



The Legitimacy of Postponing Sentencing in Iranian Criminal Law from the Perspective of Ahlul Bayt (AS) Jurisprudence

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<http://dx.doi.org/10.18415/ijmmu.v12i1.6519>

Abstract

Postponement of the issuance of a sentence is an institution that is foreseen in the Islamic Penal Code of Iran approved in 1392 and is adapted from the criminal law of France. This institution is based on the principle of individualization of punishment, which, if the legal conditions are met, can postpone the issuance of a verdict of guilt of a criminal for a limited period of time. In Islamic criminal law, the implementation of this institution of leniency is in contrast to some of the fixed penalties such as hudud, which are general in nature, because in these types of penalties, the principle is certainty and speed of the trial, and delaying the trial and delaying the execution of the punishment will not be permissible. And this principle is based on verses and narrations that do not consider negligence and leniency in delaying the execution of hudud permissible. However, the postponement of the issuance of a sentence, which can be implemented in minor ta'zir crimes such as crimes of the sixth to eighth degree, is left to the opinion of the Islamic ruler. After establishing the guilt of the accused, the court can postpone the issuance of a sentence for a period of, for example, six months to two years. Regarding the legitimacy of issuing this concession order, this research was conducted in an analytical and descriptive manner and it was stated that the permissibility of issuing this order is based on the ta'zir narrations and the rule of ta'zir according to the judge's discretion, which does not contradict the principle of expediting the punishment process.

Keywords: *Postponement of Sentencing; Principle of Expedited Proceedings; Principle of Individualization of Punishment*

Introduction

Postponement of the issuance of the sentence, which can be implemented in a simple and careful manner, is a concessional institution that is based on the principle of individualizing punishment and avoiding labeling, and through which the court postpones the issuance of the sentence in minor crimes (sixth to eighth degree) despite the conditions foreseen in the Islamic Penal Code approved in 1392 in Article 40. And it grants this opportunity to the offender so that he can refrain from committing a new crime during this period and adapt himself to social rules and, without the application of repressive punishment, reform and educate himself and return to the embrace of society and family. Based on this basis, postponing the issuance of the sentence causes a delay and postponement of the trial, which is not in line with the Islamic criminal law system, because in this system, the principle is to expedite the trial and immediate execution of the punishment, and anything that causes a delay and postponement of the trial will not be permissible. After this institution was foreseen in the Islamic Penal Code approved in the same year, numerous articles have been written in this regard, mostly from the perspective of customary law, such as the foundations, types, and conditions, and sometimes in comparison with the laws of Western countries. However, less attention has been paid to it from a jurisprudential perspective! The author decided to examine this research from the perspective of Islamic criminal law. Therefore, what distinguishes this article from other articles and what it seeks to do is to examine the jurisprudential dimensions of this institution, whether from the perspective of the jurisprudence of the Ahlul Bayt, on what basis is the legitimacy of this institution based? To reach an appropriate answer, after discussing the terminology and background of the subject: the evidence for the principle of expediting the trial and postponing the issuance of the verdict, in fixed punishments such as hudud, qisas, and then the evidence for the legitimacy of postponing the issuance in variable punishments such as ta'zir, will be examined.

1. Postponement of Sentencing

Postponement of sentence is a new term that has entered Iranian criminal law, and there is a similar term such as postponement of punishment.

In the terminology, postponement of sentence is a special situation in which the issuance of a sentence is postponed despite the fact that the crime has been committed and proven. In other words, the court can postpone the issuance of a sentence for a while after the conviction of the offender, considering the circumstances of the offender. Therefore, postponement of sentence means that the judicial authority issuing the sentence has the authority to delay the issuance of a criminal sentence in minor crimes and light punishments, which is applied for the purpose of reforming and rehabilitating the accused who has no effective criminal conviction history, with or without judicial orders and supervision for a limited period (Sarikhani, 2015: 75). If the offender complies with the conditions determined by the court, an exemption order will be issued after that period has elapsed. And if the offender does not fulfill the commitment taken from him, the postponement of sentence will be canceled and a conviction will be issued.

Another definition of this institution is: the failure to issue a sentence after finding the perpetrator guilty, considering the nature of the crime committed and his individual characteristics (Dhabari et al., 2016: 95). That is, the legislator has allowed the court to postpone the issuance of the sentence for some crimes, despite the conditions. In other words, the judge can, despite the conditions stipulated in the law, delay the issuance of the sentence and demand from the defendant a guarantee of good behavior for a certain period. If his behavior was acceptable during the said period, the judge will definitely refrain from issuing a sentence, but whenever he is found to have committed a fault and has violated his promise, the judge will also issue a sentence (Asghari et al., 2018: 118).

2. History of the Postponement of the Verdict

The history of the postponement of the sentence, which is included in Iranian law and accepted as an official institution in criminal regulations, has never been seen in the criminal policy of this country. The principle has always been that the judge issues a sentence after the perpetrator has committed a crime. The first glimmer of attention to the institution of postponement of the sentence can be seen in Article 25 of the bill on the investigation of crimes against children and adolescents. However, this bill was not approved by the Islamic Consultative Assembly. This institution, which had attracted the attention of criminal policymakers, was finally foreseen in the Islamic Penal Code approved in 1392 under Articles 40 to 45. This institution has been adapted from the laws of Western countries and specifically from the French legal system, as described in Articles (6-132) onwards of the French Criminal Code. (Mossadegh, 1392: 135). In the French legal system, it was first taken into consideration in 1975, derived from the common law legal system. In French law, until this date, criminal courts did not have the right to exempt a criminal from punishment except for reasons specified in the law (exempting reasons by law). At that time, the situation was such that the prosecutor had the authority to determine the expediency of criminal prosecution, despite the fact that the crime had been committed, while the court did not have the same authority, if necessary, even after the criminal had shown proper behavior and compensated the private plaintiff for the loss. Until the law of July 11, 1975, the judicial reason for exempting from punishment was taken into account. This law allowed the judge to postpone his decision if the prescribed conditions existed (Gastoni Stefani et al., 2004: 75/2). Iran's Islamic Penal Code, following French regulations, also accepted this institution of conciliation and provided the judge or court with the opportunity to postpone the issuance of a criminal sentence for a limited period of time, given the circumstances, in order to provide the opportunity for the offender to reform and educate himself in minor crimes for which society does not seek revenge, and to return him to the embrace of his family and society.

