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Reflection of the Principles of Islamic Criminal Policy in the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights

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ABSTRACT

One of the fundamental components of citizens' rights is the set of rights arising from the administration of justice. The Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights, consisting of a single substantive provision and fifteen clauses, emphasizes the observance of citizens' judicial rights, including the presumption of innocence, the accused's defense and property rights, and respect for the accused's privacy. This study seeks to identify the principles of Islamic criminal policy underlying the provisions of this Law through a review of various jurisprudential and legal sources, employing a descriptive-analytical methodology. The findings demonstrate that, within the framework of fair Islamic criminal proceedings, particularly during the stages of crime detection and preliminary investigations, the judiciary is required under this Law to observe principles such as the inherent dignity of human beings; the presumption of innocence and its legal consequences; respect for the rights of Muslims and the denial of authority over others; the prohibition of unwarranted investigation and intrusion into private affairs; confidentiality and the duty of trust; and the prohibition of exercising control over or infringing upon the property of others. Clearly, this Law has opened up a new dimension in criminal procedural policy by establishing a distinct value for the process of crime detection and the protection of the rights of the accused. In this respect, it fundamentally differs from the traditional approach to criminal proceedings, which placed greater emphasis on harsh treatment of the accused. Furthermore, the Law draws upon the valuable and universal concept of human rights and attaches particular importance to the incorporation and effectiveness of human-rights principles and norms within domestic legislation.

Keywords: *Principles of Islamic Criminal Policy; Rights of the Accused; Human Rights; Crime Detection; Judiciary*

Introduction

The necessity of ensuring a fair trial in the prosecution and interrogation of accused persons constitutes an effort toward institutionalizing the observance of human rights within criminal proceedings. This important consideration prompted the country's judicial system to implement the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights, thereby establishing a framework under which, in accordance with its provisions, citizens' rights are protected against judicial authorities and deficiencies within the judicial system are addressed.



The present study aims to examine the principles of Islamic criminal policy underlying each of the provisions of the aforementioned Law. It seeks to address the following questions in order to further facilitate the administration of justice on the basis of Islamic jurisprudence and to constitute an important step toward strengthening the rule of law in Iran and upholding individual rights and freedoms:

1. What are the principles of Islamic criminal policy underlying the provisions of the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights?
2. Within the framework of fair Islamic criminal proceedings, what are the judicial duties at the crime-detection stage?

The hypotheses of the present study are as follows:

1. Principles such as the inherent dignity of human beings, the presumption of innocence, respect for Muslims, the prohibition of harming others, the prohibition of unwarranted investigation and intrusion into private affairs, confidentiality, the duty of trust, and the prohibition of infringing upon the property of others, among others, are clearly enumerated in the Law and can be identified and observed therein.
2. Under the provisions of Islamic jurisprudence, the Iranian judiciary is required to comply with duties that ensure the preservation of the dignity and status of accused persons with regard to their citizenship rights.

The analysis of the subject matter is structured, first, around the elucidation of certain fundamental concepts. Subsequently, each of the provisions of the aforementioned Law—including freedom and personal security, observance of the accused's defense rights, protection of the accused's property rights, and protection of privacy—is analyzed and evaluated in light of the principles of Islamic criminal policy.

Clarification of Concepts

Before analyzing the issues under consideration, it is appropriate to examine the lexical and terminological meanings of the key elements of the present study.

Criminal Policy

The term "criminal policy" is a combination of the two words "policy" and "criminal." Accordingly, a brief discussion of the meaning of these two terms is necessary.

The term "siyāsah" (policy) is an Arabic word derived from the verbal root sāsa–yasūs (سأس، يسوس), and has been defined as encompassing prudence, sound management, consideration of the public interest, method, administration, and the governance and supervision of an individual or a group. Some lexicographers have regarded siyāsah as acting in a manner directed toward the rectification and improvement of an affair (1).

In Persian lexicographical tradition, consistent with the aforementioned meanings, the term has been explained as protecting and safeguarding the realm, preserving and maintaining it, administering the affairs of the subjects, governance, and adjudication, all of which ultimately relate to the administration of state affairs (2).

