

Investigating the Phenomenon of Insult with a Skeptology Approach  
(Case Study of Retribution, Inheritance, Corporal Punishment and Women's Testimony)

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Received: 2022/07/09, Accepted: 2022/08/23

مسأله‌یابی پدیده اهانت با رویکرد شبهه‌شناسی  
(مطالعه موردی قصاص، توارث، تنبیه بدنی و شهادت زنان)

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دریافت: ۱۴۰۱/۰۴/۱۸؛ پذیرش: ۱۴۰۱/۰۶/۰۱

چکیده

Abstract

Explaining and interpreting the honor and dignity of man and then finding ways to realize it in human life is one of the most important and fundamental topics in religious sources, especially the Qur'an and hadiths. Since insult is the opposite of honor and respect, the present research is trying to investigate the phenomenon of insult with a skeptology approach using a descriptive-analytical method and based on library and documentary information, while measuring and setting human honor and its accessories as a criterion. Considering that any description and attribution knowingly and intentionally causing the weakening and humiliation of human honor and its accessories is considered a category and an example of insult. In this research, the degree of compatibility and incompatibility of the Islamic rulings of inheritance, retribution, corporal punishment of women and women's testimony have been criticized and investigated with respect to human dignity. The results of the research show that Islamic rulings in the aforementioned four topics are based on reality, expediency and health of the family and society, necessity or in order to inform, change undesirable behaviors and prevent crimes. Also, some of the issues raised are necessary as a prescriptive ruling for a specific stage and with special conditions that have been established by the holy legislator.

تبیین و تفسیر تکریم و منزلت انسان و سپس، دست‌یافتن به راهکارهای تحقق آن در زندگی بشر، از جمله مباحث مهم و اساسی در منابع دینی به‌ویژه قرآن و روایات است، موضوعی که با آفت و آسیب بزرگی به نام اهانت مواجه است. از آنجا که اهانت نقطه مقابل اکرام و تکریم است، پژوهش حاضر در تلاش است با روش توصیفی-تحلیلی و بر پایه اطلاعات کتابخانه‌ای و اسنادی ضمن سنجش و معیار قرار دادن تکریم انسانی و لوازم آن، به مسأله‌یابی پدیده اهانت با رویکرد شبهه‌شناسی بپردازد، با این تلقی که هرگونه توصیف و انتسابی که عالمانه و عامدانه موجب تضعیف و تحقیر تکریم انسانی و لوازم آن شود، مقوله و مصادیقی از اهانت محسوب می‌شود. در این پژوهش میزان سازگاری و عدم سازگاری احکام اسلامی توارث، قصاص، تنبیه بدنی زنان و شهادت زنان با موضوع تکریم انسان مورد نقد و بررسی قرار گرفته‌اند. نتایج تحقیق نشان می‌دهد احکام اسلامی در مباحث چهارگانه فوق‌الذکر، بر اساس واقعیت، مصلحت و سلامت خانواده و جامعه، ضرورت و یا به جهت آگاه‌سازی، تغییر رفتارهای نامطلوب و بازداشتن از جرائم است. همچنین برخی از مسائل مطرح شده به‌عنوان حکم تجویزی ضروری برای یک مقطع خاص و با شروط ویژه‌ای هستند که شارع آنها را وضع کرده است.

Keywords: Qur'an, Hadiths, Honor, Respect, Human Dignity, Phenomenon of Insult, Skeptology.

کلمات کلیدی: قرآن، روایات، کرامت انسان، پدیده اهانت، شبهه‌شناسی.

## Introduction

From the beginning of the time of its revelation, the Holy Qur'an has always been attacked by opponents, who raised doubts about this holy book. One of the issues cited by the simulators is the illusion of the phenomenon of insult in some verses of the Qur'an, which has been criticized by some. Insult means any description and attribution that knowingly and intentionally distort the dignity and honor of the human being and cause belittling, devaluing, weakening and humiliating the human being and leading to the distortion of the natural and inherent process of human dignity. (Hossein Maraghi, 1417: 1/556-557) From the point of view of this group, there are discussions in the Holy Qur'an that violate the respect and undermine the honor of some people. Doubts such as the issue of inheritance in Islam, which some consider the double share of men in the matter of inheritance as a sign of the greatness and honor of men and the low dignity of women; or the issue of women's testimony, which some consider to be a sign of worthlessness and low character and low dignity of women and a kind of insult.