3. Postponement of Issuing a Ruling on Fixed Penalties (Limits and Retribution)

In Islamic criminal policy, punishment is divided into two fixed and variable parts: the punishments of hudud, qisas and diyat. The fixed and unchangeable part is the one that has a smaller part. The ta'zir punishments, which are the variable part, include a large volume of the punishments stipulated in the criminal laws.

With regard to reliable Islamic sources, in fixed punishments such as qisas and diyat, which have a private aspect, the application, delay and pardon of it are left to the permission of the guardian and the rightful owner. The main decision-makers are those who are known to be interested in the issue. However, in hadd punishments, which have a general aspect, the emphasis is on the necessity of their application and the lack of delay in its implementation. According to some researchers: The prohibition of delay and the impermissibility of delay in the implementation of hadd, relying on the intrinsic and customary promotion and expectations that arise from the implementation of the punishment, prevents the distortion of the principle of certainty of the punishment and in some cases prevents the mental, physical and even financial loss of the condemned; Therefore, in some verses and narrations, it has been ordered to implement the limits and not to delay them (Asghari and others, 2018: 119).

Although in some cases, the implementation of the hadd punishment for some people is exempted in special circumstances, such as a pregnant woman until she gives birth, a breastfeeding woman if no other mother is found for her child. Or the need for a guarantor in case of need for guaranty, who will take care of her. Or a person who is sick until he recovers, and some other cases that are mentioned in their place, the implementation of the hadd is delayed. However, other than the cases that have been excluded, it cannot be extended to others and the principle is to expedite the proceedings and implement the punishment immediately. The Islamic ruler is not allowed to delay, postpone or suspend the hadd

punishment, which has a general aspect, and any action that causes the delay of the proceedings will not be legitimate according to the following evidence, some of which are mentioned:

First: Verses (Holy Verses Regarding the Penalties)

A: Noble Verse on the Penalty for Theft: God says regarding a person who commits the criminal act of theft, on whose behalf the Islamic ruler is ordered to carry out the penalty: « وَ السَّارِقُ وَ السَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جِزَاءً بِمَا كَسَبَا نَكَالاً مِنَ اللَّهِ وَ اللَّهُ عَزِيزٌ حَكِيمٌ » Al-Maidah/38.

B: The Noble Verse of Hadd Qadf: Those who accuse chaste people of committing acts contrary to chastity, such as adultery, and cannot prove it, God has provided the punishment of flogging to punish and reform such people so that they will not be accused of wrongdoing, as He says: « وَ الَّذِينَ يَزْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَ لَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَ أُولَئِكَ هُمُ الْفَاسِقُونَ » نور/4. Those who accuse chaste and believing women of adultery and cannot bring four witnesses to prove their claim, flog them eighty lashes and do not accept their testimony. They are transgressors. Unless they repent to God from this slanderous and improper act of theirs and reform themselves. Although this noble verse is about the punishment of slander, the punishment of slander will not be carried out until the person who has been slandered requests the execution of the punishment. However, if he requests the execution of the punishment, the punishment will be carried out immediately and its delay will not be permissible.

C: The Noble Verse of the Punishment for Adultery: God has prescribed a severe punishment for a person who commits the indecent act of adultery. Of course, the implementation of this type of punishment is a deterrent. So that no one can commit such an immoral act out of fear of such punishment. In this verse, it is said: « الزَّانِيَةُ وَ الزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ وَ لَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ » نور/2؛ Flog each of the adulterers a hundred lashes, and let not pity and compassion for them prevent you from carrying out the command of God, if you believe in God and the Last Day. And a group of believers should witness it and their punishment should be carried out in public.

In these blessed verses, God, by using the "word of command", has addressed the Islamic ruler and made him obligated to implement the divine limits, without showing mercy or delay in this matter.

The question that arises here is whether, just as the "word of command" requires immediate appearance, so does the appearance also require immediate execution of punishment. That is, the Islamic ruler is commanded by God to immediately implement the divine limits if possible and the conditions are ready. Or can he delay it?

There is a different view among the fundamentalists as to whether imperative addresses, such as (اقموا الصلاة) Or does any other word of command indicate urgency or delay? That is, the master orders the obligated person to perform an action, the slave; immediately obeys the master's command; or it is not necessary, he can delay the command. In this matter, some scholars believe in urgency, some believe in delay "that is, they consider delay permissible; not that delay is obligatory", and some do not believe in either of the two meanings, but rather say that the command indicates the creation of the nature of the ordered (al-Tusi, 1417: 1/225-227 and Mirzai Qummi, 1430: 1/ and Mohaqiq al-Hilli, 1423/65 and Akhund, 1425: 103, al-Muzaffar, 1378: 95).

The explanation of this issue is beyond the scope of the discussion and has been examined in its own place. It is mentioned merely to clarify the matter: The late Akhund (may Allah have mercy on him) said: The truth is that the word "amr" does not indicate urgency or urgency, but rather "amr" indicates the desire to create the nature of the obligatory prayer. When the Master said "Aqim al-Salwa", he actually asked us to perform the prayer. But is it obligatory to perform it at the beginning of the time, or can we delay it until the end of the time? This is not understood from the word "amr". The reason why the word "amr" does not indicate urgency or urgency is the analogy. In other words, the word "amr" indicates the desire to create the nature of the obligatory prayer, because its subject indicates the nature and essence.

And its form indicates the desire to create the nature, and neither of them indicates urgency or urgency. These two meanings are understood from external evidence (Akhund, 1425: 193).

In the discussion, when God has used imperative terms in the issue of implementing the hadd of theft, the hadd of adultery, and the hadd of slander, they do not in themselves imply urgency or haste so that the principle of expediting the proceedings can be used. Rather, from the evidence and evidence that exist, the urgency and principle of speed in implementing the divine hadd can be used, which are explained below:

In Surah An-Nur, verse 2, when God commands the execution of the hadd for adultery, the following verse prohibits mercy because it is possible that mercy may delay and sometimes lead to the suspension of the execution of the divine hadd. According to some commentators: This prohibition of mercy is like a prohibition of the cause rather than a prohibition of the cause, because pity for someone who deserves punishment causes them to be lenient in punishing him, and as a result, they make concessions to him, or they completely suspend the execution of the hadd. For this reason, the word is restricted to the clause "في دين الله" so that the sentence means that in a situation where this negligence has occurred in the religion of God and the Sharia.