The term "criminal" (jinā'ī) is likewise an adjective derived from the Arabic noun jināyah (جناية) through the addition of the relational suffix -ī. Some lexicographers have noted that, linguistically, jināyah denotes doing wrong to someone who does not deserve it, whereas, in Islamic law, it refers to causing injury to the whole body or to some of its parts; the former is referred to as jināyat al-naḥs (offense against life), while the latter is termed jināyat al-ṭaraf (bodily injury to a limb or part of the body) (3).

In the Persian language, the term is likewise used in the senses of sin and crime (2, 4, 5).

The compound term “criminal policy”, according to the prevailing view, was first used in the West in the late eighteenth century by Anselm von Feuerbach.[1] Nevertheless, some scholars maintain that thinkers such as Plato, Aristotle, Cicero, and Montesquieu, even without employing this specific terminology, had already addressed criminal policy in practice by articulating views that fall within the scope of this field (6).

Feuerbach defined criminal policy as the مجموعه of repressive measures through which, and by resorting to which, the state responds to crime (7). Today, criminal policy is understood as the مجموعه of methods by which society, as a whole, seeks to regulate and address the criminal phenomenon (7).

In this regard, Islamic criminal policy, drawing upon the monotheistic worldview, in which respect for the dignity of the offender and leniency toward them constitute the foundation of judicial ethics, is characterized by important principles such as a commitment to human dignity, a commitment to justice, and tolerance and forbearance.

Freedom

In the Persian language, “freedom” is understood to mean liberation, autonomy, and the ability to choose. It is also closely related to the concept of free will (ikhtiyār), which denotes the freedom to act and the ability to perform or refrain from an act according to one’s own will (2).

From the perspective of Arabic lexicographers, “freedom” has been used in the senses of ikhtiyār (choice/free will), ḥurriyyah (liberty), and ‘itq (manumission). In the past, owing to the prevalence of slavery, the terms ḥurriyyah and ‘itq were used in opposition to slavery (1, 8).

In the present study, the term “freedom” is used in contrast to “detention,” referring to the deprivation of an accused person’s liberty by order of a competent judicial authority.

Citizens’ Rights (Rights of the Accused)

The term “citizens’ rights” is a compound expression whose meaning requires an explanation of its constituent terms. The term “citizen” encompasses persons residing and living in a country, including both nationals and foreigners, who are present within a particular territory and state and are subject to its sovereignty (9). “Citizens’ rights” constitute a part of fundamental rights that is addressed at the national level in the constitution of each country and applies exclusively to the citizens of that country. These rights may be examined in terms of both the individual and social responsibilities of citizens and the responsibilities of the state toward its citizens, and the concept is employed in the literature of various branches of legal scholarship (10).

In other words, the relationship between the state and the nation is manifested in legal discourse through the concept of “citizenship.” In another definition, “citizens’ rights constitute a combination of the duties and responsibilities of citizens toward one another, the city, the state or governing authorities, and the country” (11).

Rights pertaining to citizenship, in terms of their origins, are closely connected to the concepts of natural rights and human rights and are grounded in a long-standing and rich religious tradition. In Iranian law, the protection of these rights has been regarded as one of the most important matters requiring attention. This is reflected in Article 3, Clauses 3, 7, 8, and 14, as well as Articles 15, 19, 20, 21 through 41, 46, and 47 of the Constitution, along with certain enactments of the Parliament. The utmost attention to these rights was ultimately manifested in the form of a Charter of Citizens’ Rights, which, as a governmental program and policy framework, was communicated to all relevant institutions on March 18, 2017.

The Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights addresses certain aspects of the rights of accused persons and detainees within the judicial system. A brief examination of these provisions may therefore provide a useful perspective on the subject:

A Reflection on the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights

From an Islamic perspective, divine wisdom has ordained that human beings, in the administration of their affairs, should depend upon governments so that governments may assume responsibility for managing their affairs. On this basis, good governance is founded upon principles such as transparency, the rule of law, justice, competence, and efficiency (12). The concept of good governance maintains that a fundamental transformation is required in the roles and functions of the principal institutions of the state (13).