Considering that in problem solving, a general criterion and framework should be considered for "Desirability" and measurement of deviation from the standard, the optimal criterion for formulating the problems of this research is considered "The dignity and respect of man and his accessories" and reciprocally, any problem which causes the weakening and humiliation of this honor and respect and its accessories is an example of insulting a human being, according to the holy verse: "He whom Allah scorneth, there is none to give him honour." (Hajj, 18) because in this

verse, insult is considered the opposite of respect, and from this point of view, it answers the doubts raised.

In the field of skeptology of the verses of the Holy Qur'an, which is somehow related to the phenomenon of insult, no independent research has been done. Among the researches that are implicitly related to the topic of the present research, the following can be mentioned:

In a research, they investigated the views of commentators regarding respect for politeness and chastity in the words of the verses of the Qur'an. Their research has been compiled in response to doubts including the lack of respect for politeness in the speech and words of the Qur'an and texts, such as comparing a human being to an animal, comparing disbelievers to quadrupeds and the worst living things and the impurity of polytheists. Also, the book "Comparative study of men's consistency and corporal punishment of women from the point of view of Shi'a and Sunni commentators" by Seyyedeh Kefayat Alboshukeh (2021) and the book "Physical and emotional punishment of wife in jurisprudence and law" by Mohammad Mahdi Isma'ilzadeh (2019) and the article "Comparative study of Corporal punishment of women in Shi'a and Sunni interpretations according to verse 34 of Surah Nisā'" by Reza Baghizadeh (2016); the article "Woman's Inheritance and the Basics of the Difference between Her Financial Rights and her husband's" by Seyyed Kazem Mostafavinia and Davud Besarati (2013) and the article "The Basis of the Difference in Inheritance Shares between Men and Women in the Islamic Law System" by Seyyed Ahmad Mirhosseini (2013) are written

in this field, but none of these researches have explained or investigated the connection between these issues and the phenomenon of insult.

### 1. The conceptology of insult

Insult comes from the word "Hawn" in the meaning of belittling, cursing, humiliating, insulting and dishonoring. (Azarnoush, 2004: 793 and 794; Dehkhodā, 1994: 14/20864) it is stated in *Ṣiḥāḥ Al-Lughah* and *Lisān al-Arab*: "Hawn" is the infinitive of the verb "Hāna" and means the meanness of one thing to another. Then they mention the following meanings for this word: to belittle, to be of little value and to be worthless, and to be the opposite of being dear and the opposite of being respected. (Jawharī, 1410: 6/2218; Ibn Manzūr, 1414: 13/439) The infinitive of "Hawn" is on four forms: *If'āl*, *Taf'īl*, *Istif'āl* and *Tafā'ul*, and all of them mean to belittle a person or something. (Ṭurayhī, 1416: 6/331; Jawharī, 1410: 6/2218)

In the term of Islamic jurisprudence, insult is the absolute meaning of speech or action that is done with the intention of humiliating and mocking a person. (Montazeri, nd: 2/540-542) In the book "*Al-'Anāwīn al-Fiqhīyyah*", the scholar Marāghī writes about insult: "Insult means lowering something from its position and rank and not considering the dignity of a thing with the aim of lowering it from its position." Therefore, any description and attribution that weakens and humiliates human honor and its accessories, knowingly and intentionally distorts human dignity and honor, is considered an insult. (Ḥusaynī Marāghī, 1417: 1/558)

### 2. Issues raised around the phenomenon of insult

The issues raised in this research, which are discussed and investigated in relation to the phenomenon of insult, are: inheritance, retribution, corporal punishment and women's testimony.