Some other commentators have said: What is meant by "ماكان ليأخذ اخاه في دين الملك" the religion of Allah" is the same as the ruling of Allah, as in the verse "There is no place for your brother to take the kingdom in his religion" (Yusuf/76). That is, mercy should not take you away from implementing the ruling of Allah and imposing His punishment. (Tabatabai, 1393: 11/225-226).

Therefore, this prohibition that is mentioned below the verse applies, it expresses a general ruling that includes all cases and is not specific to adultery. That is, negligence or showing leniency in implementing the divine limits is permissible in all cases of omission, because it may lead to their termination.

In cases, if God orders an action to be performed. The requirement of the rule of reason is the urgency to perform it. This urgency is not a requirement of the word "command" that can be used, but urgency; it is a requirement of the duty that has been placed on the person entrusted by God. That is, reason dictates that the right of mawla and servitude requires that the servant immediately perform the divine duty. And if the person entrusted delays in carrying out this order and delays it, he will be entitled to dhimm from the perspective of the master (Kamra'i, 1416: 1/172). This entitlement to dhimm is evident from the fact that the word "command" indicates urgency, and the person entrusted with the task must immediately obey the master's order.

Of course, the duty imposed on the obligated person by God does not matter whether it is individual, i.e., it belongs to the obligated person, such as performing prayers and fasting, or whether it is a general duty, such as taking on the task of judging and establishing divine limits. In both cases, according to the dictates of reason, the obligated person must immediately perform the divine duty, given the conditions, unless permission for delay has been granted by the trustee.

Imperative phrases such as "فاقطعوا" in the verse on theft and "fajldu" in the verse on the punishment of slander and adultery, do not in their substance and form indicate urgency or urgency, they only indicate the desire to create an obligatory nature. Unless there is a correlation to one of the two. In the issue under discussion, it is said that imperative phrases indicate urgency, because the reasons mentioned are consistent with the principle of speeding up the proceedings and immediately establishing the divine limits; therefore, the principle is to speed up the proceedings and prohibit the prolongation of the proceedings. Unless the holy lawgiver has made exceptions in certain cases and allowed delay, otherwise delay is not permissible. Therefore, it is obligatory upon those who are qualified to hold the office of judge to attempt to resolve the hostility and implement the divine limits.

Second: Narrations

The principle of speedy trial and immediate execution of punishment was mentioned in the verses of the Holy Quran and was emphasized by the Holy Lawgiver. This issue has also been emphasized by the Holy Lawgiver in the narrations and he has prohibited delaying its execution. Accordingly, some great jurists (Khoi, 1422: 21/224 and Rouhani, Beta: 3/246 and Wahid, 1428: 3/478). After the hadd is established, they believe that it must be executed immediately. And they have cited the following narrations:

1) Sukuni Narration: He narrated from Imam Sadiq (AS) and he narrated from their great-grandfather that three people came to Imam Ali (AS) and testified against a man who had committed adultery. The Imam asked, "Where is the fourth?" They said, "He is coming now." The Imam said, "Immortally punish these." There is no delay or delay in the execution of the punishment (Al-Tusi, 1407: 10/51/190).

The famous Imamiyya jurists, citing Sukuni narration, have ruled that after proving the punishment, through testimony, the punishment must be carried out immediately (Najafi, 1404: 41/304, Mohaqiq Ardabili 1403: 13/44, Khoei, 1442: 41/224, Makarem Shirazi, 1418: 13/44, and Golpaygani, 1414: 1/79 and 388). One of the contemporary jurists says: In addition to the fact that the wording of the command "hadduham" in the Sukuni narration indicates an immediate occurrence, this narration and subsequent narrations "Mursalat Saduq wa Da'im Islam" also indicate the immediate implementation of the haddi punishment (Mousavi Ardebili, 1427: 1/100). That is, the Imam (a.s.) immediately punished the three people who testified before the Imam against another person for adultery and did not wait for the next witness to arrive.

The following points can be used from this narration:

- a) This narration indicates the immediate implementation of the hadd punishment. Because in the narration, the command "hadduhum" has been included, which has an immediate appearance.
- b) According to some jurists, the following narration is "فَلَيْسَ فِي الْحُدُودِ نَظْرٌ سَاعَةً" (ibid.). It seems that when the Commander of the Faithful, through a command, ordered the implementation of the hadd punishment, Imam Sadiq (a.s.) was using the command of his grandfather, so there was no moment of delay in the implementation of the hadd punishment. Therefore, it can be said that the interpretation of Imam Sadiq (a.s.) emphasizes the immediate implementation of the hadd punishment.

Some other jurists write below this narration: What comes to mind is that when three witnesses testify against a person for adultery, the Imam (a.s.) should wait until the next witness arrives to testify. But Imam (AS) did not wait even for a moment, he sentenced those three people to the punishment of adultery. This act of Imam (AS) does not mean that they changed the punishment from one person, who is accused of adultery, to three people; rather it indicates the complete and total commitment of Imam (AS) to the speedy execution of the punishment and its non-delay. And also the strong expressions that are found in the relevant narrations such as «إِذَا كَانَ فِي الْحَدِّ لَعْلٌ أَوْ عَسَى فَالْحَدُّ مَعْطَلٌ» The hadiths indicate the immediate imposition of the hadith punishment (Golpaygani, 1414: 388/1).

2) The Message of Saduq (a): The second narration that jurists have relied on for the immediate imposition of the punishment or the principle of expeditious proceedings is the message of the late Sheikh Saduq. He quotes from Imam Ali (a.s.) that the Imam said regarding the imposition of the hadith: If, in the execution of the hadith, something happens, the hadith is suspended (Sadoq, Man la yahdrah al-faqih, 1413: 5071/50/4). Although this narration, like the silent narration narrated from the Imam, does not explicitly state the immediate imposition of the hadith punishment. However, the tone of the narration indicates that there should be no delay in the imposition of the hadith punishment. As soon as the

conditions for the imposition of the hadith are proven and the execution of the hadith is in place, the Islamic ruler is obliged to impose the divine hudud.

Some Imami jurists, including Ayatollah Golpayegani (RA) and Ayatollah Mousavi Ardebili (RA), have cited this order as the basis for the principle of expediting the trial and execution of punishment, and have ruled for the immediate execution of punishment. However, the late Khoei did not refer to this order as the necessity of immediate execution of punishment, but rather mentioned it as a support (Golpayegani, 1414: 388/1 and Khoei, 1442: 224/41 and Makarem Shirazi, 1418: 260).