In this regard, drawing upon religious and national foundations, the judicial system can be reformed by utilizing the indicators of good governance. Accordingly, in recent years, citizens' rights have become one of the priorities of the judicial system. This prioritization was further reinforced in 1383 SH through the enactment by the Islamic Consultative Assembly of the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights, consisting of a single substantive provision and fifteen clauses. Following its approval by the Guardian Council, the Law was endorsed by the Head of the Judiciary and subsequently communicated to all judicial authorities. This Law has opened up a new dimension in criminal procedural policy. In this regard, numerous foundations and supporting sources derived from religious principles and teachings uphold the rights of accused persons as citizens, several of which will be addressed in the following sections.

Principles of Islamic Criminal Policy Underlying the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights

Criminal proceedings constitute a mechanism for detecting crime and, in accordance with the structure of the Islamic legal system, must serve as a guarantee of the principle of justice while simultaneously safeguarding individual rights and freedoms. In light of the proper implementation of Islamic legal rulings, respect for the citizenship rights of accused persons requires that the deprivation of their liberty and individual rights be subject to adequate minimum safeguards.

Accordingly, the principal Islamic criminal policy principles underlying the provisions of the Law under consideration are identified and examined below:

Personal Security and Freedom

Every human school of thought or divine religion that seeks justice bears a relationship to, or shares common ground with, the values protected within the human rights system (14). States, motivated in part by the desire to enhance their international standing, are sometimes compelled to observe such rights. In particular, where political interests and considerations are not involved, they tend to demonstrate a strong willingness to respect the rights and freedoms in question and regard such observance as an indication of their level of civilization.

The right to security and its various dimensions constitutes one of the fundamental rights recognized by Islam for individuals (15). The Almighty, while emphasizing the principle of the inherent dignity of human beings, explicitly stresses the necessity of respecting and safeguarding individuals' security in both the individual and social spheres and condemns all forms of transgression and aggression (Qur'an, Al-Isra, 17:70).

The establishment of individual and social security and the adoption of a justice-based approach to protecting human rights from any form of violation constitute fundamental human aspirations. The Holy Qur'an not only regards disregard for these principles as a grave human wrongdoing but also identifies the factors that threaten them, including:

1. Oppression, which stands in direct opposition to security (Qur'an, Al-An'am, 6:82).
2. Violation of the privacy and protected sphere of others (Qur'an, Al-Nisa, 4:30; Al-Baqarah, 2:193).
3. Causing corruption and disruption of social order (Qur'an, Al-A'raf, 7:56).
4. The Messenger of Allah (peace and blessings of Allah be upon him and his family) likewise states in this regard:
5. "Every Muslim is inviolable to another Muslim: his blood, his property, and his honor." (16)

It is worth noting that security has also been emphasized in international instruments (9). The Constitution of Iran likewise regards "ensuring the comprehensive rights of individuals and establishing equitable judicial security for all" as one of the duties of the state. Some Muslim scholars have considered the establishment of security throughout Islamic territories to be among the duties of the Islamic ruler, so that people may pursue their daily affairs with confidence and peace of mind. It is self-evident that the full realization of this objective can yield effective results only when justice in the implementation of Islamic laws is observed with respect to all members of society (17).

It is noteworthy that the origins of security and the exercise of power to preserve it constitute among the most contested issues. From a monotheistic perspective, justice is one of the essential components of legitimate governance (18). Within such a framework, it is possible, to some extent, to reconcile the exercise of governmental authority with the freedoms of members of society. From this perspective, security is not necessarily in conflict with privacy; nevertheless, in certain circumstances, security may take precedence in order to preserve the stability and proper functioning of the political and social order (19).

