

Review of Conventional punishments Shiite jurisprudence and republic of Islamic Iran lawMarjan Azarm(M.A)¹, Mahdi Khodaei(PHD)², Asghar Arabian(PHD)³¹ Department of Religious Jurisprudence and Islamic law, Karaj branch, Islamic Azad University, Karaj, Iran² Department of Religious Jurisprudence and Islamic law, Karaj branch, Islamic Azad University, Karaj, Iran³ Department of Religious Jurisprudence and Islamic law, Karaj branch, Islamic Azad University, Karaj, Iran

Abstract: Child abuse resulting from the omission of not doing things for the child's physical and mental health and physical or mental injury to the child including both children and adults are respected, and any violation of this law is that a prosecution is taken from Islamic jurisprudence there are still ambiguities in the law, such as article 1179 of the civil code which provides that: Parents have the right to punish their children, but they cannot invoke the right of the child outside the scope of conventional discipline, to punish. It is clear that the normal punishment for child abuse, this has given rise to the discipline but with a transparent pretext to such legal ambiguities, in front of it is child abuse in this study of canonical discipline is discussed; this study can help scholars and practitioners in the formulation of appropriate laws do.

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Introduction

One issue is children's rights in recent years in Iran and in other countries and in the international arena .much attention has been the witness claimed that ,in 1989,the united nations convention on the rights of the child adopted the universal declaration of human rights 40 years ago importantly ,it was passed in 1948that .however before the adoption of the convention on the child ,many countries had adopted the declaration in this regard ,such as the Geneva declaration of the rights of the child (1924) child and the declaration of the general assembly of the united nations (1959) declaration of the rights of the child as the convention in the rights of the child clearly went unnoticed .Islamic republic of Iran in 1993and the reservation (inconsistent with the provisions of law ,regulations ,treaties and Islamic law) joined the convention .the second half of the twentieth century can be called the children of age with courage and pride .

Islam attaches great importance to the child and several rights such as alimony, child custody and upbringing has given him an unfortunately, a group of misguided parenting techniques rooted in ignorance justify the actions and also problems of poverty ,addiction ,and mental illness in a parents rights violated and cause physical and mental damage to children provide .

1-Review of fair punishment of the law

With that in Islam, the child has a special place and this school is very important and critical instructions on dealing with the child and observe Manner

comprehensive offer the goal of all of them emphasize the importance of paying special attention to children and childhood is and even many of the saints of the holy Quran and hadith movable religious emphasis on the rights of children and parents are required to complete children's rights believes it is an integral part of their religious duties .

But in spite of this clear and appreciable religious basis, conditional membership in the international convention on the rights of the child and on side of negligible public awareness it is being compared to the phenomenon of child abuse and the lack of specific and defined the border for child abuse and discipline education and prescribing punishment in some existing laws and inadequate of this predicament could not be administered, that in the field of the rights of the child. For example, article 1179 of the civil code says: parents right to punish their children, but this right according to plan, they cannot take the child out of the conventional, discipline and punishment ,or Article 59 of the penal code ,parental measures to protect children is to discipline or observance of regular discipline and the condition of mass conservation does not .

Discipline and punishment and lack of common understanding about the meaning assigned to it by the legislature and therefore transition common diagnosis, which are exploited by a group of parents from the law.

It is like looking at the discussion about law and punishment issues licenses should be addressed to the punish parents who allow their children to choose the kind and degree of punishment that does not mean to

his relief, free for children are free and any excess capital punishment is responsibility .

1-1- Corporal punishment

Discipline is the root of the matter “nabha” in the Arab language means getting up and waking up it is something to remember and I forget to warn you again .he informed the neglected and punish على (he)poetry :it was aware (Ebne-Manzor, 1994). The Persia word discipline means to advise ,bring to wake up and understand what is said to be necessary in practical terms ,to be aware and alert .(Hosseini Zadeh,1999).