Review and Analysis: In view of the text of the Mursalalah Saduq, which the Imam said, if there is a possibility or possibility in the execution of the hadd, the hadd is suspended. From the appearance of the narration, urgency is not used in the execution of the punishment, because this Mursalalah, like the Matarih Sukuni, does not specify the urgency of the execution of the punishment. Because there is no order in the Mursalalah Khattab to use to expedite the execution of the punishment. It only conveys certainty and firmness in the execution of the hadd. That is, when the hadd is proven, the court should execute the hadd punishment with complete certainty without delay or mercy towards the offender. For this reason, the late Khoei has used this Mursalalah as a support for the necessity of hastening the execution of the hadd.

3) Mursalalah Da'im al-Islam: Another narration is narrated by the late Muhaddith Noori from Da'im al-Islam from Ali (AS) that the Imam said that when the hadd becomes obligatory, it must be performed, and there should be no delay in executing the hadd (Noori, 1408: 18/27).

In this narration, the Imam emphasized the prompt execution of the hadd punishment and said that the hadd becomes obligatory when, that is, the reasons and conditions for its execution are present; it must be executed.

One of the contemporary jurists also cited this narration and issued a fatwa based on this (Mousavi Ardabili, 1427: 1/100).

In explaining the citation of this narration, it can be said that in this hadith, the Prophet has expressed the imposition of the hadd with the informative sentence "Aqim". From the perspective of the science of principles, just as the phrase "Amr-e-Zuhor" has an obligatory nature, the informative sentence also has an obligatory nature, just like the phrase "Amr-e-Zuhor" has an obligatory nature. Rather, it has been said that the implication of the informative sentence is more certain because it is giving news of an event that seems to have come true. The master was not satisfied with leaving it ((Akhund, 1425: 92). In the previous discussion, it was said that the imperative sentence has immediate necessity with the help of evidence. From the perspective of reason at the time, the one who is ordered by the master to do an action must do it immediately. If he delays and hesitates, perhaps because the master did not intend to do the action immediately, reason blames and condemns him. This blame of reason is consistent with the urgency of the master's command that the servant should do the task immediately. In addition to the ruling of reason, the Prophet has clarified in the narration itself that in the execution of the hadd, there should be no hesitation, pause, or delay; rather, it should be executed immediately.

Based on what has been stated, according to the views of the scholars of the principles, imperative sentences, in addition to their necessity, also have immediate necessity with the help of evidence. Therefore, it can be said that based on the verses and narrations mentioned, it is obligatory to expedite the proceedings and execute the punishment immediately, if possible and the conditions are met. And the Islamic ruler also God is ordered to enforce the divine limits within the Islamic community immediately. And it should not be delayed without causing the trial process and cause delay.

According to this statement, postponing the issuance of the ruling naturally causes delay and delay in the trial, which is in conflict with the arguments for expediting the trial; to resolve this conflict, it should be said in brief that in the case of haddi punishment, except in cases that are excluded, God has not

permitted the delay in the implementation of the haddi punishment. However, in some cases, if there is no interest in implementing it or its implementation is corrupt, such as implementing haddi in enemy territory due to fear that the person who has been punished will join the enemy, the Islamic ruler can postpone the implementation of haddi.

4. Postponement of Sentencing in Variable Punishment (Remission)

Ta'zir crimes do not have specific cases or instances, but rather any forbidden act for which a specific punishment is not provided in Sharia. Using narrations and the rule of ta'zir, the Islamic governor and ruler, based on the consideration of the public and individual interests of the society, can consider any punishment appropriate to the criminal acts and the physical conditions of the perpetrator, or order forgiveness, mitigation, or aggravation, or postponement of the issuance of the sentence.

Great jurists have also made ta'zir punishment subject to the opinion of the Imam (a.s.) or the Islamic ruler, citing narrations.

Sheikh Tusi (may Allah have mercy on him) says: The matter of ta'zir is left to the Islamic ruler so that if he considers it expedient, he can implement it, and if he determines that it is not expedient, he can refrain from implementing it (Tusi, 1387: 8/69 and from the same, 1407: 5/497).

Ibn Idris also believes: The opinion of the ruler is effective in ta'zir, so that he may consider implementing whatever the interests of the people and the offender require (Ibn Idris, 1410: 3/530).

Some other jurists also say: Whoever commits a forbidden act or neglects an obligatory act, the ruler can, according to his discretion, punish him with ta'zir to a lesser extent (Allamah Heli, 1413: 3/548 and Muhaqqiq Heli, 1408: 4/155 and Najafi, 1404: 41/448).

Shahid Thani (may Allah have mercy on him) says: In ta'zir, the opinion of the Islamic ruler is the criterion, and he acts according to whatever he deems expedient. And this is a general criterion. However, it should be said that the Islamic ruler often has this discretion in non-prescribed ta'zir punishments, while in prescribed ta'zir, the Islamic ruler cannot change its type or amount. (Shahid Thani, 1413: 14/457).

One of the contemporary jurists, regarding the Islamic ruler's discretion in the punishment of ta'zir, says: "The determination of the amount of ta'zir will not be based on his whims and desires, so that he may consider a light punishment for whoever he likes, and issue a heavier ta'zir sentence for those he dislikes. Rather, it is necessary for him to determine the amount of ta'zir by considering the matters that, according to Islamic law, mitigate or aggravate the crime." After referring to Sahih Hammad, in which the proportion of the crime and the punishment is taken into account (which will be mentioned a few lines later), he says:

Of course, it is clear that the two issues mentioned in the narration (Sahih Hammad ibn Uthman) are not specific, but rather it is necessary for the ruler of Islam to consider all the matters that have an effect on mitigating or aggravating the punishment (Makarim Shirazi, 1425: 112). Considering the evidence that exists (to be explained below), not only is the opinion of the Sharia ruler effective in mitigating or intensifying the Ta'zir punishment, but it is also effective and has the authority to suspend, postpone, and provide incentives that deter crime. Some of those cases are mentioned below:

4-1. The Ruler's Discretion in the Amount of Ta'zir

According to some researchers: The most certain measure of the ruler's discretion in imposing punishment is his discretion in determining the amount and amount of punishment. Qudratullah Ansari, 1386: 328.). There are several narrations in this regard, including the Sahih of Hammad ibn Uthman from Imam Sadiq (AS). He asked the Imam about the amount of punishment, and the Imam said that it should

be less than the limit. The narrator asked again so that the Imam could explain further. The Imam (AS) replied: The Islamic ruler imposes punishment according to his discretion, in proportion to the crime committed and the ability of the offender (Kulaini, 1407: 7 / 241 / 5).

