

Punishment of Death in Holy Quran and Looking at Its Status in Islamic Countries

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ABSTRACT

Punishment of death, as a most violent punishment, always has been a place for dispute and controversy. This punishment in Islamic law is the most violent punishment type of punishment because is the divestment of the life of convict that is his/her most important and valuable inborn right. The opinions and measures about the punishment of death are so inconsistent that some don't consider its enforcement lawful even about the most violent crime like genocide and war crime and some others with the emphasis on the necessity and legitimacy of execution, consider its enforcement necessary along the fulfillment of justice, and keep order and security and prevention of crime. Up to now, none of the human rights concerns was arguable like the issue of retention or abolishment of execution. In the study of the place of punishment of death in the current world, a trend to the repeal of this punishment is observed in that many countries with the claim to protect the human rights repealed the punishment of death from their law. On the other way, these punishment in some countries particularly Islamic countries in such a manner are implemented and are interpreted as the most important and most impediment of punishment that according to the belief of these countries is not the violation of human rights. In this article with using library source, we intended to study the condition of execution in holy Quran and also in Islamic country. The result of this research shows that Quran, in relation to the subject of death, in addition to recognize the right of life has selected a moderate attitude; an attitude that falls neither in abolition and nor in execution ground.

KEYWORDS: holy Quran, punishment of death, retaliation, belligerence and corrupter of the world

1. INTRODUCTION

The issue of execution or better expression punishment of death, in recent decades always was the discussion place for scholars and different schools. It is said that Bekaria is the first scholar in the realm of criminal science that explicitly rose against this punishment and it was under the influence of his idea that Toskan abolished execution from its criminal law. These debates that always were continued until the end of World War II from the practical consideration couldn't guide strong movement of abolishment. After World War II and especially in decade 90 A.D. this movement gained more strength. Until the end of 2009 about 95 countries abolished execution for all of the crimes, 9 countries for current crime, and 35 countries also in practice. While 58 countries maintain the execution and of this number in 2009 only 18 countries has performed execution (amnesty international, 2010).

But what in this article is the place of our discussion and study is a reflection about the issue of execution in holy Quran. We intend to express the Quran's stance as a book that is acceptable to the majority of world population in this relation. We will allocate the first part of article to this issue. But we didn't consider this subject sufficient and in second part we study the condition of death punishment in Islamic countries and other divine religions. And also finally, as a remainder, we will deal with total conclusion of discussion.

1 –death punishment in holy Quran

Argument about death punishment has been raised just about two cases. First case is related to retaliation. Then, the aforesaid punishment also arose in relation to belligerence and corrupter of the world. We will look at the condition of aforesaid punishment in relation to apostasy.

1-1-Retaliation

Undoubtedly, the obvious instance about the divestment of life that has considered legitimate is retaliation for murder. In verse 45 of Maede sura the expression "ان النفس بالنفس" (life for life) is used or in verse 179 of Baghare sure he says "ولكم في القصاص حيات يا اولي الباب" (in the law of equality there is (saiving) life to you).The opponents of retaliation sometimes claim that law of retaliation has relationship with degree of development and civilization of societies. In fact their claim is that current societies don't approve retaliation as a symbol of violence. But if this

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claim that current societies became more civilization and more anti violence to the past has veracity, the rightful stance of Quran would have the ability to provide the opinion of society and them because retaliation in contrary to other punishments has been yielded to the society itself and people. In reality, if a society has reached to such degree and since that applying for retaliation has been yielded not to government, but to the citizens (avenger of blood) never would be found a case about performing retaliation. Moreover, by this way retaliation and its being humanly or not humanly solves at the heart of society.

However, another issue that is arisen is about preventive or not preventive of death punishment in general and retaliation in particular. What is the stance of Quran verse in this relation? Whether this subject has been presented in Quran or remained silent? Generally, with invocation to a series of verses specially "ولكم في القصاص حيات يا اولي" (in the law of equality there is (saving of) life to you) the belief is that in legalization of retaliation warrant, its preventive was in legislator's mind as a unique consideration or predominant consideration. This belief can be found in the words of many jurisprudents and exegetists. In fact the belief is that the word "life" in holy verse indicated the preventive consideration and providing public intimidation means in society. Ayatollah Naser Makarem Shirazii about this subject says:

It must be noted that killing dangerous people sometimes is the best way for development and evolution of society. The system of medicine, husbandry and stockbreeding, all are established on this rational basis_ elimination of dangerous and intrusive being; because we see that in order to maintain body, decayed part is amputated or for a plant to grow, the harmful branches are pruned. People who consider the killing of murderer "absence of another individual" and "violator of the right of life" hold an individual view. If they take into account the expediency of community and know what role the performance of retaliation has in protection and educating of other people, they will revise their words. The elimination of these murderers of the society is like amputating a part and cutting harmful branches that must be cut rationally and it goes without saying that nobody up to now has objected to the cutting of the harmful branches and decayed parts. (Makarem Shirazi, 1366: 602-610).