In certain cases, the preservation of the public interest requires refraining from an act that is prohibited (ḥarām) in order to fulfill an obligatory duty of greater importance. Some jurists maintain that, in such circumstances, a conflict between a more important (aḥamm) and a less important (muḥimm) interest arises, requiring the relevant priorities to be observed and the more important consideration to prevail, with action being limited to the extent of necessity (20).

In this regard, Clause 2 of the Law on Respect for Legitimate Freedoms and the Preservation of Citizens' Rights expressly emphasizes the rights of accused persons, including the presumption of innocence. It is therefore worthwhile to elucidate how this important principle of Islamic criminal policy is reflected in the aforementioned provision:

Presumption of Innocence

The term "innocence" (barā'ah) literally denotes freedom, release, and deliverance. In criminal law, innocence likewise refers to the status of individuals as not guilty so long as their commission of an offense has not been established before a competent court. In Islamic jurisprudence, the principle of criminal innocence is grounded and supported by doctrines such as the principle that punishment without prior notification is impermissible (qubḥ al-ʿiqāb bilā bayān), the principle of doubt (dar'), and the presumption of permissibility (aṣl al-ibāḥah). The effects and legal implications of the presumption of innocence are briefly outlined below:

Effects of the Presumption of Innocence

The application of the presumption of innocence produces a range of effects and consequences with respect to the rights of the accused and criminal proceedings, thereby giving practical force to this principle. Among the most significant of these are the absence of any obligation on the accused to prove their innocence and the interpretation of doubt in favor of the accused, both of which are examined below:

No Obligation on the Accused to Prove Their Innocence

One of the most important consequences of recognizing the presumption of innocence in the law of evidence is reflected in the maxim, "The denial of an allegation requires no proof." This means that the accused bears no obligation to establish their innocence; rather, the burden of proving their guilt rests with the private complainant or the prosecuting authority.

A jurist writes in this regard: "The claimant's proof is evidence, by means of which the claimant establishes his or her claim; the respondent's proof, on the other hand, is the respondent's oath, by means of which the denial and rejection of the claim are affirmed" (21).

Interpretation of Doubt in Favor of the Accused

The presumption of innocence requires that, whenever doubt arises, the matter be resolved in a manner conducive to the acquittal of the accused. Doubts that may arise for the court concerning the criminal liability of the accused are generally classified as either legal doubts (shubhat hukmiyyah) or factual doubts (shubhat mawdū'iyyah). In cases of legal doubt, in accordance with authoritative juristic opinions and legal principles, the existence of doubt precludes the imposition of the ḥadd punishment, which may be enforced only upon the presentation of legally admissible evidence (bayyinah); accordingly, the accused continues to be regarded as innocent.

In this regard, Imam 'Alī (peace be upon him) stated: "There is no oath in ḥadd cases." (22)

It is evident that, on this basis, where the court fails to reach moral certainty regarding the accused's culpability and doubt remains as to their commission of the offense, an acquittal judgment or an order terminating the prosecution should be issued. Some scholars maintain that whenever an acquittal has been rendered on the grounds of the absence or insufficiency of evidence, the accused may not subsequently be subjected to renewed prosecution, even if new evidence emerges or the previously available evidence is supplemented (23).

Another important point is that the scope of application of the presumption of innocence is not confined to the trial stage and the issuance of a judgment. At the legislative level, whenever doubt arises as to whether the law prohibits the commission or omission of a particular act, the presumption of innocence requires that such doubt be resolved in favor of permissibility. Accordingly, the preliminary investigation stage conducted by the police and law-enforcement authorities, as well as the stages of prosecution and crime detection before the Prosecutor's Office, likewise fall under the governing principle of the presumption of innocence.

Observance of the Defense Rights of the Accused

As noted above, the presumption of innocence is one of the most important principles of Islamic criminal policy and, by safeguarding the psychological security of individuals, is regarded as a fundamental right. By virtue of this

principle, the accused is protected against unjustified summonses, enjoys the right to remain silent, is protected from torture for the purpose of obtaining a confession, and benefits from the principle that deprivation of liberty prior to the establishment of the charge is exceptional. Accordingly, the principal jurisprudential foundations and principles relating to the defense rights of the accused are outlined and discussed below:

The Principle of the Inherent Dignity of Human Beings

The principle of the inherent dignity of human beings is a principle shared by both the Islamic worldview and international instruments. Elucidating this principle as a central foundation of policymaking within Islamic criminal policy, and clarifying its position within this system, requires an examination of the relevant jurisprudential foundations and supporting sources.