#### 2-1. Insult and retribution

Regardless of any ethnic, tribal, racial and gender issues, Islam considers the criterion of superiority and value of human beings to be the component of piety, which includes faith in God, righteous actions and good morals, and determines it as a valuation criterion (*Hujurāt*, 13). One of the objections and doubts that may sometimes be raised is the issue of retribution and valuing people based on their physical and material value, in such a way that some consider the payment of half of the *diya* by the parents of the murdered woman to avenge the murdering man as a sign of devaluing the female sex and humiliation. And they have considered the weakening of women's dignity and considered it a category of insult.

According to the verses indicating the fairness of God's decrees towards the servants in the stages of development and legislation (*An'ām*, 57 and 115; *Fuṣṣilat*, 46), some have considered the difference in the punishment of men and women to be against justice and a violation of women's rights, which somehow weakens their dignity. (Ṣāni'ī, 2003: 166-167) From their point of view, according to the holy verse: "O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and..." (*Nisā'*); and referring to the hadith of the Holy Prophet (PBUH) "People are equal to each other like their teeth" (*Majlisī*, 1403: 75/252):

Men and women are equal to each other in human truth and social and economic rights, especially retribution and diya, and they consider the difference in the issue of retribution against the dignity of women. (Şāni'ī, 2003: 180 and 167) They consider it unjust to pay a man's retribution against a woman by paying half of the diya by the parents of the murdered woman to avenge the murdering man, citing verse 178 of Surah Al-Baqarah; because the mentioned verse considers Qiṣāṣ-e-Nafs i.e. retribution of soul as opposed to Qiṣāṣ-e-Nafs, and in this respect there is no difference in the discussion of gender. (Şāni'ī, *ibid.*: 170; Mehrpour, 2000: 240-249)

### 2-1-1. Review

Addressing the issue of male and female retribution, although it has been discussed in jurisprudential and narrative books, but its investigation based on the component of dignity and its accessories and the violation of this component (insult) is the distinguishing feature of this research compared to the researches that have been conducted in this field. According to the theory of Islamic jurisprudence, the retribution of a man's soul against a woman's soul is conditional on the payment of half of the man's diya. (Ḥalabī, 1403: 383-384; Tūsī, 1387: 7/5-11; Allameh Ḥillī, 1413: 3/596 and 595; Shahīd Thānī, 1413: 15/104 and 108; Khomeini, nd: 2/559 and 518; Khoei, nd: 2/34-35; Najafī, 1404: 42/72; 'Udah, nd: 2/182; Jazīrī, nd: 5/324-326.) In the documents of Shi'a jurists that the woman's diya is half compared to the man's diya, there is a narrative that make retribution for the man's soul against the woman's soul conditional on paying half of the diya from the blood-parents of women (Kulaynī, 1407: 7/298)

and this issue is used by doubters to consider the character and dignity of women as lower than the dignity of men and to think that this ruling is an insult to the character of women. But in response to the aforementioned doubt, it is necessary to mention the following points:

First point: According to the theory of Shi'a jurists, the retribution of the member is the same for men and women as long as the member's diya does not reach one third of the full diya. In an authentic narration, Imam Ṣādiq (AS) was asked about the retribution of male and female members, whether the injuries of men and women are equal in retribution? Imam (AS) said: Men and women are equal to each other in diya for teeth, fractures, and fingers, as long as the diya for injuries reaches one third of the full diya. When the diya for injuries exceeds one third, the diya for male injuries will be double the diya for female injuries. (Ḥurr Āmulī, 1409: 29/165) In another similar narration, Imam (AS) was asked about women's injuries. Imam said:

"Men and women are equal in the diya until the diya reaches a third, when the diya exceeds the third, the diya of the woman is half of the diya of the man. (Ibn Babawayh, 1404: 4/135) Imam Ṣādiq (AS) was also asked about a man who blinded a woman. Imam replied:

"If the woman and her relatives want to blind the man, they should pay him a quarter of the diya, and if the woman wants to take a diya, she will receive a quarter of the diya." (Kulaynī, 1407: 7/301) Imam said about the woman who blinded a man: "If that blind man wants to blind her, he can blind the woman's eyes, and if not, he will take the diya for his eyes (half of the full

payment)." According to the mentioned narrations, men and women are equal in Qisās of the limb, as long as the limb's diya does not reach one third of the full diya, and if the diya reaches the mentioned amount, the woman is obliged to pay half of the diya of the male member.

