The

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absence of a reason to prove the need to pass a certain time is not a reason to prove the theory that validated the passage of time. (Fakhar Tusi, 1394, p. 232)

2. Repent

Repentance from the substance of the Tobb means the return to the point of reference (ibn al-'Mahr, 1418 AH, p. 1; p. 233) and in the sense of returning from sin. (Ardabili, 1403 AH, p. 12, p. 321). In religious teachings, elements have been involved in repentance (Sheikh Baha'i, 1419, p. 18). Based on the religious teachings of repentance

There are certain legal works of which the most important are: the return of the title and attribute of justice that is lost due to the commission of a guilty (Kelini, 1388 A, 7, 398) and the fall of the punishment if it is with its own particular conditions and at the time when the Shari'a has accepted it For example, if a person who commits adultery has repented before it is proven before the court. According to the famous jurists of the Imam, the limit will be abolished. (Tabrizi, 1417 AH, p. 207) Among the verses in the Qur'an, which are the result of the establishment of the repentance, are restorative revelations, there are verses

that have been raised in the individual domain and human relationship with God.

In these verses of Allah, if the people of Iman have committed a sin to be punished, then they will repent and repent of their ugly act and return to the Lord and perform the righteous deeds and restore the light of their souls to the Lord. The attribute of blessings and mercy has reminded us that sin will be erased from the pages of their deeds and will be filled by virtue of the spirit of compassion and mercy. In the interpretation of verse 54 of the Surah al-A'am, Ayatullah Makaram says: "It also orders the Prophet to prevent anyone from faith of any class and racial being in any circumstances, but to open his arms equally to all, even if his sins It is a great deal to accept and correct them (Makaram Shirazi, 1353, p. 5, p. 258). Repentance is accepted when it comes from the truth, for one who has returned to Allah and has sheltered him never to the filth of a sin that is from It repents and cleanses itself and does not infect again. Although this type of verses is abundant in the Holy Qur'an, It is to be noted that the dignity of the human being by sin and crime must be restored quickly, and God does not want the

dignity of anyone to be distressed. In addition to the above verses, there are other verses which include the concept of restorative dignity which in the field of social and public affairs On the one hand, to compensate for the lost dignity of innocent people, on the one hand, and to eliminate the effects of the criminal convictions of sinners and criminals.

3. The offender's alive

This condition is important because, in reinstatement of judicial jurisdiction, the order is restored on demand.

Which is submitted to the judicial authorities. Therefore, in the assumption that the perpetrator is known, his or her heirs will not have the right to submit such a request, and the application will be rejected if submitted. In the area of legal dignity, although the issue of the perpetrator's request is not raised, the question is that in the hypothesis that the perpetrator is dying, the law also decides to restore reputations? Iran's laws are of this viewpoint, but given the fact that the law on restoring legal standing and the applicant for the restoration of the legality of the accused has been introduced, one can conclude that the condition for the viability of the

convicted person can be deduced that the condition of viability can be invoked under such laws as in the perception of some Arab rules. For example, the writer states that the request for reparation is a personal demand that can only be made by the person convicted; hence it is not permissible for his heirs to repatriate after the death of the convicted person. (Adli Abdul Baghi, *Explanation of the Law on Immigrants*, p. 682, quoting: Yeah Abdulmutallab, p. 641) What law this requirement to accept or reject, accept this requirement is not based on legal evidence. Our reasons for this claim are:

Regarding what we have said in the previous discussions, refusing to restore gratuitousness to the perpetrator and convict is a continuation of violations of his spiritual sanctity and invasion of his dignity and is therefore forbidden and forbidden.

4. Commitment to financial crime

In Iran's law, there is no need to abandon the financial obligations arising from the crime of pardon and punishment against the law. This condition applies if the offense is committed by the offender, and the legitimacy of this condition is certain,

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since if the offender has not yet paid financial responsibility for the crime, in fact, his sentence is still not enforced. Is. Allameh Helli, on repentance, which is one of the causes of the punishment, writes: "Repentance with regret of the past and the decision to restore it and non-repeat." Then it is obligatory for him to return the money he has forbidden to his owner, because this is the haram property that is in his hands and should be taken away from him. (Hell, 1419 AH, p. 2, p. 555).

