



2528-9705

Örgütsel Davranış Araştırmaları Dergisi
Journal Of Organizational Behavior Research
Cilt / Vol.: 4, Sayı / Is.: S2, Yıl/Year: 2019, Kod/ID: 91S2465



QURANIC FOUNDATIONS AND MANIFESTATIONS OF PARTICIPATORY CRIMINAL POLICY

Abolmalek VAHIDI^{1*}, Mahdi SHEIDAEIAN², Seyed Masoud MIR KHALILI³

¹ Ph.D. Candidate in Criminal Law and Criminology, University of Tehran. Tehran, Iran.

² Assistant Professor & the Teacher in Criminal Law and Criminology in Law College of University of Tehran, Tehran, Qom, Iran.

³ Associate Professor & the Teacher in Criminal Law and Criminology in Law College of University of Tehran, Tehran & Qom, Iran.

***Corresponding Author**

ABSTRACT

The spread of criminal phenomena has created insecurity. The failure of purely government responses to this phenomenon reflects the attention to criminal policy, especially the cooperative criminal policy. A policy that can provide organized responses to criminal phenomena with the participation of people and civil society organizations. What is the basis of this partnership? What are the major aspects of cooperative criminal policy? In order to obtain valid principles for participatory criminal policy, the concept of universal responsibility, growth and selection of the best method has been examined and in order to understand the Qur'anic examples of this policy, from good to forgiveness, forgiveness, forgiveness, salvation, cooperation in Goodness and repentance has come to the conclusion that a participatory criminal policy is not only problematic in principle, with many effects and many examples of it being embedded in the Qur'anic verses associated with the above concepts.

Keywords: Criminal Policy, Public Responsibility, Enjoining Good, Intercede, Co-Operation, Repentance.

INTRODUCTION

Collective life is faced with various challenges in contemporary world. Ever-increasing growth of population, expansion of the domain of activity of individuals, diversity of human relations and interactions in the society, fundamental change of life style, etc., have created various expectations and new wishes in people. Creation of new wishes and increase of new needs might intensify the incentive of the activity and attempt in many of people but it is not always so. The distance between the realities and ideals and lack of equal opportunities for having the wishes fulfilled imposes an unbearable pressure on some people. This issue and other environmental background and factors provide the path for the emergence of various types of social deviations and criminal phenomena. Thus, today providing security and controlling the delinquency have been changed into a wish. This has revealed the ever-increasing importance of criminal policy. Although crime management and responding to the criminal phenomenon is one of the essential tasks of the governments, this cannot be handled without society-wide collaboration and participation. For this reason, scientific studies and criminological data suggest a new form of criminal policy under the title of participatory criminal policy. In this model, the government in collaboration with people, media, civil institutions, and basically all

social steps shows sensitivity before criminal phenomenon and organize their responses in order to ensure the security and social values. It is natural that organization of responses and adoption of appropriate methods could be effective when it is defensible from the point of view of logical principles and at the same time is in line with social conditions and is able to be implemented. Organization of response for social phenomena is not helpful without a strong basis. Adoption of a participatory criminal policy in religious and Islamic society makes this question logical that whether such a politics can be justified from a religious and Islamic point of view? Which basis can be sought in Holy Quran for participatory criminal politics? Which manifestations and extensions of this policy have been paid attention by revealed source? What is the basic perspective of Islamic religion as regards the participatory criminal policy?

The most important religious source in Islam is Quran. The current essay seeks to use this revealed source as a basis for studying the foundations of justification of participatory criminal policy and also the most important extensions of this policy in Holy Quran. Thus, we need first to provide a short introduction of the meaning and concept of criminal policy and then discuss the most important Quranic foundations of participatory criminal policy under the titles of "public responsibility", "growth-centered approach" and "adoption of best method". Finally, we will discuss the major extensions and manifestations of participatory criminal policy such as "enjoining good and forbidding wrong", "revision of the relations", "council", "participation in good", and "repentance".

Conceptual Reflections:

Before turning to major themes we need to provide a short discussion of the limited and extended concept of criminal policy and then offer the current definition of participatory criminal policy.