The Holy Qur'an refers explicitly to the dignity of human beings using the term *takrīm* in only one verse (Qur'an, Al-Isra, 17:70). In other verses, however, human dignity is addressed implicitly through concepts such as God's vicegerency on earth (*khalīfat Allāh*) (Qur'an, Al-Baqarah, 2:30), bearing the Divine trust (*amānah*), and other related themes.

The Messenger of Allah (peace and blessings of Allah be upon him and his family) states:

"Whoever honors his Muslim brother has indeed honored Allah, the Almighty."

(22)

The approach adopted by Imam 'Alī (peace be upon him) in his famous governance directive to Mālik al-Ashtar likewise demonstrates the importance accorded to the observance of the principle of human dignity (Nahj al-Balāghah, Letter 53).

The Principle of Respect

In addition to respecting human dignity in criminalization, refraining from any infringement upon the personality and dignity of the accused throughout the stages of prosecution and trial constitutes another principle derived from the inherent dignity of human beings. The Sacred Lawgiver states in this regard:

"And those who harm believing men and believing women undeservedly bear the burden of slander and manifest sin." (Qur'an, Al-Ahzab, 33:58)

The verse refers to those who cause harm to believing men and women without any wrongdoing or offense on their part, declaring that they have committed a grave falsehood and manifest sin.

Islamic jurisprudence, likewise, drawing upon its rich and authoritative sources, expressly recognizes and emphasizes the right to freedom from harm and torture.

It is therefore appropriate to examine the basis and status of this principle in the Qur'anic verses and Prophetic and Imamic traditions:

From the perspective of religious teachings, any form of harm or torture inflicted upon accused persons constitutes a manifest violation of justice and is condemned by Islamic legal and ethical principles. In this regard, the Almighty states:

"Indeed, those who persecuted believing men and believing women and then did not repent will have the punishment of Hell and the punishment of the burning Fire." (Qur'an, Al-Buruj, 85:10)

In other words:

"Those who tortured believing men and women and then did not repent shall suffer the punishment of Hell and the torment of the blazing Fire."

The general purport of these verses clearly indicates that a confession obtained through torture or coercion has no legal validity. In other words, all forms of inflicting harm are categorically prohibited, whether committed physically by hand or verbally by tongue, and whether inflicted directly or through an intermediary cause (24).

Some scholars, while distinguishing among different categories of accused persons—including the innocent accused, the accused not known for moral depravity, and the accused widely known for moral depravity—have held that the infliction of torture is impermissible in all such cases (25). In the same vein, many jurists do not regard a confession obtained through beating and physical abuse of the accused as legally valid (26-29). In support of this position, they have relied upon a number of traditions, including the Ḥadīth of Removal (Ḥadīth al-Raf') (30).

It has been authentically narrated from the Messenger of Allah (peace and blessings of Allah be upon him and his family) that he said:

“There shall be neither harm nor reciprocation of harm in Islam.” (31)

It is also narrated from Hishām ibn Ḥakam that the Messenger of Allah (peace and blessings of Allah be upon him and his family) said:

“Indeed, Allah will punish those who torture people in this world.” (16)

A brief reflection on the meaning of these traditions clearly demonstrates that insulting people and subjecting them to punishment without conclusive evidence are both prohibited and unlawful (32).