Works of restoring dignity to criminals

A. The Criminal Effect

Fixing the effect of the former criminal procedure. The most important goal and effect of restoring dignity is to restore the former social status of the accused. On this basis, the judicial and judicial restoration of the qualifications and interests of the people that had disappeared by virtue of the previous criminal law, as well as the rest of the matter, would be remedied. It is noteworthy that repatriation does not eliminate crime from the perpetrator's personality, and therefore the restoration of dignity is not in conflict or incompatibility with the criteria that will

be applied to the issue of repetition in the future (due to the intensification of punishment). The reason for this is the well-known jurisprudential and legal rule that it is never possible to change the nature of one thing after its realization and existence, and a revolution in its nature, so the jurists have reminded in many cases that if something happens during The occurrence has the title of crime and sin, with the subsequent consent of the owner of the lawyer or with the subsequent repentance, becomes an unreasonable and non-false act (Ansari, 1415 AH, p. 3, p. 328), although the satisfaction and repentance of the next works will be eliminated, and the Eagle and Eliminates the offense. This issue has also been correlated with criminal matters and has the same effect (Abdulmutallab, 2002, p. 665). Therefore, the current crime, which has been accomplished, does not lose the title of crime with no further factor.

B) Exposure

We have already mentioned that rehabilitation also eliminates the civil rights of a criminal convict; therefore, the restrictions imposed by the conviction for the perpetrator were resolved after the expiration of the

punishment, but in some writings it was emphasized that if a criminal sentence was issued against the perpetrator Entails the deprivation of the occupation of the former occupation or the degradation of his degree, his rehabilitation does not result in the elimination of such works and the return of a person to the former and previous jobs, according to one of the writers, does not restore the work of work. (Al-Shaheli, 2010, p. 928)

The title is intended to be punishable and designated for that specific period, this punishment will remain in force until the end of the prescribed period, after which the continuation of this deprivation and degradation.

The meaning of the illegal and illegitimate punishment of persecution, which we have repeatedly emphasized on the prohibition, and if this occupational restriction is not intended to be punishable, it must necessarily be rescued from the restoration of dignity and the person returns to his former status; that this restriction, If it is not considered punishable, it is basically illegitimate and illegal. (Fakharatouzi, 1394, p. 274)

Remedies for criminals

This group did not make a mistake. Therefore, the elimination of the mistake is not the goal of restoring dignity, but the purpose and focus of the proposed ways to this group is to repair the damage and damage caused by the commission of a crime, followed by judicial proceedings and the issuance of a sentence to this group. As long as we speak of criminals' repatriation, we do not simply have to take measures to eliminate constraints, but we are considering a series of measures that should be undertaken by the authorities responsible for the recovery of the social character of the perpetrators. First solution: the choice of a favorite job Both the physical and human aspects are protected by the legislature and are the source of human rights. The enjoyment of human beings in the realm of activity, the right to freedom of choice in employment, is the most important sign of rights associated with these two dimensions.

The second solution is the continuity of the selected workplace

In order to ensure the safety of people who have been found guilty and thus harmed, two factors must be guaranteed: First, the freedom to choose a job for those individuals who obstruct

the requirement for a non-malicious certificate. Another factor is security and confidence in the continuation of the selected job.

Third solution: remedial measures against the perpetrator's dignity The purpose of the remedial measures is to foresee the government to take measures to compensate for the damage done to the offender, in order to provide him with a return to the normal situation and to modify the negative minds of others about him, for example, his environment or even changes to the missions entrusted to him. He acts or if he is deserving in terms of individual capabilities and personal qualifications He is proud to promote his position. In the execution of the punishment, which is aimed at punishing the offender, physical and mental harm to the perpetrator is a natural occurrence that is not the nature of the punishment to be severed. Therefore, in cases where Islamic punishments have been spoken, there is an interpretation that implies this (physical and mental), for example, in verse 3 of Surah Nour, which is related to adultery, it is stated: woman And kill one adulterer, one hundred, and do not have mercy on them in executing the rules of the religion of God, if you