The second point: Regarding the verse of retribution (Baqarah, 178), which was included in the document of the protestors on the issue of retribution of men and women, it should be said: the meaning of non-retribution of a man against the murder of a woman is unconditional retribution, but by paying half of the diya, killing the male murderer is permissible, and paying the aforementioned amount for the execution of Qisās is only for the compensation of the damage and loss reached to the man's family, and the illusion that the dignity and character of women are inferior to men is completely rejected and illogical. (Makarem Shirazi, 1992: 1/611) due to the fact that, according to the teachings of Islam<sup>1</sup>, the majority of the family's economic activities are the responsibility of men, and in case of the absence of a male member of the family, the families will suffer many material losses. In such cases, families lose their financial and material support in life, in addition to the emotional damage caused by the loss of the father of the family. Therefore, it is fair and reasonable to evaluate and determine such a ruling that the man's diya is determined more than the woman's diya and there is a difference in the matter of retribution between men and women, because the said difference is to create a kind of balance between the rights

and duties of men in the legal system of the family. (Hā'irī, 1415: 77-76; Khamene'i, 1375: 99; Saba'i, 1420: 32-33) In other words, the grief of losing a family member cannot be compensated by material things, but the material loss, which is caused by the loss of the economic head and breadwinner of the family directed to other members, can be compensated by paying half of the man's diya to his family. For this reason, the narrations that cite the theory of Shi'a jurists do not have any contradictions with the mentioned verses.

The third point: The content of the holy verse: "O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women..." (Nisā', 1) is not the similarity and equality of the rights of men and women in all details, but simply the issue of creation from a single soul and the existence of physical and mental differences between men and women in this field cannot be denied, and these differences create different responsibilities and duties for men and women. Shahid Motahari (RA) writes about the commonality of men and women and their creation from a single soul: "The necessity of man and woman sharing in humanity and being created from a single soul is equality in rights and duties, not similarity in every detail. Islam has not established equal rights for men and women, but it has never given legal privilege to men over women and has respected the principle of equality for men and women. Therefore, as it has not considered the same rights for men and women, it has not set similar tasks and punishments either; but in general, the rights given

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1. Men are in charge of women... (Nisā'/34)

to women are not less valuable than those given to men. (Motahari, 2003: 25-26) Therefore, it cannot be said that the laws related to Qiṣāṣ and Diya of men and women can be explained separately from other rules of the Islamic legal system.

According to what has been discussed in the topic of insult and retribution, it can be said that the difference in the execution of the sentence of retribution for the soul of a woman and a man is not only against the human dignity of a woman, but it is the same as justice and righteousness, because the said sentence was legislated based on reality, expediency and family health.

## 2-2. Insult and inheritance

According to the religious teachings of Islam, men and women were created from a single soul, and the human personality of women is considered the same as the human personality of men, and in reaching the degrees of human perfection and nearness to God, a specific gender is not indicated, but the criterion of superiority of people in the eyes of God is piety (Ḥujurāt , 13; Al-Imrān, 195; Nisā', 124; Ghāfir, 40; Naḥl, 97) but despite the contents of the mentioned verses that indicate the equal human value of men and women, some supporters of equal rights of men and women and orientalisists objected to the law of inheritance in religious teachings and consider women's low inheritance as a violation to women's dignity and a category of insult to women (Fazel, 2009: 21) and the holy verse: "To the male the equivalent of the portion of two females..." (Nisā', 11) is considered to indicate that the religion of Islam has a male perspective on the issue of inheritance and considers a woman's personality to be

half of a man's personality. Although the question of the difference between the inheritance of men and women is not a new issue, it has been raised since the beginning of Islam, but its issue in the form of insulting and degrading the dignity of women is an issue that has not been addressed in research.