Punishment is done in different ways depending on the correct or incorrect way .leaving positive or negative effect. One of these methods applies to any damages or injury or physical punishment that involves physical injury .to a person as a result of criminal or other misconduct that is considered to be (Hosseinikhah, 2012).

Holy law set a limit to the type of punishment that failure to comply results in harassment and agony that the child will be referred to later .another form of punishment is degrading punishment.

This type of punishment is the punishment that the victim fear, discrimination and possible be degraded that can lead to contempt, and mailing them to stir and balance their physical and emotional upsets (Hosseinikhah, 2012). This type of person will be punished seriously in many cases; society will pay for this work.

2-corporal punishment of children in terms of jurisprudence and Islamic law

According to Islam, respect and affection toward children, but put it in the educational system, the punishment (in accordance with its terms) it has been accepted (Mobalegh, 2010). some stakeholders believe AMZ training: training young people in need of punishment and corporal punishment is never because for every action, there is a natural punishment fits (Forghani,2001)Shiite jurisprudence as well as some absolute and general ban on the death penalty have some restriction and no license children are considered non-point.

3-principles of discipline

If you comply with the terms and principles of the disciplines of the disciple can be said to be somewhat effective, will be punished.

Some of the most punishing of conditions and principles are:

A –deserve to be punished

Children deserve to be seen whether the punishment? What punishment, if punishment is necessary and should be done? Being deprived of? For example, if a

child due to the negligence of the container is broken and deserves punishment if the punishment has a negative impact on his psyche .imam sadeq (as) said: what is the punishment for committing no unwanted children but disobedience is the correction form .it is also necessary that the child already be that the punishment of a child who is not aware of the bad acts evidence eagle (Horeamoli,1684).

In a narration from imam sadiq says that the coach is the right place to punish the subject with subject spoke with someone under his training and he is perfectly justified .but something about this and the previous injunction was not issued in the private and unconsciously, he has the same right there .so everyone should be punished as deserved punishment. (Horeamoli,1684) .

B - The size of the punishment

Ibn Abbas says I Said to imam sadeq: How much is my punishment? Imam sadiq said: The penalty for sin is the servant as his. Imam Kazem was asked the same question, he also said: They appreciate his guilt (Kulayni, 1984).

However, questions were raised about my discipline and dignity but for the father of my child and slave.

The children cannot exceed the amount of crime and punishment is wrong with him.

It is not the fault of the child together with the error today and punishment more severe than today errors considered. (Eghlidi Ebrahimi, 2010)

Inertia of Imam sadiq (as) and the Imam of the ancestors of Imam Ali narrated that one day, a group of students to his office, his practice was to select the best of them. Prophet said: It is a judgment, injustice and oppression, as is in other judgments than he said to them: I promise to tell the teacher to discipline students when they take more than three stripes, or additional amount is to retribution, (Kulayni, 1984).

C- the punishment fit the child's age

Another consideration is the age. To punish a child feels helpless and causes psychological damage to the child

Therefore, corporal punishment should be physical strength, age and personality into consideration.

The story Hamad Bin osman, Imam Sadiq said about the punishment of any person, any amount by which the amount of interest he's guilty or stamina, punishment. (Horeamoli, 1684).

D- Status of Child Development

Consideration of individual differences in children is important because of human understanding and wisdom, talents and abilities are different. Thus the wishes of parents and caregivers of teachers are commensurate with their abilities to be an effective

reward and punishment and corrective aspects (Taheri, 1998). Also be careful in disciplining the child's IQ and spirit and thereby prevented from repeating the operation.

About Imam Ali says: Blessed correct way to honor and celebrate individuals and modify their physical punishment and eagles. The child should not be punished for a minor issue, it is important to respect the proportionality between crime and punishment (Eghlidi Ebrahimi, 2010).

And non-compliance can cause psychological damage "Hammad" in the scriptures as the most famous because it is legal term of punishment, the Imam Ali replied with discretion and to suit the guilty person can be punished his body (Kulayni, 1948). In the case of a child who is physically and mentally weaker than man and ignorance, and the child was his error to his rule must be considered. Meanwhile, the proportion of crime and punishment in Islam is considered a degree of justice.