Another group believes that since in the holy verse the word "kutub" was used another implication can be inferred. Initially, this word can indicate to an imperative assignment that bears no optional aspect at all. But the aforesaid verse has been sent to Arab society in which the convention and tradition governed that if a person killed another or even injured him/her, the tribe of injured person tried to take revenge with all its power. And thus destructive wars were started among the tribes that in addition to the murderer, his/her family and tribe were also ruined in this unrestrained revenge. The aforesaid verse was sent under such circumstances and tells people "retaliation has become obligatory to you" therefore retaliation must be known as a limiting order and so to speak rejecting and prohibitive. 194 verse of Baghare sura says: **وَالْحُرْمَاتُ قِصَاصٌ فَمَنْ أَعْتَدَىٰ عَلَيْكُمْ فَأَعْتَدُوا بِمِثْلِ مَا أَعْتَدَىٰ عَلَيْكُمْ إِن تَقُوا اللَّهَ** and so far all things prohibited, there is the law of equality if then any one transgresses the prohibition against you, transgress ye likewise against him)

These people consider "life" in the holy verse as a set of elements: firstly, in this direction, the tribe that the felon belongs to is not assaulted. Secondly, retaliation is observed and to take as an example, injury is not retaliated to the murder. Thirdly, the right of who suffered from an offence or that of his/her relatives is not violated; the right which God has allocated for them. Finally, avenger of bloods having such a right can forgive the offender (Mohaghegh Damad, 1378). On the other hand, how we can consider retaliation as a punishment having the characteristic of public intimidation whereas in Quran and other texts forgiveness and pardon of a felon is highly emphasized. Now in spite of this emphasis, how we can consider the observation of prohibitiveness superior about retaliation with referring to "life". On the other hand, in some verses expressions such as **وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ ...** (begin for them: life for life, eye for eye, nose for nose, ear for ear, and tooth for tooth...) are used which clearly indicate that about the subject of retaliation, dominant consideration not only had been public prohibitiveness but also the consideration of retaliation principle. By all means, besides providing the retaliation principle, the probability that public prohibitiveness is also achieved is not denied.

On the other hand, the studies carried out indicate that the existence of death punishment alone (apart from carrying it out) hasn't prohibitive and intimidatory effect. In fact, the belief in prohibitiveness originates from this idea that all human beings are alike. While prohibitiveness may differ from one person to another:

People that internalization process of social norms is properly carried out on them are capable of strong challenge for survival. A common crime, whether religiously or morally, will be considered a humiliating behavior. Then it is not necessary to tell such people that "don't kill". The second group is people who live, whether physically or mentally, in a primary survival state. The probability of committing a murder by this group of people is mainly related to personal aggressiveness and existence or lack of existence of simulative sources in the environment. For this group of people lack of prediction, being impassive and lack of ability to answer the expectation of society in estimation of consequences of behavior, is natural reflexivity of condition of their life. In other word, these people can't have

cognition about punishment and its prohibitiveness until it really carries out for them. In fact only people can have cognition and reception toward the prohibitiveness of death punishment that the process of their socialization is completed or can satisfy the expectations of society in case of social supervision. Of course, they also can behave according to these expectations until the motivation factor or external excitation didn't go beyond from the psychological limitations (Yuanhuang, 2009). That in this situation fear of death punishment is logical.