### 2-2-1. Review

According to the evidence of history, before the emergence of the religion of Islam among all the known peoples and nations, women were deprived of any type of inheritance and with the emergence of Islam, the personality of women was revived as a human being and the first legal system was created for them and they benefited from the blessing of inheritance. (Will Durant, 2018: 3/1066 and 1147) In the Holy Qur'an, the legislation of women's inheritance is stated in some verses (Nisā', 7 and 11-12). In addition to abolishing the laws of ignorance in the field of inheritance, the mentioned verses have also legislated a new rule and tradition that has never been seen before in human societies. And that new law and tradition was that all very close relatives, including men and women, small and large, strong and weak, babies and fetuses in the mother's womb, have the blessing of inheritance and inherit from each other. (Mir Khalili, 1999: 21) Also, according to the holy verse, in every class that men inherit, women also inherit, and if the male child prevents the next class (grandson, great-grandson, brother, sister, grandfather and grandmother), the female child is also like that and there is no difference between men and women in this respect. (Sadr, 2016: 270-272) Therefore, women who were part of the property before the advent of Islam and were sometimes inherited,

with the advent of Islam, they have the right to inherit and have the right to possess their property independently. Women in Islam enjoy the blessing of inheritance with different titles such as: wife, sister (Nisā', 12), child and mother (Nisā', 11).

Another important point is that: according to the teachings of Islam, the gender of men and women is not discussed in the inheritance laws, but the responsibilities and social positions of men and women are taken into account and the idea that a woman always inherits half of a man simply because of her gender. It is caused by carelessness in the rules of inheritance, because sometimes the share of inheritance is equal for men and women, like the share of parents when the deceased has children, and the parents inherit one-sixth of the property of the deceased equally (Nisā', 11). Also, if the deceased has only maternal relatives such as mother's siblings whose share is the same (Nisā', 12) and sometimes the woman's share is more than the man's share where the wife is with multiple brothers of the deceased. In this case, the share of the deceased's wife is one-fourth of the estate, which sometimes will be more than the share of each of the deceased's brothers. Also, if the son's daughter and the daughter's son of the deceased are heirs, so that someone dies and has two grandchildren (a son's daughter and a daughter's son), then the inheritance of the son's daughter is double that of the daughter's son.

On the other hand, the issue of inheritance is established in line with

other jurisprudential rulings such as diya, alimony, diya 'Āqilah<sup>1</sup>, etc. The woman is the recipient of diya and alimony, and in case of committing a pure mistake, she does not pay a diya, but the diya is the responsibility of 'Āqilah i.e. her guardian (for example, her father). Therefore, if inheritance is looked at from within the Islamic legal system, the share of women who do not bear any financial responsibility is completely fair and guarantees the dignity and honor of Muslim women. (Mir Khalili, 1999: 21) Living expenses, such as alimony, including food, clothing, and housing for family members, as well as their treatment and entertainment, are the responsibility of men. Also, it is obligatory for the man to pay the dowry, but the woman is the recipient of the dowry. Diya 'Āqilah is also the responsibility of man and not the woman. Therefore, the laws of inheritance in Islam have been legislated on the basis of social justice, in which the social and family responsibilities of each man and woman have been respected.

In the narratives and hadiths, the infallible Imams (AS) mentioned the philosophy and the difference between male and female inheritance. In the authentic hadith of Imam Reza (AS), the reason for the difference between men and women in the share of inheritance is the commitment and obligation of men to pay the dowry, which is the reason. This makes the wealth and possessions of men are reduced and instead women become the owners of wealth. Therefore, in order to

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1. The ransom paid by the relatives of a woman, who was a murderer or a victim in a murder or wrongful crime with certain conditions.

establish justice in economic issues between men and women, men's share of inheritance is more than women's. (Ibn Babawayh, 1993: 2/98) In another narration, Imam Ṣādiq (AS) considers financial and defensive rights such as paying alimony, jihad, and paying the Diya 'Āqilah to increase the share of men's inheritance (Ibn Babawayh, 1404: 4/350).