1- Criminal Policy:

Policy in Arabic is denoted by the term *Syasa* which means management and administration (Al-Balbaki, 2008: 925; Abd al-Salam, 1978: 11; cf. Haji Dehabadi, 1999: 9).

This term contains a type of reflection, conduction and purposefulness. This is why when we hear this term in an absolute form and without any suffix, we think of a general way of administration of social or personal affairs (Ashuri, 2007: 212). Today, policy is concerned with the category of power and sovereignty and is usually defined as "science or art of analysis of power relations and forms and its application" (Abu al-Hamd, 1987: 12) and "individual and collective administration of national affairs" (Madani, 1995, vol. 15: 1).

Whenever policy is used with a specific suffix, e.g. criminal, the reflection and contemplation on its essence is restricted to this specific area and is associated with the strategies and responses relevant to that area.

Although the atypical combination of two words policy and criminal makes the concept of "criminal policy" seemingly complicated. However, one can touch a general notion of criminal policy; limited and extended concepts.

Since human reaction before crime has been first personal and based on the capability of man for private revenge (Ardabili, 2006, vol. 1: 61) the management and organization of such reactions had been private and fell inside the domain of responsibilities of family and tribe before the emergence of early governments (Pradel, 2002: 18). But it turned gradually into special functions of the government. For this reason, criminal policy was first represented in



the sense of criminal system and it gradually came to be used with more rationality (Hosseini, 2004: 23).

Criminal policy in this approach is taken in limited sense. It does not differ for us to believe that it was first used by Jossede Damhouder in 16th century (Martinez, 2003: 63) or Anselm Feuerbach in 1803 (Delmas Marti, 2003: 23), it will feature the constituents of punishment, officiality and reactivity in this approach. As the definition suggested by Bach shows: "criminal policy comprises the repressive methods that are used by the government in order to react against crime" (Najafi Abrandabadi, 2003: 21). The content of Bach's approach as the main constituents of the limited concept of criminal policy has been retained in various definitions of this approach for many long years (cf. Najafi Abrandabadi, 1999: 1178).

But after WWII and following its tragic events and in response to the criminal policies of authoritarian governments more humane approach to criminal justice became prevalent. A more extended vision of criminal policy was raised (Ansel, 1996: 21). By acceptance of the constituents of socialization and prevention in the concept of criminal policy, this concept distanced itself from the limited approach and it was extended by the definition of Madam Delmas Marti: "criminal policy is composed of methods that society organizes responses for the criminal phenomenon using them" (Delmas Marti, 2003: 24).

It is a matter of fact that the shift in criminal policy from punishment to persuasion as well as the shift of the officials in charge of criminal policy from governmental monopoly to civil institutions and social community, adoption of "response" instead of "reaction" and inclusion of "criminal phenomenon" instead of "crime" not only has highlighted the extended concept of criminal policy as compared to the limited concept, but also has distinguished the nature of criminal policy from penal policy. Our notion of criminal policy in this essay revolves around the responses organized by the society in confrontation with criminal phenomenon.

2- Participatory Criminal Policy:

Conceptual development of criminal policy has provided the ground for the possibility of speaking of various types in legislative, judicial, administrative and participatory form. Meanwhile, participatory criminal policy is more evolved form of criminal policy which has recognized the presence and role of NGOs and civil institutions along with the official and governmental institutions. Thus, some legal experts have defined criminal policy as follows: "participatory criminal policy represents a criminal policy associated with civil society participation in the framework of which other levels and institutions are organizing along with police and the judiciary system the response to criminal phenomenon" (Najafi Abrandabadi, 2003: 263).

This definition and other similar definitions that are offered of participatory criminal policy are in line with the definition of the criminal policy itself though they underline its evolved aspect and the presence of people and NGOs in it. Acceptance of public participation as constitutive differentia of criminal policy is due to the fact that the presence of people and civil institutions, mass media, social networks, etc. is effective in the stage of codification of laws, criminalization, penal evaluation and basically the formation of legislative criminal policy. Moreover, it plays an effective role in the judiciary criminal policy and just arbitration. It is also of a positive role in the persuasion and social re-acceptance of the delinquent. This role is more colorful in the domain of collaboration with police in various fields particularly in the field of crime prevention. Accordingly, participatory criminal policy is a significant and



fruitful part of criminal policy. Given this importance we need to study the foundations of its justification from the perspective of Quranic verses.