E-fairness in punishment

Relief for parents to punish or seek revenge against justice; She to know the discipline of children is considered good (Sharifi, 1997) what is carnal rage, in which case the person is not born of literature itself should be correct (Najafi, 1984) Literature associated with anger and prohibits individuals (Kulayni, 1984).

F-variety of punishments

God sanctions in Chapter 6 verse says: O you who believe and who are his wife keep the fire of hell. And the purpose of protection from fire and that his wife learn the rules of sharia and warrants to teach Divine orders on behalf of everyone involved and forbid the evil prophet Muhammad sharia is required if are foolish and ignorant people, and his first wife, and encouraged to learn the tasks and issues Meeting the need to appreciate and imitate the worship building and studying them will provide for them. this way they learn to his or her education or teacher assigned to him or how to learn it and then try to in first place will bring them to preach tolerance and guidance and friends and he loves the school and bring it back if they tolerance does not work and if you did not point to threat and punishment if it did not benefit the minor such punishment would teach the children.

Islam says the punishment must follow stages and it is much weaker than the strong will to work punishment procedures are advised, rebuked, arrested, beaten, and so on, to prevent children from indecency repeat (Emami,1979).so (even if child is found guilty) will give you the chance to preach and exhort the rebellious sin to leave, satisfied that it is necessary not exceed (Khomeini, 1980) it should be possible to view the physical punishment and what

the money is needed ,do not.

After considering the negative effects of corporal punishment, and may be avoided (Makarem Shirazi, 1999).He would be better an advised to start because the judge admonished the faithful recommended but sometimes necessary and faithful harassment is forbidden. So what is the norm harassment is forbidden.

G- Confine to the least punishment

That last condition is the most important requirement is minimal punishment because the punishment and correction of children. The story narrated from Imam Sadiq said: pediatric tablet written in the men in were to choose one, said: it is judged that such oppression and injustice in judgment .tell your teacher if you can discipline punishment is more than three strokes .in the narrative of child discipline must be less than (kulayni, 1984).

What phrases and words are Shiite school earlier this they have not said no permit corporal punishment Of immature child non-point but the tenor of their statement addressing this problem is obtained for example ,when they say ,the children are punished for committing the sin and punishment is necessary that they be gentle and not much bruising and bleeding "(Amoli,1993) the "sin "means that the child must have been guilty of bad practice so why was it necessary to punish .physical and mental development of the child is mature enough to recognize right and wrong and knowing that it is actually a sin and retribution in advance it is committed .

It also became clear to permit punishment of a child is such that education is a necessary condition in certain circumstances be encouragement and Advice that can stop the evil practice of child removal is such that Islamic discipline and punishment as the last step in the disciplinary procedure to be raised in the first he has advised and admonished or punished in other languages ,and in order to do it again and informed him with corporal punishment warn that this behavior is inappropriate and discipline of a child is different in terms of crime and his mental and physical condition and diagnosis the judge or coach's child (Forghani,2001).

Because the purpose of punishment is to prevent a child's behavior is unacceptable when the child could not see what was wrong and did not understand it his punishment is so useless and ineffective .the non – point punishment is necessary.

Discussion

What phrases and words the early Shiite jurisprudence is that do not permit corporal punishment of non-point of immature child not clear,

but the tenor of these words this can be addressed. However, the law permits corporal punishment of children by parents and grandfather are Shiite and proven.

View of the jurisprudence of the child's guardian –a father and also the executor, to discipline and punish them for wasting his breath or injury or bruising and any maim that lead obligation and polite (the punishment of) the sponsor has done much crime responsibility is because the loss of the permit corporal punishment does not guaranty the right to contradict him .what is the punishment prescribed by the law, not wasted, but letters can assume that the child who is not allowed to waste.

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