1-2 punishment of belligerence and corrupter of the world

Quran document

لَّذِينَ يَحْمِلُونَ الْعِثْمَ وَيَسْعُونَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَخُوا مِنَ الْأَرْضِ
ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ (آية 33 سورة مائدة)

(the punishment of those who wage war against God and his messenger, and strive with might and main for mischief through the land is execution, or crucifixion, or the cutting off of hands and feet from the opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter (Maede surah))

In this verse for combatant and corrupter of the world punishments are considered. Whether these punishments are systematic or optional is out of the subject of this article. Having this criminal topic and also the obscurity prevailing in punishment law and also scattered laws in relation to the subject of belligerence and corrupter of the world require further investigations. In fact when encounter with concise articles and disorganized procedure of judicial system in this relation we can study this subject from two views: first study from human rights stance and consider such procedure violation of human right and particularly the right of life or look at it from religious view and school of jurisprudence. Choosing one of this two can be different according to the ideology that we selected. This doubt, generally, can also be raised about the subject of execution. If we select the first way, we have no choice except to question principal of the existence of execution like many who are in the area of abolishmentism. But such view wouldn't help us in solving the difficulty of school of jurisprudence. And in the other way will take us to the direction that disagree with the letter of holy Quran, is its prerequisite. In continuation, we select the second way and intend to show that how Quran with respect to the citizenship right and human greatness, has selected middle way.

The most important discussion and ambiguity that is raised about belligerence and corrupter of the world is that whether these two (belligerence and corrupter of the world) are separate criminal topic or not? If we consider them separate topic, undoubtedly, the cases that legislator can use prescribed punishment in Quran especially death punishment will have considerable increase and therefore we can't defend the least stance of Islam in using of death punishment. Because wherever the topic of corrupter of the world is determined, the use of death punishment will be lawful, and in this direction there will be no necessity to draw weapon in order to frighten people. But wherever the topic of corrupter of the world is true, it will be certifier of this verse. However, another choice that we have is to consider these two as one and in fact consider corrupter of the world as a description of belligerence. Such selection will take us toward a milled stance in relation to the death punishment.

Debate in this relation is very complicated and needs more time. It must be said in brief that *وَيَسْعُونَ فِي الْأَرْضِ فَسَادًا* (and strive with might and main for mischief through land) in relation to the sentence before it is explanatory reference. The late Allame Tabatabaai had adopted this view and considered it as an indicator of the goal of belligerence. He said that: "...فساداً" (mischief) is an infinitive that was sit as present. It means that they are acting while decaying in earth... and *لَّذِينَ يَحْمِلُونَ الْعِثْمَ وَيَسْعُونَ فِي الْأَرْضِ فَسَادًا* (strive with might and main for mischief through land) that mentioned after belligerence and war determine the intended meaning that is the same corruption on earth with public security sabotage and bandity not any war and ebullience with Muslims (Allame Tabatabaai, 496-497). In fact, the belligerence was the intention of verse that was for frightening and toward corruptions on the earth. Therefore any type of public abstraction of weapon can't be considered as the belligerence that is the subject of the verse 33 of Maede sora. The late Sahebjavaher has selected this idea (Najafii, 1368:1-570). It must be said in the explanation that if these two were separate topic, according to Arabic grammar it was necessary to use "الَّذِينَ" (those who) before *وَيَسْعُونَ فِي الْأَرْضِ فَسَادًا* (strive with might and main for mischief through land) until be the clarification of this matter that prescribed punishment in verse separately has determined for each of these two, Whereas the verse has been sent another way. This interoperation of verse has also concordant with overall logic of Quran because it can be interoperated from different verses of Quran the indecency of punishment. In addition there was generality in Quran that indicates the fobiddency of homicide. While in some cases this forbiddency according to the recommendation of legislator has been removed such as retaliation and punishment of belligerent. And in cases that we have doubt about recommendation of execution, it is necessary to be sure and do not recommend the aforesaid punishment.

The article 183 of Islamic punishment law provides that: "anyone using weapon in order to create horror and fear and divestment of freedom and security of people is belligerent and corrupter of the world. This article is based on famous definition of belligerent and corrupter of the world and do not consider corrupter of the world separate

from belligerence. But in other articles of punishment law and also other laws this view has not been followed and many crimes without having the conditions of belligerence are considered as a belligerence of independently corrupter of the world. For instance, it can be pointed to the different articles of armed crimes law, article 2 of punishment law of hecklers in economic system and ... that clearly is indicative of this matter that legislator despite article 183 of Islamic punishment law, in practice has taken the procedure of separating corruptor from belligerence and has made extensive the scope of death punishment. But, whether the punishment of belligerence and corrupter of the world in Quran enacted with the aim of prohibitiveness or legislator had another intention. First, it is possible to say that the aim was to obtain general and specific prohibitiveness aims through such severe punishment. But this subject must be hesitated and can't be spoken of prohibitiveness with firmness. By the way, as it is said before the idea of prohibitiveness is based on this assumption that all of the people of the society have equal understanding and perception to the subject of punishment; the assumption that according to the research that was done is not true. In addition, accepting the penitence before arresting probably decreases its prohibitiveness. In addition, in the holy verse the word "خزي" was used. "...ذَلِكَ لَهُمْ (خزي) their disgrace in this world and heavy punishment is theirs in the Hereafter). The late Allame Tabatabaai in the interoperation of this verse considers the meaning of the word "خزي" (disgrace) scandal and infamy (Allame Tabatabaai, same 498). In fact this punishment is absolute specific in regard to prohibitiveness because all of the mentioned punishment in the verse can have such consequences. But probably, general prohibitiveness was not the first consideration of forging such punishment.