Assaying Quranic Foundations of Participatory Criminal Policy

Here the discussion is focused on the Quranic foundations of participatory criminal policy. By foundations, we refer to the justifying reasons that explain the existential necessity of a phenomenon. In fact, foundations are an answer to a why of something. Assaying the foundations of participatory criminal policy intends to show that why one should see this category as a necessary fact and how one can justify its existence and necessity based on which reasons. Now we turn to two major Quranic foundations that can provide a substantial justification for participatory criminal policy: public responsibility and adoption of the best method.

1- Public Responsibility:

Responsibility is the central signifier of religious doctrines. God has imposed a certain responsibility onto human being before all facilities and bounties with which he has provided him. Man has not been created in vain so that he may live his life in an irresponsible way. "Have you thought that you have been created in vain?" (Al-Muminun: 115).

This Quranic verse is very telling. By the same token, in some other place it is stated: "Does man think that he is free from responsibility?" (Qiyamat: 36). These verses are used to note that God has considered a purpose and responsibility for man, i.e. responsibility before oneself, family, fellow Muslims, fellow human beings, and also before the universe and the Creator. This is why man must always cultivate the sense of responsibility inside him and declare himself responsible.

On the other hand, man is a social animal. His life is contingent upon his sociality. Collective identity is a part of human character. This increases his social and public responsibility. This is a fact that has been underlined by Islam. "In Islam, human individual destinies are intertwined; there were societies in which humans despite their doing good affairs have faced divine torment due to their inattention to the vicious actions of other fellow humans.

In other words, rain falls on the just and the unjust. In Islamic texts there are numerous traditions that speak of people paying for the consequences of the actions of others; because they endorse their actions with their silence (Haji Deabadi, 2009: 80). On the other hand, in Islamic religion there are some decrees that are concerned with the social aspect. Acting according to these decrees and undertaking these responsibilities without collaboration and collective participation is not possible (Hajizadeh and Avarjeh, 2014: 125).

These responsibilities particularly in Islamic society are serious and based on the thesis of "mutual guardianship of the believers". This is what has been stipulated in Quran in the following words: "those who believed in God and immigrated and sacrificed their lives in the path of Allah and they supported and helped and guarded each other" (Al Anfal: 72).

This comprehensive guardianship not only in an individual form rather in a systematic way exists between the immigrant believers and the disciples (Tabatabaei, 1970, vol. 9: 141). This is a sound social bond among those who have accepted the belief in God as their way of life (Fazlullah, 1997, vol. 10: 430). It is natural that the existence of such a bond is associated with responsibility.

Moreover, the sense of responsibility is grounded in another deep bond that God has referred to as "brotherhood": "the believers are brothers and you have to keep peace between your



brothers ..." (Al Hujurat: 10). Allama Tabatabaei believes that brotherhood in this context is of "religious value" in the sense that it has a share of truth and at the same time it is associated with certain legal and social requirements and effects (Tabatabaei, 1970, vol. 18: 315). This idea suggests that Islamic notion of brotherhood is more serious than natural brotherhood due to having the same father and mother because the latter may be free from legal effects. Allama has quoted an interesting tradition from Imam Sadeq (peace be upon him) which reveals the meaning of Islamic brotherhood: "believer is the brother, eye and reason of the believer and he does not oppress or sabotage him and this is why he is heir to him" (ibid: 316).

Furthermore, in Holy Quran brotherhood in Islamic sense has been described as follows: "*and remember with gratitude Allah's favour on you; for ye were enemies and He joined your hearts in love, so that by His Grace, ye became brethren; and ye were on the brink of the pit of Fire, and He saved you from it. Thus doth Allah make His Signs clear to you: That ye may be guided*" (Al-e Emran: 103). This brotherhood if is considered by the Muslims well will lead to their glory. As in Kaboli's commentary it has been noted: "friendship and brotherhood is the glory and grace of God and has been reflected in the Holy Prophet of Islam's existence. And this would have never been achieved without the mercy of God even by spending the world treasures" (Divbandi, 2006, vol. 1: 357).