believe in God and in the hereafter, and a group of believers must witness their punishment. In some of the hadiths, the same interpretation is also seen, such as Ali ibn Ja'far quoting Imam Sadiq (a) that my dad said: Imam Ali (peace be upon him) asked about bait with beast. He said: "No stoning, nor a lot of it." ; But painfully punished. (Al-Hammali, 1409 AH, p. 28, p. 361). Another narration from Imam Ali (AS) is quoted as saying: "Almighty and Allah" (Ibn Qadam, 1978, p. 10, p. 366). It is stated in Shiite jurisprudential texts that, And punishments and retaliation that harm the bodies of others and violate the physical integrity of individuals in accordance with the rules of shari'a, and other than the defense (such as those who defend their property and honor and honor), are also known and forbidden, The inadequacy of previous arrays (heartbeat) is a blow to beat and to make the famous one. It has not been seen in any other instance that the holy shrine allowed physical injury or assault, and the accuracy in these cases also makes it clear that the intended harm is merely the aspect of punishment (about punishment) or prevention Sin and crime (in the famous emperor and forbidding evil as well as legitimate defense),

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therefore, after the end of the punishment, nothing can be done to cause the body or spirit of the offender to be damaged and mourned.. Although our jurists have failed to comment on this, a group has decided to grant this permission. Al-Halabi, 1403 AH, p. 267. Tusi, 1387 AH, p. 160, Heli, 1412 AH, p. 4, p. 461. And the group of governors and governors. Ibn Baraj, 1406 AH, p. 1, p. 341. Sheikh Moody, 1410 AD, p. 809. Ravandi, 1405 A, p. 1, p. 133. Al-Sabzwari, 1401, p. 28

The duties of the government in regard to the pride and spiritual integrity of the perpetrators

1. Classify information about criminals and make them out of reach

Information about the offender is available to the authorities, including his statements, testimony of witnesses, reports of officers and defendants, statements made by informants, defenses of lawyers or lawyers, indictment, verdict and execution of the sentence are all among the secrets of the offender. Secrets that somehow can be considered the most important secrets of his life. The disclosure of secrets in general is one of the great sins mentioned, including Ibn'Abil-al-Mutaqah, in an hadith that includes the statement of Ali (as) to

Imam Hassan (AS), says: "Do not betray anyone who has believed you, Although he betrays you and does not reveal his head, even though he reveals your head (Saydbn Tavous, 1412, p. 159), Ibn Abi'b narrates from the Prophet (pbuh) the knowledge of other bad deeds and reveals it. It is like committing an act, and everyone knows the good work and states it, it's like putting it in place

(IbnBabawayh, 1368, p. 337)

2. Protection of the offender against the crime damaged

The perpetrator, like any other human being, needs to be present and work in his social role. To regain her social role, her reputation must be restored and her condition normalized. Returning to normal is stopping a series of actions. Some of these actions are available to the perpetrator, relatives and relatives, but much of it is beyond his control and requires the assistance and assistance of the state and public institutions. The government is committed to providing public security All citizens have responsibilities and responsibilities. According to one writer: As long as there is no complete security for everyone at home and traveling travelers, do not expect the durability of comfort and blessings, because

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whenever, in an unsophisticated way, the intimacy and friendships are broken and understanding goes away and The people in the cities will be under siege and pressure, the motives of corruption and crime will be created and the cost of supply and supply will occur and predictions and difficulty occur, so providing security and safety for all in a society is a twofold rule of comfort and favors (Fakhar Tusi, 1394,

P. 371). Therefore, the government is obligated to intervene and prevent the execution of a criminal offense against his relatives and disturb his safety and security after his execution.

Conclusion

Repatriation is to restore the reputation and repentance of the victims. In other words, all those who have been abandoned by others and those who have been prosecuted in the area of criminal matters and who have been hurt by their sanctity and honor not damaged to the perpetrators, but who have been acquitted and convicted by mistake Sentenced or even wrongly punished. This title is also true, although the offender's title does not apply to these individuals, because the accused who

ultimately has been sentenced to death is the subject of judicial review that involves damage to his honor and dignity. He is also blamed for wrongdoing. Narva has the same effect on him. Contrary to the jurisprudential reasons that were expressed for the three strata, it is deduced: The restoration of dignity is one of the rights of individuals, and it is the duty of those who need to restore their dignity. In looking at laws and legal analysis, the primary responsibility of the government and the responsible ones is not either on the person's request or metaphysically over time, while restoring prestige as a primitive responsibility to the government and relevant organizations, that is, the government It is obliged to deal with persons who have suffered harm from the judiciary for their pride and spirituality, to take steps to return them to the normal state and enjoy pride and repentance and the possibility of re-emergence in their social role.

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