1-3 apostasy

In holy Quran there are different verses in relation to the apostasy. But in none of the verses of Quran in relation to the subordinate commandments, in the field of punitive or legally, there is no word. However, other commandments related to it are interpretable through other source (especially Sunnah). Verses of holy Quran in this relation are divided in three groups:

First: verses that give promise of eternal retribution and loss to the apostasy. The verse 217 of Baghrah sura and verse 25 of Mohammad sura are of this kind. Second, verses that say if anyone wants except Islam, God will not accept. Like verse 85 of Ale Omran.

Third: verses that can conclude from them the acceptance of apostate's penitence. Verse 89 of Ale Omran, verse 110 Nahl and recent part of verse 217 of Baghare.

Fourth: the verses that are implied if apostasy is like atheism after becoming a believer and followed by increasing in blasphemy, in this case penitence is not accepted from him/her. The verse 90 of Ale Omran and verse 137 of Nesa sura are of this kind.

Fifth: verses that consider without encumbrance saying in reluctance condition the words that apparently imply on atheism. Like vers 106 of Nahl.

Sixth: verses that are concerned with the incubative reason of apostasy. Selecting the word's life, sealing on heart and eye and ear, obeying or being friend with people of the book or absolute unbelievers and seduction of Satan are such elements that can be inferred from verses 107 and 108 of Nahl sura, verse 100 of Ale Omran, 89 Nesa, and 25 and 26 of Mohammad sura.

Seventh: verses that in the position of aspersion of apostasy say that apostasy to God do not harm. Verse 144 and 177 of Ale Omran and verse 54 of Maede are of this kind.

Eighth: verses that consider apostasy as the element of disharmony. From verse 3 of Monafeghoon this meaning is received (Serami, 1376: 234-250).

The best legislator is who in addition knowing the interests of individual and society; legislate without personal benefit and away from any like and dislike and greed and personal inclinations and observing all sides and interests. As Jean-Jacques Rousseau said: a very wise is needed that see all of human lust but he himself feel nothing, has not any relationship with nature but know it completely, his good fortune doesn't relate to us but is ready to help our good fortune".

The human is rested in a circle of carnal desires, spites and prejudice, in specific situation on the effect of internal anxiety and sometimes because of Khvdbakhtgy (alienation or mental condition that may be a person or a group to come into being) against others can not realize his/her real interest. Such human is needed such legislative.

Now one of the interests that divine religions are sent to keep them is the interest of "religion". Naturally, judgment of apostasy also legislates in order to keep this interest.

Prevention of humiliating the religion, prevention of psychological warfare, unbelievers and weakening of Muslim's beliefs (verse 72 of Ale Omran Sora), prevention of unbelievers penetration in Muslim's front in order to abolish and finally prevention of blindly choice and prevention of imitation in the principal of religion were most important elements that intellectuals expressed to justify the judgment of apostasy (velaai, 1380: 248-256).

It is necessary to remind that for proving the judgment of apostasy, merely relinquishing the religion is not enough but leaving religion and selecting atheism must be jahedane (a person who deny despite knowing the reality) because this clause was used in anecdotes. Jahed is a person despite knowing the legitimacy of fact denies it and if has doubted to the legitimacy of it deny with the existence of ultimatum. In some verses also the same clause was mentioned. For example, in verse 25 of Mohammad sura there is such clause: "من بعد ماتبين لهم الهدى". (after guidance was clearly shown to them). This clause can be used in *ijtehad* (deducting facts from the Quran and hadees), legislative and judgment in front of *mojtaheds*, legislators (Serami, same: 234 velaii, same: 248-257).

Next section will be paid to the condition of death punishment in Islamic countries and in addition to the stance of other divine religions in relation to this subject.

2- Execution in Islamic countries and other religions

In this section it will be tried to study first the conventions that are concluded in Islam worlds in relation to the subject of execution. Then with using of available statistics, the condition of Islamic countries in respect to the rate of carrying out execution and finally in summary the condition of death punishment in other religion will be studied.