The difference in the inheritance of men and women in the context of these traditions is due to the existence of economic and social responsibilities that are placed on men. Therefore, due to the existence of economic and social responsibilities such as diya, alimony, participation in Jihad, paying Diya 'Āqilah, and the like, in Islamic Shari'a, men are given a double share of the inheritance in some cases. It is taken that if we measure this quota with these responsibilities, men do not inherit half of women. (Islampour, 2004: 13) in cases where expediency requires it or the person himself wants his heirs to share equally in his property, he can use his right to bequest up to a third to divide the shares equally.

Based on what has been said, we conclude that the laws of inheritance have been legislated due to the existence of social and economic expedients, although in Islam, the share of inheritance is not a criterion for the value of individuals. But it is only creating responsibility and cannot express the character of women (Najafī, 1404: 21/228-230) so that reducing the share of inheritance causes humiliation, insult and lowering of the character of women. The amount of women's participation is based on social and economic expedients and has nothing to do with the low dignity of women.

### **2-3. Insult and physical punishment of women**

One of the doubts raised in the field of family rules is the doubt of physical punishment of women, which God has stated in the following verse:

"Men are in charge of women, because Allah hath made the one of them to excel the other, and because they spend of their property (for the support of women) so good women are the obedient, guarding in secret that Allah hath guarded. As for those from whom ye fear rebellion, admonish them and banish them to beds apart, and leave them. Then if they obey you, seek not a way against them. Lo! Allah is ever High, Exalted, and Great." (Nisā'/34)

Punishment of women is mentioned in some hadiths. Among other things, in a narration, the Holy Prophet (PBUH) considers unruly women who disobey their wifely duties as deserving of physical punishment:

"O people, it is true that your women have a right over you and you have a right over them. Your right over them is not to betray you (in sexual matters) and not to bring someone you hate into your house without your permission and not to do any ugly act. If they do such a thing, God Almighty has allowed you to be strict with them and avoid them in bed and (if it is not acceptable) to beat them in a mild (and not severe) way. So, if they stop their wrongdoings and obey you, it is obligatory for you to take care of them in a good way." (Ibn Shu'ba Ḥarrānī, 1404: 33; Majlisī, 1403: 73/349) According to the above verse and the mentioned narration, in case of women's violation of marital duties and disobeying the sexual needs of their husbands, men are given the right to



punish women. This issue has caused the suspicion of insulting women and the supporters of equal rights of men and women have considered it against the inherent dignity of women and against the jurisprudence rules of "Doing no harm" and "Sanctification of injury" because physical punishment by men causes disrespect and harm to the character and honor of women and it is considered an example of insult.

### 2-3-1. Review

In response to the aforementioned doubt, it is necessary to mention some points:

- Based on the inherent dignity of human beings and the jurisprudence rules of "No harm" and "Sanctity of harm", any material, physical and mental harm to other human beings, especially physical and mental punishment of women, is prohibited and by following the religious texts of what is ruling between spouses and Shari'a obliges them to comply with it, the principle of good association and peaceful communication and good behavior is such that husband and wife were introduced as a source of peace. (Baqarah, 187 and 231; Rūm, 21; Nisā', 19) A) Husband and wife are required to observe principles such as respecting mutual respect, preserving the dignity of the parties and prohibiting physical and violent treatment. Imam Bāqir (AS) says: "When you marry a woman, respect her. She is your comfort. Don't hurt women and don't waste their rights." (Majlisī, 1403: 100/224) and the Holy Prophet (PBUH) advises to be patient with women's immoral behavior: "Any man who is patient with his wife's immorality, God gives him the reward of David (AS). (Majlisī, ibid.: 247) There are many hadiths in the field of

good behavior towards women, from which the position of Islam regarding good behavior towards women becomes clear. Therefore, the ruling on the permissibility of corporal punishment of women is a necessary prescriptive ruling for a specific stage and with special conditions, which is realized only if women are unruly. In other cases, when women are not unruly, beating women and misbehaving with her is prohibited from the point of view of religious teachings. Unruly women are women who do not obey their husbands in fulfilling their legal duties and obligations. (Jurjānī, 1404: 2/343) Among the examples of unruly women, the following can be mentioned:

a- Refusing to live in the house designated by her husband without a valid excuse;

b- Refusing to perform the duties and tasks assigned to her according to the law;

c- Despite her husband's disapproval, she is engaged in a job that is against the family interests or her own dignity,

d- Refraining from having sex within normal limits without a valid excuse.