Some jurists, citing this narration, said: The Islamic ruler has discretion in determining the amount of punishment, and he can punish or punish the offender as much as he deems appropriate (Khu'i, 1442: 41 / 409). That is, the Islamic ruler can punish the offender with less than the prescribed punishment and reduce his punishment.

Sheikh Tusi (may Allah have mercy on him) says in this regard: The ruler can flog the offender with less than the prescribed punishment (Tusi, 1387: 8/66).

Some other jurists also said: Determining the amount of ta'zir is left to the ruler, who punishes the offender according to the interests of the community (Muhayyir al-Hilli, 1408: 4/155 and Najafi, 1404: 41/252 and Ibn Idris, 1410: 3/536 and Khomeini, *Bitā*: 2/477). One of the contemporary jurists says: All the narrations that speak of the necessity of implementing the ta'zir punishment, and do not mention a specific number in terms of the amount, also support the ruler's discretion in the amount of ta'zir because the Imam (a.s.) was in the position of a speaker, and he made the narrations that state the amount of ta'zir absolute and did not mention any conditions, and this means that the ruler of the Sharia has the discretion in determining the amount of ta'zir (Nasser Makarem, 1425: 97). Therefore, the narrations that are included in the statement of the amount of ta'zir punishment, the Imam (a.s.) could have stated its amount in terms of a smaller or larger number, but the Imam did not state it and did not specify it. He left its punishment to the Islamic ruler in proportion to the crime and the physical strength of the offender. This indicates the discretion of the Imam (a.s.) or the Islamic ruler in determining the amount of ta'zir.

4-2. The Ruler's Authority in Determining the Time of Ta'zir Punishment

Regarding false testimony, there are narrations in which the Islamic ruler is given the authority to determine the time of punishment. One of them is a reliable narration from Imam Sadiq (AS) who quotes the Imam (AS) as saying: Those who bear false testimony will be flogged. There is no specific time for them. The determination of the time is left to the Imam (AS) (Kulaini, 1407: 7/243/16).

Regarding false testimony, jurists have cited this narration and said: A person who bears false testimony will be punished according to the Islamic ruler's opinion. The determination of the time is left to the Imam (AS) (Allamah Hilli, 1420: 5/298, Najafi, 1404: 41/252, Ha'iri, 1418: 15/43, and Khoei, 1430: 41/419).

Another narration on the same subject has been narrated by Abdullah Sinan from Imam (Sadiq) which indicates the same point (Amil, 1409: 27/33/15/2). These narrations are also used and it is clarified that the Imam (AS) has the authority in the amount and time of the execution of the Ta'zir, just as he acts according to his own opinion in the punishment of false witness, and can order any type of punishment such as financial punishment, imprisonment, exile and disgrace. The Imam (AS) also has such authority in the time of execution of the punishment. In the issue of postponing the issuance of the verdict, which is the issue of the time of delay in issuing the verdict, especially since the issue of time is mentioned in the aforementioned narrations; this narration is also used in a better way. That is, just as the time for the execution of the punishment of a witness of force is left to the authority of the Imam, who can postpone it to another time and execute it, in light Ta'zir crimes such as the sixth to eighth degree crimes subject to Article 40, which is stipulated in the Islamic Penal Code approved in 1392, it can also be easily said that the Imam (AS) or his deputy postpones the issuance of the sentence and has such authority. After establishing the guilt of the accused, he can postpone the issuance of his sentence or issue a ruling for immediate execution and put it into execution.

4-3. The Sovereign's Authority to Pardon Punishment

Considering the various contents of the verses and narrations that in some cases, such as the punishment of Ta'zir, which is the right of Allah, the Islamic ruler can overlook the sins and mistakes of individuals and forgive them. Or consider the least amount of punishment for them. Sheikh Tusi (may Allah have mercy on him) says: The authority of Ta'zir is left to the Imam to implement it wherever he deems necessary or to judge its actions himself in any case where it is not expedient (Tusi, 1387: 7/69).

The evidence for this theory is the verses and narrations, some of which are mentioned:

A. Verses

1. Allah says to the great Prophet of Islam: 19/ اعراف/ «خُذِ الْعَفْوَ، وَأْمُرْ بِالْعُرْفِ، وَأَعْرِضْ عَنِ الْجَاهِلِينَ» ; That is, forgive and overlook, and enjoin what is good, and turn away from the ignorant people.
2. In another blessed verse, it says: «وَلَا تَزَالُ تَطَّلِعُ عَلَى خَائِنَةٍ مِنْهُمْ إِلَّا قَلِيلًا مِنْهُمْ، فَاعْفُ عَنْهُمْ وَاصْفَحْ، إِنَّ اللَّهَ يُحِبُّ الَّذِينَ يُحْسِنُونَ» مائده/13؛ That is, You are aware of those who are treacherous (fall into error and error), except a few of them, so always forgive and pardon.
3. In the next verse, it says: «فَبِمَا رَحْمَةٍ مِنَ اللَّهِ لِنْتَ لَهُمْ وَلَوْ كُنْتَ فَظًّا غَلِيظَ الْقَلْبِ لَانْفَضُّوا مِنْ حَوْلِكَ فَاعْفُ عَنْهُمْ وَاسْتَغْفِرْ لَهُمْ...» آل عمران/159؛ That is, if you were harsh and hard-hearted, they would have been scattered from all sides. So pardon them and ask forgiveness for them.

By citing these verses, the permissibility of pardon in Ta'zir crimes is proven. And the claim of some commentators (Tabatab'i, 1393: 58/4). According to which pardon in these verses is specific to the Holy Prophet of Islam, there is no clear evidence, because issuing pardon from the Prophet (PBUH) is not a special feature and that Prophet (PBUH) is assigned as an Islamic ruler to pardon in these matters. The cases about which these verses were revealed also confirm this, because pardoning those who fled from war and pardoning those who broke the covenant between two political groups are among the duties of the ruler. Therefore, by eliminating the specificity of the cases in which the verses command pardon and eliminating the specificity of the addressee, who is the Messenger of Allah (PBUH), we can conclude that every Islamic ruler who has come to power by observing the Sharia standards has such powers and can pardon Ta'zir crimes (Ansari et al., 2007: 352).