A tradition narrated from Imam al-Ṣādiq (peace be upon him) states:

“Whoever relates something about a believer with the intention of exposing his faults and disgracing him, thereby causing him to fall in the estimation of people, Allah will remove him from His guardianship and place him under the guardianship of Satan; yet Satan will not accept him either.” (33)

It is likewise narrated from Imam ‘Alī (peace be upon him):

“The worst of people is the one who constantly seeks out the faults of others while remaining blind to his own faults.” (22)

On the basis of these religious directives, in addition to the Law on Respect for Legitimate Freedoms and the Preservation of Citizens’ Rights, other domestic Iranian laws likewise prohibit any form of physical abuse or ill-treatment, violation of dignity, harsh treatment, insults, cruel punishment, and similar conduct against accused persons. These include, inter alia, Articles 38 and 39 of the Constitution, Article 58 of the Ta’zīrāt Law, and Article 176 of the Prisons Regulations.

At present, the forms of corporal punishment provided for in Iranian law include punishments such as flogging and, in certain circumstances, amputation of the hand, which are prescribed on the basis of Islamic legal rulings and are implemented solely as forms of punishment (34).

The Principle of Non-Guardianship

Among the important principles of public law in Islam, which are derived from a considerable body of religious texts, are the important principle of dominion (qā’idat al-sulṭah) (35) and the principle of the absence of authority of one person over another (36) (37).

The substance of this principle, beyond its application to property rights, also extends to the right of individuals to determine their own destinies in personal and public affairs. Just as unwarranted interference with the property of others constitutes an instance of injustice and transgression, restricting people in the exercise of their rights—

including their political and social participation—likewise constitutes manifest oppression and is regarded as a major sin (38).

Pursuant to this principle, access to legal counsel and a judicial advisor constitutes a fundamental right of the accused and is among the human rights applicable in judicial proceedings. Iranian domestic legislation has, on various occasions, expressly recognized this right and emphasized the necessity of observing it before judicial authorities.[1] (34)

Therefore, violating the privacy and personal dignity of individuals is likewise regarded as reprehensible and religiously prohibited (*ḥarām*), and entails severe eschatological punishment. This is because such violations undermine the well-being and circumstances of Muslims, while individuals have the right to determine their own destiny. Accordingly, Islamic jurisprudence fully recognizes the private sphere. Practices such as spying and intrusive investigation, unauthorized listening and visual surveillance, disclosure of individuals' confidential information and private affairs, as well as unlawful interference with individuals' control over their property and related rights, are considered violations of privacy and are therefore prohibited under Islamic law.

Respect for the Property Rights of the Accused

Property, as part of an individual's assets, constitutes a fundamental means of sustaining human life. The proper functioning of society requires that every owner be entitled to exercise control over and enjoy his or her property, while others must be prohibited from unlawfully interfering with it.

Article 22 of the Constitution, Articles 30–39 and 308–327 of the Civil Code, Articles 158–177 of the Civil Procedure Code, and Articles 690–694 of the Islamic Penal Code address the prohibition of unlawful interference with or disposition of the property of others.

Furthermore, Paragraph 14 of the Law on Respect for Legitimate Freedoms and the Protection of Citizens' Rights expressly provides for the preservation and protection of the property of accused persons. This provision is also supported by numerous jurisprudential principles, including the principle of trusteeship and the prohibition against causing loss or destruction of the property of others, as well as the doctrine of *taslīṭ* (the principle of proprietary authority), among others.

The Principle of Proprietary Authority (*Qā'idat al-Taslīṭ*)

The underlying implication of the principle of authority (*qā'idat al-taslīṭ*) is that every person has authority over his or her own human identity, including both life and property (37). Based on this principle, which is derived from a statement attributed to the Prophet Muhammad (peace and blessings be upon him and his family), a person's authority is not confined merely to his or her property; rather, an individual also exercises authority over his or her own person.

In the same vein, a person's privacy and all aspects of his or her personal identity and dignity constitute integral parts of his or her existence and therefore fall within his or her own sphere of authority (39). Accordingly, although the aforementioned prophetic tradition expressly refers to property—"People have authority over their property" (*al-nās musallaṭūn 'alā amwālihim*)—the principle of a person's authority over his or her own self can also be established through *tanqīḥ al-manāṭ* (identification of the effective legal cause) or *qiyās al-awlawiyyah* (a fortiori reasoning). This is because, a fortiori, human authority over one's property necessarily encompasses authority over

one's own person; indeed, property may itself be regarded as secondary to life and the person (37). It is for this reason that no one may restrict the freedoms of individuals (36, 40).