- The purpose of presenting the three steps in verse 34 of Nisā' (admonition, leaving the bed and corporal punishment) in relation to unruly women is to improve relationships among family members and prevent the family from collapsing. And physical punishment of unruly women is permissible without wounding and bruising and just with the intention of reforming, disciplining, awakening, and awareness intended by the Shari'ah, not that the Shari'ah had the intention of insulting and undermining the dignity

and honor of women. (Baghizade Palami, 2015: 139-141)

- Corporal punishment is a last solution and is allowed in cases where there is no other solution and with the conditions stated that it should not cause injury. The termination of alimony, which was mentioned in the previous narration from the Holy Prophet (PBUH), refers to this matter.

- Just like unruly women, the ruling of punishment is also valid for delinquent husbands, that is, whenever the husband becomes unruly and in other words, violates his duties and obligations, the wife can punish him with admonitions and leaving the bed. And if this stage is not effective, by referring to the judicial authorities, the man can be obliged to pay his rights, and otherwise and in the last stage, the unruly man will be physically punished by the Islamic ruler. If the wife is unable to carry out the corporal punishment of her husband, this punishment will be applied by the holy legislator. (Najafī, 1404: 31/207; Bahrānī, 1405: 24/619 and 623)

Therefore, from the sum of the contents, it was concluded that the corporal punishment of women was a necessary prescriptive order for a specific stage and with special conditions, which is realized only in the case of unruly women. And in other cases and not being unruly, it is forbidden from the point of view of religious teachings. The same is true for men who neglect their duties and obligations. As a result, corporal punishment of unruly women does not mean insulting and undermining the dignity of women.

#### **2-4. Insult and women's Testimony**

Among the other doubts raised in the field of men and women's rights is the

low value of women's testimony compared to men's testimony, which the supporters of equal rights of men and women consider it an insult to the dignity and character of women.

They considered the content of the following verse to be an insult to the character of women:

"And call to witness, from among your men, two witnesses. And if two men be not (at hand) then a man and two women..." (Baqarah/282)

According to this verse, the testimony of two women is considered equal to the testimony of one man, which is a form of weakening the dignity of women and insulting them.

##### **2-4-1. Review**

In response to the aforementioned doubt, it is necessary to mention a few points:

Since the credibility of the witness's word and speech is closely related to the psychology of the witness, we must pay attention to the psychological characteristics of men and women and recognize their distinctions and differences, then by knowing the existential structure of each, we should examine the judgments related to them. According to psychologists' research, when the traits of fear and anger, hatred and pity appear, the reactions of men and women are different, and the amount of mental and spiritual emotions of women in such situations is much higher than that of men. (Hosseini, 2013: 433) Among the differences in the existential structure of men and women is the difference in their emotions and feelings, which are different from each other. Women act more emotionally (Motahari, 2003: 183-184) and that is why in most of the testimonies related to sensitive cases that leave heavy effects and consequences and are not compatible with the moral and social interests of women, the testimony of women is not

acceptable from the point of view of Islam. Cases such as adultery, where the testimony of two women is considered equal to the testimony of one man, or in some cases such as representation, probate, divorce, reference in divorce, proof of lineage, sighting of the crescent moon, etc., in which the subject of testimony is related to the life, dignity and honor of people. However, in other cases, such as testifying to prove a woman's sexual habits or defects, testifying to prove a bequest, and testifying to the birth of a child, there is no difference between the testimony of a man and a woman, and women's testimony is accepted in such matters. (Jawādī Āmulī, 1992: 420-421) Therefore, the difference in the type of testimony and their amount depends on the mentality of men and women. The important and necessary point to mention is that testifying is a type of "Duty" and not a type of "Right". Therefore, in the places where women's testimony is not based on facts and material, they are exempted from the obligation. In other words, testifying does not create a "Right" or it is not a type of right that by taking it away from women, their rights will be violated and their value and dignity will be weakened. On the other hand, the lack of hearing testimony in some cases is not exclusive to women, but the testimony of men is also not accepted in some cases. For example, in the case of proving that a child was born alive, the testimony of a man does not prove anything of the inheritance for the child, but the testimony of each woman proves a quarter of the inheritance. (Muḥaqqiq Ḥillī, 1408: 4/126) Basically, the philosophy of creation is such that it places emotions and feelings in women more than in men. As a result, in order to protect human rights, Islam has made the testimony of two women equal to the testimony of one man, because a woman may be affected by emotions and feelings while testifying, and may make mistakes in perception and feeling, and she may