B. Narrations

1. In some evidence, pardoning a criminal is considered part of the positions of the Islamic government and an Islamic ruler can pardon the perpetrator. In this regard, there is a narration from Imam Baqir (AS), in which the Imam says: Only the Imam can pardon divine limits, but if those punishments have the aspect of human rights, the authority is delegated to its owner. The ruler cannot pardon the perpetrator without his permission (Sadooq, 1413: 4/73/514).

Some contemporary jurists say under this narration: The narration is also arguable in the discussion of ta'ziri punishment, because hadd has a general meaning, and if it is mentioned independently and without the word ta'zir, it is not specific to the sharia limits, and it also includes ta'zirats. Assuming specificity to the sharia limits, there is also the possibility of abolishing specificity (Makarim Shirazi, 1425: 26).

2. Another narration from Talha bin Zaid is from Imam Sadiq (AS): A young man came to the Imam and confessed to the crime of theft. The Imam asked him, "Have you read anything from the Quran?" The young man said, "Yes, I have read Surah Al-Baqarah." The Imam pardoned him for reciting this Surah (Amil, 1409: 28/ /250/3/5).

Although these two narrations are about the Hudud, as mentioned, they do not have any special features. They can be applied to the Ta'zir punishment, which is lighter, and a pardon can be ordered. Because the Imam and the Islamic ruler, in the Hudud, which is more important, have placed great emphasis on their implementation. They have the power to pardon. In the Ta'zir, they have such power in the first way. (Of course, there is a debate and disagreement among jurists regarding the issue of pardoning a criminal by an Islamic ruler as to whether the Islamic ruler has the authority to pardon only for hadd crimes that are proven by confession and have a general aspect, or whether he can also pardon crimes that are proven by evidence and for which the person has repented, which has been discussed in its place. (Muntaziri, 1409: 2/394).

3. In his famous letter to Malik al-Ashtar, which is a guide for political and administrative officials, Imam Ali (a.s.) says: Do not treat people like wild animals and consider eating them as a spoil, because they are of two types: either your religious brothers, or your fellow human beings, and since they are prone to slip-ups, they commit sins and mistakes intentionally or by mistake. Make them aware of your forgiveness, just as you expect Allah Almighty to forgive your mistakes and slip-ups (Radi, 1414: 53/367).

Pardoning punishment is one of the powers granted by Allah to the Islamic ruler. In addition to the narrations mentioned, pardoning the condemned is also seen in the Prophet's life. For example, according to some: On the return from the Battle of Tabuk, some hypocrites who were present in an infiltrating and treacherous manner in the army of Islam attempted to kill the Holy Prophet (PBUH), but because the Prophet knew them, their plan was exposed. The Prophet did not punish them and pardoned them, saying that he was afraid that people would say that Muhammad (PBUH) had attempted to kill his companions after the war. Although their punishment for corruption on earth was murder, they should have been killed, but the Prophet pardoned them (Waqidi, 1405: 2/104-105, quoted by Qudratullah Ansari and others, 1386: 355).

Of course, it is clear that this action of the Prophet was due to political interests; if there is a social or individual interest at stake, an Islamic ruler can also take such an action.

Therefore, if an Islamic ruler who has come to power according to Sharia standards can pardon a criminal from the original punishment, especially in hadd crimes, or change and modify the punishment, then it can be said with conclusive evidence that he has such authority in the matter of postponing the issuance of a sentence, which is a ta'zir crime.

4-4. The Sovereign's Authority to Suspend the Ta'ziri Punishment

Ayatollah Makarem (Dam Zillah) explains this type of suspension: The purpose of suspending the Ta'zir punishment is that the judge of the case, or the court, issues a sentence to the offender, taking into account the circumstances and factors that mitigate or aggravate the punishment, for example, sentencing him to a few lashes or imprisonment or a financial fine, but suspending him from committing the crime again or not repenting from it. If he commits the crime again or does not repent after a certain period of time, he will execute the previous punishment. Otherwise, the punishment will be canceled. Is such Ta'zir legitimate from the perspective of the holy Islamic law? Apparently, this type of punishment is also not problematic; because it is consistent with the nature of Ta'zir. Because the truth of Ta'zir is to prevent the repetition of the crime and to discipline the offender, and to achieve this purpose, it is necessary to use the easiest methods. Therefore, whenever a suspended ta'zir is effective in the state of the offender and prevents him from repeating the sin, this is undoubtedly permissible, but rather obligatory in accordance with the rule of "al-as-shalal fal-as-shalal."

In other words, if there is a strong certainty or suspicion that the offender will not commit a sin with suspended ta'zir, this is permissible; in this case, ta'zir is definitely not permissible. For example, if

a person is punished with one year of imprisonment and does not commit a crime again, it is not permissible to punish him for more than one year (Makarim Shirazi, 1425:115).

In short, whatever is in the interest of governing the society and individuals, the Islamic ruler takes it into consideration and implements it. Therefore, if someone violates the norm and commits criminal acts! The Islamic ruler has the authority from God to punish or punish him, taking into account his physical and financial conditions and circumstances. Also, if the Islamic ruler sees fit, he can postpone or suspend his conviction or punishment.

Therefore, the statement of the legitimacy of postponing the issuance of a verdict and suspending the prosecution and execution of punishment, from the perspective of jurisprudence, is the rule of *al-ta'zir bama yarah al-hakim*. This rule is derived from various narrations that were mentioned in the statement of the powers of the Islamic ruler, so it is said that the Islamic ruler has extensive powers in unspecified *ta'zir* punishment, which also includes the institution of postponement and suspension. And he can, based on his own judgment, take and implement any necessary decision regarding the administration of society's affairs. And he can declare any act that he knows to be corrupt and has bad consequences, in such a way that it endangers the security of society, the rights and public interests of the people, causes people to commit sins and become accustomed to committing them, and he can declare it forbidden and determine a specific punishment for committing it.

Because according to some researchers, if such authority is not granted to the Islamic government, it will actually fail in its main goals; Because the main purpose, which is the philosophy of Islamic government, will be violated, which will result in the system losing its credibility in the eyes of the people. Therefore, just as other governments have such authority, the Islamic government should also have such authority (Mahaqq Damad, 1406: 4/246).

In some narrations, in addition to punishing the criminal by imposing punishment, postponement and suspension of incentives have been proposed to prevent sin. In other words, the Imam (a.s.) has considered the necessary incentives to eliminate the grounds and cover up the crime, so that the grounds for committing the crime are removed. This also indicates the granting of authority in the *Ta'zir* punishment by the holy lawgiver to the Islamic ruler.