Protection of Privacy

Paragraph 8 of the law under consideration emphasizes the protection of the privacy of accused persons during the various stages of inspection and search procedures. The independence of the accused persons' private sphere from the authority of judicial officers enables them to maintain an independent and autonomous identity, thereby ensuring that their dignity and emotions are treated with due respect.

The aforementioned paragraph emphasizes the prohibition of arbitrary interference with individuals' privacy. In particular, its requirement that any interference be proportionate to the objective of detecting a crime is fully consistent with the interpretation provided by the Human Rights Committee regarding arbitrary and non-arbitrary interference (34).

It appears that, from a legal perspective, although the constitutions and ordinary laws of most countries today explicitly or implicitly devote certain provisions to the protection of privacy, the robust foundations of the Islamic legal system provide a sufficient basis for safeguarding this important right (41). Islam's comprehensive protection of human life and personhood encompasses all of an individual's rights. On this basis, violating a right or infringing upon a person's dignity constitutes disobedience to the Creator and consequently entails punishment (42).

The position of Islamic jurisprudence toward the concept of privacy is implicitly reflected in and protected by a number of principles and doctrines, including the prohibition of spying, the duty of confidentiality, and the prohibition of disclosing private secrets, among others. These principles are examined briefly below:

The Principle Prohibiting Spying and Intrusive Investigation

Al-tajassus refers to "pursuing information" (24), "searching for and seeking after something" (43), and "seeking to discover people's private faults and concealed matters" (44).

As a general principle, tajassus is prohibited and forbidden in Islam when directed against Muslims. However, this prohibition is not absolute, and its legal ruling may vary depending on the circumstances; it may be considered prohibited (*ḥarām*), obligatory (*wājib*), or, in some cases, recommended (*mustaḥabb*). If tajassus is conducted against Muslims solely for the purpose of discovering their faults, exposing them to public disgrace, or causing them harm, it is undoubtedly prohibited and constitutes a *ḥarām* act (24).

The Holy Qur'an states:

"O you who have believed, avoid much [negative] assumption. Indeed, some assumption is sin. And do not spy." (Qur'an, al-Ḥujurāt 49:12)

The tajassus prohibited in the aforementioned Qur'anic verse refers specifically to prohibited spying and intrusive investigation (*tajassus al-muḥarram*) (45).

It is narrated from Imam Ja'far al-Ṣādiq (peace be upon him) that the Prophet of Islam (peace and blessings be upon him and his family) said:

"Do not investigate or seek out the faults of the believers, for whoever pursues and investigates the faults of his fellow believers, God will likewise pursue his own faults and expose him to disgrace and humiliation, even if he were within the privacy of his own home." (31)

Since the foundation of every individual's life is closely tied to his or her social standing and reputation, violating a person's dignity and tarnishing his or her "social identity" is tantamount to destroying that person's life and existence. In this regard, depriving an accused person of his or her reputation and intruding upon his or her private sphere—including gaining unauthorized access to personal documents and family photographs—is tantamount to the destruction of his or her personality and social standing.

Islamic jurisprudence regards such intervention as obligatory in certain cases, including situations involving the ruler's spies and agents investigating criminals, bandits, and corruptors, when the purpose is to protect the people from their harm and to block the avenues through which corruption may spread. Such intervention has been regarded as one of the most important duties of those entrusted with public authority (24).

The principle prohibiting *tajassus* is, however, subject to certain exceptions. These include the Islamic authorities' and judges' investigation and inquiry into relevant matters; investigation and inquiry in the context of marriage; the guardian's investigation of a child, adolescent, or young person; investigation into matters concerning the imam leading congregational prayer; investigation in the discharge of the obligatory duty of *naṣīḥah* (sincere counsel and admonition); and investigation undertaken to protect and safeguard individuals' honor and reputation (46). Other examples include investigation undertaken to preserve and protect individuals' honor and good name (47).