Holy Prophet has underlined the brotherhood among believers and declared them responsible before their destiny: "everyone is responsible before the believers" (Al Deylami, 2003: 184); or "anyone who sleeps without caring about the affairs of Muslims he is not a Muslim and anyone who hears the call of a Muslim for help and does not respond he is not a Muslim" (Koleini, vol. 2: 164).

In fact, sense of responsibility is not limited merely to Muslims. Rather it has various aspects. This is the case with man and his family to his fellow humans and even the animals and his life environment. The latter fact has been stipulated in the words of Imam Ali as follows: "*teach your heart the mercy, love and affection for the subjects (in a way that it may live them not just to have a conceptual understanding of them.) Do not approach your people as a bloodthirsty predator that seizes the opportunity to gobble them up because they are of two types: they are either your Moslem brothers or one like you in creation*". This doctrine has also become reflected in the Persian literature:

*"Human beings are members of a whole
In creation of one essence and soul
If one member is afflicted with pain
Other members uneasy will remain
If you have no sympathy for human pain
The name of human you cannot retain"* (Saadi, 1968: 516).

Needless to say, "other people's pain" is not limited to economic aspects. Many of the issues which have caught the attention of human spirit and soul and continue to disturb human collective peace are related in some way to pain. Thus one can feasibly claim that crimes and deviations are concerned with the issue of "sense of responsibility". On the one hand, sense of responsibility before society without entering into social issues does not lead to any result. This sense needs to be organized in some cases for being practically efficient because individual implementation of responsibility is not working. Thus, paying attention to this



doctrine and acting according to the sense of responsibility requires collective participation in confrontation with social phenomena. Then one can say that one of the Quranic and religious foundations of participatory criminal policy is the general sense of responsibility before collective destiny and attention to significant social issues.

2- Progressivism and Evolutionism:

One of the vital doctrines which have been underlined by Islamic religion is progressivism that is concerned with the growth of human individual and social life. According to Islamic perspective, man is of different aspects as compared to other creatures which determine his relationship with the category of progress and perfection. Based on religious traditions one can remark that God has created the angels with intellectual combination while in animals the lust is dominant. However, man is a combination of reason and lust. Our religious belief suggests that inside human being there are various potencies and appeals. Indeed human nature is involved in a type of essential contradiction that provides the possibility of various choices. The existence of reason along which carnal desires allow man to have free will and choice and reveal various manifestations of the role of choice in human life. These choices which are supposed to provide human inner needs prove to be the source of historical and social differences and contradictions (Motahari, 2013 A: 31 and 329). According to religious logic, human material and carnal aspect creates a charm that distances him from the path of perfections: *Yet I do not consider my soul was innocent, surely the soul incites to evil except to whom my Lord has mercy; indeed, my Lord is Forgiving, the Most Merciful* (Yusif: 53).

Those who blindly follow the temptations of carnal desires they will fall prey to Evil and lose their human content: *Many are the Jinns and men we have made for Hell: They have hearts wherewith they understand not, eyes wherewith they see not, and ears wherewith they hear not. They are like cattle,- nay more misguided: for they are heedless (of warning)* (Araaf: 179). This degeneracy leads man to the edge of fall: *"Then We return him to the lowest of the low"* (Tin: 5). This is considered to be a great loss from a religious point of view for human being: *"Indeed mankind is in loss Except for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience"* (Asr: 2-3).

But the spiritual aspect of human existence and his divine nature will lead him to the path of perfection and spiritual charms. Man is primordially interested in the search for perfection: *"So set thou thy face steadily and truly to the Faith: (establish) Allah's handiwork according to the pattern on which He has made mankind: no change (let there be) in the work (wrought) by Allah: that is the standard Religion: but most among mankind understand not"* (Rum: 30). Religious vision suggests that perfection has its origin in monotheism: *"Say (Prophet Muhammad): 'If you love Allah, follow me and Allah will love you, and forgive your sins. Allah is Forgiving and Merciful"* (Ale Emran: 31). This is a requirement of the philosophy of human creation: *"I have not created mankind and jinn except to worship Me"* (Al Zaryat: 56).