It is narrated from Imam Sadiq (a.s.) that a person who had eliminated his lust through masturbation was brought to the Commander of the Faithful (a.s.). The Imam applied some of his hand until it turned red. Then he provided a wife for him from the budget of the Public Treasury (Kulaini, 1407: 7/ /265/ 25). Another narration on the same subject is from Imam Baqir (a.s.) where the Imam says: A man who was suffering from masturbation was brought to the Commander of the Faithful (a.s.), and the Imam hit his hand with a whip until it turned red; then he married him from the budget of the Public Treasury (Tusi, 1390: 4: 226/2).

It is said that these narrations indicate the principle of the prohibition of masturbation, based on which the perpetrator of this forbidden act is punished with *ta'zir*. However, marriage and paying for it from the public treasury are not part of the *ta'zir* ruling and do not indicate it. Rather, it is subject to the opinion of the Islamic ruler, who, in order to prevent the perpetrator from committing corruption and reform, can consider incentives for the perpetrator, including providing him with a wife from the public treasury.

Ayatollah Makarem says: The above narrations are used to show that the ruler of Sharia, in addition to fighting corruption and crimes that have occurred, must also fight its roots, and have a calculated and precise plan to eliminate the bases of corruption (ibid., 1425: 116).

These narrations can also be used to justify the postponement of the issuance of the *ta'zir* punishment sentence, which is mentioned in the Islamic Penal Code of Iran approved in 1392, because

just as the Imams (a.s.) were mentioned to prevent the perpetrator from committing a forbidden act; Considering the incentive, there is also a type of incentive in postponing the issuance of a sentence that prevents the perpetrator or the accused from committing a crime again. For example, in a conditional postponement or suspension, the Islamic ruler sets conditions that if he shows adherence to those conditions, the current punishment order will not be executed against him. Or if the case is in the prosecution stage, he will not pursue him anymore. Or a criminal record will not be registered for him in court, and.... Therefore, using the aforementioned narration, the institution of postponing the issuance of a sentence is a suitable platform for preventing the re-committing of a crime and eliminating the grounds for corruption in society and reforming the perpetrator. Therefore, the Islamic ruler in such cases; has any kind of authority to make the necessary decisions. From a jurisprudential perspective, there will be no prohibition.

Research Result

Postponement of the issuance of the verdict, which has been accepted in the Iranian criminal law system since 2013, is a conciliatory institution, which is given by the court to the criminal to adapt himself to social rules within a limited period of time. From a jurisprudential perspective, this institution is not in line with the principle of mandatory punishment that is raised in jurisprudence because the requirement of this principle is the immediate execution of the sentence. Because achieving the goals that lie in the rapid execution of the sentence will not be possible except by observing the principle of certainty and urgency of execution. On the other hand, the faster and more decisively the punishment is executed, the more fair and useful the trial will be. To resolve the conflict, we can say:

First: It should be said that the principle of expedited trial refers to the punishment of limits, where an order has been given to immediately execute the punishment, and anything that causes a delay in the trial and delay in issuing and executing the sentence will not be permissible from a jurisprudential perspective. However, the institution of postponing the issuance of a ruling concerns the punishment of ta'zir crimes, which, based on the narrations and the rule of ta'zir as a result of the judge's decision, is within the jurisdiction of the Islamic ruler, who can rule on the amount and amount of ta'zir and conversion, intensification, mitigation or pardon, and this statement is in accordance with the views of all jurists.

Secondly: In some cases, the haddi punishment is also an exception to the principle of expediting proceedings. The Islamic ruler, according to the expediency he sees, sometimes delays the execution of the punishment, such as demanding repentance from a male national apostate for three days. During this period, the Islamic ruler waits until he stops the criminal act. Or in some cases, he pardons the convicted person; this action indicates that he also has the jurisdiction to impose the haddi punishment. If he deems it necessary, he delays the imposition of the haddi punishment, just as he attempts to impose the haddi punishment. Therefore, postponing the issuance of a ruling on the Ta'zir punishment, the control of which is entrusted to the Islamic ruler, will be permissible from a jurisprudential perspective. Even if the Imam or Islamic ruler sees fit in some cases, instead of ordering punishment, he can consider the necessary incentives for the reform and return of the offender to society so that he abandons the criminal path, and this will also be another evidence of the legitimacy of this institution.

References

Holy Quran.

Ardebili, Ahmad bin Muhammad, (1403 AH) *Majma' al-Fada' wa al-Burhan fi Sharh al-Irshadh al-Azhan*, 14 vols., Islamic Publications Office affiliated with the Qom Seminary Teachers' Association, Qom - Iran, I.

- Akhund, Muhammad Kazim, (1425 AH) *Kifayat al-Usul*, in one volume, Qom, al-Nashr al-Islami Institute, 9.
- Dharani, Abdul Ali, Khorez, Hussein Muhammad, (1395 AH) *An Introduction to the Institution of Postponement of Judgment in Iranian, German and French Law*, *Criminal Law Research Quarterly*, Vol. 5.
- Ha'iri, Sayyid Ali bin Muhammad Tabataba'i, (1418 AH) *Riyadh al-Mas'il (I - Modernity)*, 16 vols., Aal al-Bayt Institute, peace be upon them, Qom - Iran, I.
- Hali, Ibn Idris, Muhammad bin Mansour bin Ahmad, (1410 AH) *Al-Sara'er al-Hawi for Tahrir al-Fatawi*, 3 volumes, Islamic Publications Office affiliated with the Qom Seminary Society of Teachers, Qom - Iran, II.
- Hali, Allameh, Hasan bin Yusuf bin Motahar Asadi, (140 AH) *Tahrir al-Ahkam al-Sharia on Imamiyyah Madhhab (I - Modern)*, 6 volumes, Institute of Imam Sadiq, peace be upon him, Qom - Iran, first.
- _____, (1413 A.H.) *Rules of the Laws in the Knowledge of the Halal and the Haram*, 3 volumes, Islamic Publications Office affiliated to the Qom Theological Seminary Society, Qom - Iran, first.
- Hali, Mohaghegh, Najm al-Din, Jafar bin Hasan, (1408 AH) *Islamic Laws in Halal and Haram Issues*, 4 volumes, Ismailian Institute, Qom - Iran, II.
- _____, (1423 AH) *Ma'arj al-Usul (new edition)* - London, first edition.
- Khorasani, Hossein Wahid, (1428 AH) *Minhaj al-Salihin (for the One)*, 3 volumes, Imam Baqir (peace be upon him) School, Qom - Iran, fifth edition.
- Khomeini, Sayyid Ruhollah Mousavi, (beta) *Tahrir al-Wasilah*, 2 volumes, Dar al-Ilm Press Institute, Qom - Iran, first edition.
- Khoyi, Sayyid Abu al-Qasim Mousavi, (1422 AH) *Mabaneer Takmeel al-Minhaj*, 2 volumes, Imam Khuwai's Works Revival Institute, Qom - Iran, first edition.
- Sarikhani, Adel (1394 AH) *Basis and Effects of Postponing the Issuance of Sentences in the Penal Systems of Iran and France*, *Quarterly Journal of Comparative Research on Islamic and Western Law*, Qom University, second year, issue 3, pp. 73-96, Autumn.
- Seyyed Razi, Muhammad, (1414 AH), (collector of orders of Imam, Amir al-Mu'minin (AS) *Nahj al-Balaghah*), in one volume, Nahj al-Balaghah Institute, Qom - Iran, first.
- Shirazi, Nasser Makarem, (1418 AH) *Anwar al-Fiqahah - Kitab al-Hudud and al-Tazirat (Lamkarem)*, in one volume, Imam Ali Bin Abi Talib School Publications, Qom - Iran, first.
- _____, (1425 AH) *Tazir and its extent*, in one volume, publications of Imam Ali Ibn Abi Talib (peace be upon him) School, Qom - Iran, first.
- Tabatabaei Mohammad Hossein, (2013) *Tafsir al-Mizan fi Tafsir al-Qur'an*, 20 volumes, Qom, Isma'alian Press Institute.
- Tousi, Muhammad bin Hassan, (1390 A.H.) *Al-Istbasar Fima Akhtolf Man Al-Akhbar*, 4 volumes, Dar al-Kutub al-Islami, Tehran - Iran, 1, 139.