2-1 Regional convention of Islamic countries

The most important indicator that affected on abolishment or retention of death punishment was political factors. Factors like democracy, international and regional pressure. Of course, it can be said that in Middle East region and Islamic countries it was the effect of religion that has guaranteed the retention of this punishment in laws of Islamic countries. But, looking at the condition of Turkey clearly is indication of this subject that this country in spite of having remarkable population of Muslims has abolished death punishment under the international pressure and norms of European Union. Thus, beside the factor of religion, necessarily political elements must be considered (Anckar C, 2004:165). Undoubtedly, Asia is the pioneer of execution in the world. The most important element that has led this continent to this direction is lack of any regional convention in relation to abolishment of death punishment.

Now if we accept the legitimacy of death punishment in respect to the philosophic principal- a command that with attention to the Islamic ideology and belief to the existence of God and imported clear words that prescribe death punishment though restricted (that was explained in the first section) must be believed- and also if Islamic countries of this region want to resist against global wave of abolishment they must necessarily reach a fundamental agreement in relation to the human rights subject and specially the subject of the right of life. In fact, individual movement in international arena will isolated more these countries day to day. As conventions toward abolishment, has increased the power of maneuver and action of European countries in recent decades, conventions in opposite direction of aforesaid current will also be able containing multiple support and transform the message of no acceptance norm of abolishment more audible to international society. Of course, such conventions mustn't be considered as a means for enforcement "the right of divestment of life" from Islamic countries. But, it is necessary that its design process and enforcement must be the kind that saves the citizen of Islamic country from excess of government in resorting to this punishment. In fact, the authors of current article believe that Islamic countries are in the edge of crag that its two sides are falling, In one hand, abolishment and in the other hand execution. In fact such conventions must be considered toward strengthening and promoting of human rights from Islamic respect and not a convention for strengthening the divestment of life.

In this direction the members of Islamic conference toward to compilation of human rights deceleration in Islam in 1407 prepared a text and presented in Tehran conference in 1410. This act reached to the political committee and finally to the ministries committee in 1411correspondent with 1990 A.D and was enacted, but in deceleration of Tehran conference some changes were made (planning assistance and judicial development of judicature of Qom province, 1387:90). With sanction of Islamic conference, the memorial day of enacting Islamic deceleration of human rights, known as Cairo deceleration, the fifth of August of each year as a human rights day and humanitarian greatness became one of the national occasion in countries which are member of this organization.

The aforesaid declaration in contrary to the World Declaration of Human Rights and also International Covenant on Civil and political rights, do not consider the human rights separated from the original of life but consider the right of life safekeeping from God that the divestment of it allocate to one who has bestowed it to the human. And in this respect, there is a great obstacle for the government that they cannot divest it out of religious recommendation with referring to justification such as prevention and necessity of social interests.

The first part of second article provides that: life is a divine blessing and is a right that has guaranteed for each human, and it is incumbent for all of people and societies that support this right and resist against any violation against it and killing any one without religious recommendation is not lawful.

The second part of this article announced forbidden using of any means that result in eradicating the human race source on the whole or slightly. The third part of second article also legitimate guarding of human race life until God's will.

2-2 condition of death punishment in Islamic countries:

According to the report of Amnesty International in 2009 that had provided in relation to death punishment in the world, China with indefinite rate of execution that estimated more than 1000 cases has rested the first rank in the world. Among Islamic countries, Iran with 388 reported cases has allocated the first rank to itself. In the following table the condition of execution in 2009 according to the segregation of Islamic countries is expressed.

Table 1: the rate of performing

Rate of performing execution in2009	country	rank
+388	Iran	1
+120	Iraq	2
-69	Saudi Arabia	3
-30	Yemen	4
-9	Sudan	5
-8	Syria	6
-5	Egypt	7
-4	Libya	8
633 cases of execution	total	

execution in Islamic countries in 2009

In Iran, Egypt, Malaysia, Iraq, Syria, and Sudan the way of performing execution was hanging. Of course in Syria it is also gunshot was used and the used method in Yemen and Libya was like this. In Iran, lapidation rarely was used and the method of execution in Saudi Arabia was decapitation. None of Islamic countries has utilized modern methods like electric chair or lethal injection. It is necessary to say that in 2009 any kind of execution has not reported in Afghanistan, United Arab Emirates, Bahrain, and Pakistan although in2008 all of these country had performed execution. In table2 the rate of command that was issued in 2009 in Islamic countries is mentioned in segregation.