don't express the reality as it is. In the mentioned verse, the phrase "If one of the two women forgets, the other woman should remind her" refers to the fact that in testifying, women may be under the influence and pressure of emotions and feelings or intimidation, fear and threats and do not express the truth. Therefore, Islam has paid attention to this issue and since the probability of error in bearing witness and error in testifying is more in women than in men, it has made the testimony of two women equal to the testimony of one man. (Motahari, 2003: 170; Jawādī Āmulī, 1992: 421-422; Kamali, 1990: 86; Zibainjad, 2009: 86-87.)

### Conclusion

The following results have been obtained from the sum of the contents:

1- In Islam, the main economic activities of the family are the responsibility of men and in case of the absence of a man in the family, a lot of material damage and losses will be given to the families. In such cases, families lose their financial and material support in life, in addition to the emotional damage caused by the loss of the father of the family. Therefore, it is fair and reasonable to determine the half of diya for women and the half of diya for the female members' when passing the third of the diya, because the said difference is to create a kind of balance between the rights and duties of the man in the legal system of the family. On the other hand, according to the theory of Shi'a jurists, the retribution of the limb is the same for men and women as long as the limb's diya does not reach one third of the full debt. Therefore, the difference in the execution of the sentence of retribution for a woman and a man is not only against the human dignity of a woman, but it is the same as justice and

fairness, because the said sentence is explained based on reality, expediency, and the health of the family.

2- According to the religious teachings of Islam, in the laws of inheritance, the gender of men and women is not discussed, but the responsibilities and social positions of men and women are taken into account. And the idea that a woman always inherits half of a man simply because of her gender, is caused by carelessness in the rulings of inheritance because sometimes the share of the inheritance of men and women is equal, like the share of parents who inherit equally when the deceased has children or when the deceased has only maternal relatives. And sometimes the woman's share is more than the man's share where the wife is with many brothers of the deceased. In this case, the share of the deceased's wife is one-fourth of the estate, which sometimes will be more than the share of each of the deceased's brothers. Also, if the son's daughter and the daughter's son of the deceased are heirs, so that someone dies and has two grandchildren (a son's daughter and a daughter's son), then the inheritance of the son's daughter is double that of the daughter's son.

On the other hand, the issue of inheritance is established in line with other jurisprudential rulings such as diya, alimony, diya 'Āqilah, etc. Therefore, the laws of inheritance in Islam are legislated on the basis of social justice, in whom the social and family responsibilities of each man and woman are respected and if inheritance is looked at from within the Islamic legal system, the share of women who do not have any financial responsibility is completely fair and guarantees their dignity.

3- Corporal punishment of women is a necessary prescriptive ruling for a specific stage and with special conditions, which is realized only if the woman is unruly. And in other cases, in which she is not unruly, corporal punishment is prohibited from the point of view of religious teachings. And the same is true about men who are unruly and defy their commitments. As a result, corporal punishment of unruly women does not mean insulting and undermining the dignity of women.

4- From the point of view of Islam, most of the testimonies that are related to sensitive cases and leave heavy effects and consequences and are not compatible with the moral and social interests of women, the testimony of women is not acceptable. Cases such as attorney, testament, divorce, reference in divorce, proof of lineage, sighting of the crescent moon, etc., which are related to the life, dignity and honor of individuals. But in other cases such as testimony to prove a woman's sexual habits or defects, testimony to prove the bequest and testimony for the child's live birth, there is no difference between the testimony of a man and a woman, and the testimony of women is accepted in such matters.

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