- _____, (1407 AH) Al-Khalaf, 6 volumes, Islamic Publications office affiliated with the Qom seminary teachers' society, Qom - Iran, first.
- _____, (1417 AH) Al-Uda fi Asul al-Fiqh - Qom, edition: first.
- _____, (1387 AH) al-Mabusut fi fiqh al-imamiya, 8 volumes, Al-Murtazawiyah Library for the Revival of Al-Jaafari Antiquities, Tehran, Iran, 3rd.
- _____, (1407 AH) Tahzeeb al-Ahkam, 10 volumes, Dar al-Kutub al-Islami, Tehran - Iran, 4th.
- Amali, Hurr, Muhammad bin Hassan, (1409 AH) Wasa'il al-Shi'ah, 30 volumes, Aal al-Bayt Foundation, peace be upon them, Qom - Iran, first edition.
- Amali, Shahid Thani, Zayn al-Din bin Ali, (1413 AH) Masalak al-Fahm il-Tanqih Sharia' al-Islam, 15 volumes, Al-Ma'arif al-Islamiyyah Foundation, Qom - Iran, first edition.
- Abd al-Reza Asghari, Hujjat Nakha'i Fawzi and Kabbar Azimi Rawiz, (1395 AH) Juridical basis for delaying the issuance of a verdict, Jurisprudence Quarterly, No. 95, Fall.
- Alam al-Huda, Ali bin Hussein, (1376 AH) Al-Dhari'a il-Usul al-Shari'ah - Tehran, first edition.
- Qudratullah Ansari and others, (1386 AH) Ta'zirat from the perspective of jurisprudence and criminal law, Islamic Sciences and Culture Research Institute, Qom, Iran, second edition.
- Qommi, Seyyed Sadegh Hosseini Rouhani, (Beta) Minhaj al-Salehin (Lal Rouhani), 3 volumes without location.
- Qommi, Sadouq, Muhammad Bin Ali Bin Babouyeh, (1413) Man La Yahdrah al-Faqih, 4 volumes, Islamic Publications Office affiliated with the Qom Seminary Teachers Society, Qom - Iran, II.
- Kalini, Abu Ja'far, Muhammad bin Yaqoob, (1429 AH) Al-Kafi (I - Dar al-Hadith), 15 volumes, Dar al-Hadith for printing and publishing, Qom - Iran, first.
- Kamrehai, Mohammad Baqer, (Beta) Usul al-Fawad al-Gharwiyyah in Islamic Islamic Jurisprudential Theology Issues - Tehran, Edition: 1.
- Gastoni Stefani and colleagues; (1383) General Criminal Law, translated by Hassan Dadban, second volume, Tehran, Allameh Tabatabayi University Press, second edition.
- Golpayegani, Seyyed Mohammad Reza Mousavi, (1412 AH) Al-Dur Al-Mandud Fi Ahkam Al-Hudood, 3 volumes, Dar Al-Quran Al-Karim, Qom - Iran, first edition.
- Mosaddeq, Mohammad (1392 AH) Explanation of the Islamic Penal Code approved in 1392 with an applied approach, Jangal Javedaneh Publications, first edition.
- Muzaffar, Mohammad Reza, (1387) Principles of Fiqh (with Zaree's commentary) - Qom, 5th edition.
- Montazeri, Najafabadi, Hossein Ali, (1409 AH) Studies in Wilayat al-Faqih and Islamic Islamic Jurisprudence, 4 vols.
- Mousavi, Ardabili, Seyyed Abdul Karim, (1427 AH) Jurisprudence of Limits and Ta'azirat, 4 volumes, Al-Nashar Publishing House for Al-Mufid University, may God have mercy on him, Qom - Iran, II.

Mirzai Qomi, Abu al-Qasim bin Muhammad Hasan, (1430 AH) *Laws of the Judiciary in Usul* (new edition) Qom, Iran, first.

Najafi, Sahib al-Jawahar, Muhammad Hassan, (1404 AH) *Jawaharlal Kalam in the Explanation of the Laws of Islam*, 43 volumes, Dar Ihya Al-Turath al-Arabi, Beirut-Lebanon, 7th.

Noori, Muhaddith, Mirza Hossein, (1417 AH) *Khatama al-Mustadraq*, 9 volumes, Al-Bayt institute, Qom - Iran, first.

Waqadi, Mohammad Omar, (1405) *Al-Maghazi*, 3 volumes, Islamic Knowledge Publishing House, Iran, Mashhad.

Yazdi, Seyyed Mustafa Mohaghegh Damad, (1406 AH) *Rules of Jurisprudence (Moghaghegh Damad)*, 4 volumes, Islamic Sciences Publishing Center, Tehran - Iran, 12th.

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