These exceptions may, in turn, be supported by both transmitted (*naqlī*) and rational (*ʿaqlī*) evidence. Each of the foregoing cases is subject to its own specific rules and conditions and should not be understood as an unrestricted authorization to investigate or intrude upon privacy (48).

The Principle of Trustworthiness

The concept of *amānah* (trust) is broad in scope and encompasses all aspects of human life. One of the most important manifestations of the prohibition against betrayal and the obligation to safeguard trusts is confidentiality and the preservation of secrets (Qur'an, al-Mu'minūn 23:8). Concealing and safeguarding secrets is a moral quality that combines dignity and trustworthiness, whereas disclosing them stems from excessive and indiscreet speech; a person who habitually speaks excessively and divulges matters entrusted to him or her cannot be regarded as a dignified person (49).

The Messenger of Allah (peace and blessings be upon him and his family) said: "Seek the fulfillment of your needs through safeguarding and concealing secrets" (50).

He also said to Abū Dharr: "O Abū Dharr, what is said in gatherings is a trust, and disclosing the secret of your brother is an act of betrayal; therefore, refrain from doing so" (22).

One of the renowned Arab authors states in this regard:

"You treat a trust as though you believed that betrayal occurs only with respect to dinars and dirhams, whereas the most grievous form of betrayal is when someone associates with us, gains our trust, and then departs from us only to betray that trust." (51)

Protection of Privacy in the Eight-Point Directive of Imam Khomeini

The protection of privacy and the emphasis on refraining from violating it can be clearly observed in the statements of Imam Khomeini (may God have mercy upon him). In particular, in his Eight-Point Directive addressed to judicial and executive organizations and institutions, issued in pursuit of the Islamization of laws, he required them to respect individuals' privacy and cautioned them against interfering with or violating it.

Points Five and Six of his Eight-Point Directive constitute among the most important documents protecting privacy in the areas of premises, information, communications, and bodily privacy (52).

Conclusion

The origins of the Law on Respect for Legitimate Freedoms and the Protection of Citizens' Rights lie in the concepts of natural and human rights. Consisting of a single substantive provision and fifteen paragraphs, the Law emphasizes the observance of citizens' procedural rights. It places the investigation and detection of crime and the protection of the rights of the accused on an equal footing, thereby fundamentally distinguishing itself from the traditional approach to criminal proceedings, which emphasized harsh treatment of accused persons.

Among the fundamental human ideals recognized and respected in Islamic jurisprudence are individual and social security, as well as a justice-oriented approach in which human rights are safeguarded against all forms of infringement.

Within the principles of Islamic criminal policy, doctrines such as the principle that punishment without prior notification is reprehensible (*qubḥ al-‘iqāb bilā bayān*), the *dar’* doctrine (averting punishment in cases of doubt), and the presumption of permissibility (*aṣl al-ibāḥah*) support the principle of criminal presumption of innocence. The application of this principle has significant implications for the rights of the accused. Exempting the accused from the burden of proving his or her innocence and interpreting doubt in favor of the accused are among the consequences of applying the presumption of innocence.

Islam recognizes and upholds the inherent dignity of every human being. The principle of human inherent dignity plays a role comparable to that of such doctrines as the *lā ḍarar* rule (the prohibition of harm) and the principle of justice. Recognition of this principle is not incompatible with limiting the scope of human dignity in certain circumstances, including through the criminalization of conduct and the imposition of punishment.

The prohibition of torture constitutes a non-derogable principle in Islamic law. Perpetrators of torture are subject to punishment, and evidence or information obtained through torture is legally inadmissible and devoid of validity.

Under the principles of Islamic criminal policy, the independence of the accused persons' private sphere from the authority of judicial officers enables them to maintain an independent and autonomous identity, while ensuring that their privacy, both in its material and moral dimensions, is respected. This principle is expressly emphasized in the Law on Respect for Legitimate Freedoms and the Protection of Citizens' Rights.

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Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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