Table 2: the rate of commands that was issued in Islamic country in 2009

Rate of issued commands of execution in Islamic country in 2009	country	rank
-366	Iraq	1
276	Pakistan	2
-269	Egypt	3
-133	Afghanistan	4
-100	Algeria	5
-68	Malaysia	6
-60	Sudan	7
58	Nigeria	8
-53	Yemen	9
17	Palestine	10
13	Morocco	11
Each 12	Somalia and Jordan	12
Each-11	Ethiopia and Saudi Arabia	13
-7	Syria	14
Each -3	United Arab Emirates and Kuwait and Qatar	15
-2	Tunisia	16
1477 cases of issuing of execution command	total	

Also the number of issued commands of execution in Iran and Libya was indefinite (Amnesty International, 2010).

2-3The condition of death punishment in other religion

2-3-1 Jewish religion

Torah has considered death punishment for many crimes. Ebne Meymoon enumerated the number of thirty six of them. Some of these crimes are included: murder(Aadad,35:31), abduction(khoroj,21:16), witchery(Khoroj,22:18), atheism(Lavian,24:14), double adultery(Lavian,20:10), hitting father and mother (Koroj,21:15), curse to the father and mother (Khoroj,21:17), sex with animal (Lavian,15:16-20), rape (Tasnief,25:22), incestuous

adultery(Lavian,11:14-20), pederasty(Lavian,20:13), idolatry(Lavin,20:2), and do not respecting to the Saturday(Aadad,32:36-15) and..(Soleimani, 1386:3).

2-3-2 Christianity religion

In Christianity in contrary to Jewish religion, death punishment only can be found in apostasy as a most severe crime. In other cases the action is proselytizing rather intimidating and predicting punishment law. It is mentioned In the Bible that a woman was committed adultery and brought her to the Jesus and said that Moses commanded to lapidate her what do you say? Jesus didn't violate his word and said: if among you there is any one that didn't commit a sin stone her to the death.... One after another went out and Jesus was left alone....advised her and then freed her (Shamse Nateri, 1378:40-43).

2-3-3 Zoroaster religion

Punishment law of Zoroaster religion must be investigated in section three of Avesta, *Vanidad*. *Vanidad* originally was meaning anti demon and in this religion when human violate his/her promise and obligation; demon *mitra* will penetrate on her/him and this demon must be punished. Since the punishment of death and prison has no effect on demon, must be punished by whip until be tortured and go out of the body of guilty. But in cases such as abandonment of marriage- being lack of wife, family and children- and baptizing the corpse without knowing its customs, death punishment is considered (Shamse Nateri, 1378:40-43).

Conclusion

Holy Quran as a last divine book, in relation to the death punishment has adopted milled and rational stance and as we see only in two cases execution are recommended. The first case is retaliation and second case is punishment of corruptor belligerence. In addition we saw that retaliation not only is a political subject, but also related to the subject of culture. And in fact, the aim of Quran was that in addition to recognize the right of retaliation, lead the society in direction that humans encountering murder, in the stance of performing the right abandon its performing(with recommendation to the pardon and value on it). In relation to the belligerence and corrupter of the world we reached a conclusion that corrupter of the world is not separate topic from belligerence but is its clause. Adopting such view strongly can restrict the scope of recommendation and performance of death punishment.

In addition, other cases of recommending execution are extracted from Sunna's source that mainly is in relation to the sexual crime. In relation to this sexual crime it must be said that with attention to the special criminal policy of legislator that is based on compassion, accepting penitence, not accepting the knowledge of judge, we must believe that death punishment in these cases is more expressive aspect rather requitalism or public and specific intimidation. Meaning that in such cases cultural consequences of punishment and expressing legislator's consideration of goodness and heinousness was the aim. Otherwise, the ruling system on these crimes rarely will be performed. In punishments as we know that "دون الحد" of punishment is necessary. Certainly we can conclude that death punishment can't be used for crimes that deserving punishment. In fact the stance of Islam in relation to death punishment is a milled stance that in addition to recognize the rights of life for human, in few cases also recommend its divestment, the stance that can be considered as least stance in facing with death punishment. Another debate that is arguable in this relation is that if the interest of keeping government or interests like this is demanded whether death punishment can be used for punishment crime? The response is that if we consider such subject lack of obstacle in respect to the school of jurisprudence again this question is raised that whether death punishment can provide such interest or not?

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