Contradictory existential drives is not limited to the individual aspect of human life rather it also includes the social life too. For this reason in the social domain the good and vicious forces are intertwined. The border between salvation and deviation is slight and this is why many people go astray. Accordingly one can deem that making effort for individual liberation and salvation is not logical without paying attention to social evolution. Progressivism of Islam does not have merely individual aspect rather collective growth and social evolution is of special importance. Thus, fighting against the manifestations of evil and corruption in society is as



important as the battle with carnal ego. Then, fighting against devitations and criminal phenomena or reforming the criminals is always part of religious concerns.

Developed man and social progress is not possible without social participation. The secret of social nature of many of Islamic decrees lies in this very point. Although self-discipline and battle against individual deviations are important confrontation with criminal phenomena and social deviation is also of importance. Reformistic approach and the belief in the social return of the criminals is not possible without the collective participation and adoption of a consistent participatory criminal policy. Progressivism is one of the serious doctrines because man in Islamic society even if he is a criminal enjoys a type of social immunity which can only be breached in those cases that are clearly underlined in the law. No criminal or group of criminals has been considered to be banned from society forever. Both people and the government based on Islamic teachings are responsible to behave with the criminals in humane, constructive and compassionate way in order to prepare them for socialization (Mirkhalili, 2010: 180).

3- Adoption of the Best Method:

One of the points that has been underlined in the criminal policy of Islam is the adoption of methods that have the least side effects and most benefits for human individual and social life. This is also the case with the battle against criminal phenomena. This is why Islam is always seeking to avoid penal encounter with the criminal. The criminal policy of Islam has considered the penal confrontation as the last resort. Thus in Holy Quran it is suggested that: "*Repel evil with that which is best: We are well acquainted with the things they say*" (Al Munnun: 96). Islam suggests the idea that one needs to avoid penal and punitive encounter as far as it is possible (Samimi, www.law.ensani.miu.ac.ir). Penal policy is the last resort that guarantees the implementation of legal rules (Mir Khalili, 2010: 183).

Naturally government is responsible for adaptation of criminal laws. Government is responsible for defending the security of citizens against criminal phenomena. But this battle is not always successful. Official criminal policy and adaptation of the sanctions have practically failed in many cases. Penal inflation in various societies is a sign of inability of governments in their battle against criminal phenomena. Crime is a social affair. Battle against this phenomenon is neither possible nor appropriate without the presence and participation of people and various social institutions. The best method for dealing with this phenomenon is the collaboration of people and participation of effective social classes because the policies are better implemented upon the presence of people.

Manifestations and Extensions of Participatory Criminal Policy

To know the perspective of Islam of participatory criminal policy we need to take a look at objective manifestations and extensions of participatory criminal policy which have been noticed by Holy Quran. In Holy Quran some of these extensions have been highlighted which are as follows:

1- Enjoining Good and Forbidding Wrong:

Enjoining good and forbidding wrong is one of the vital Islamic doctrines in the field of public supervision and social control. Sense of responsibility before individuals and society is not possible without paying attention and supervision of public affairs. This has a valuable impact on crime prevention, control of deviations and battle against the manifestations of evil and



corruption in the society. In fact, keeping the environment healthy and the society safe, is not possible without implementation of such a public supervision.

In the study of enjoining good and forbidding wrong as a manifestation of participatory criminal policy it is logical to turn to three discussions: first, study of meaning, domain and officials in charge of enjoining good and forbidding wrong; second, place of enjoining good and forbidding wrong in Holy Quran; third, role of enjoining good and forbidding wrong in participatory criminal policy.

1-1- Meaning, Domain and Officials in Charge of Enjoining Good and Forbidding Wrong:

Definition of enjoining and forbidding is relatively clear. Enjoining refers to the act of ordering and forcing while forbidding implies prevention from a certain action. But as to the subject of enjoining and forbidding one should state that "good" and "wrong" have been defined in lexical works as follows: "good is the name for every action which is rationally and canonically declared to be recommended while wrong represents an action that should be avoided" (Ragheb Esfahani, 1992: 343).

This lexical sense is also the case with the terminological concept of enjoining good and forbidding wrong insofar as some jurists have said: "what is accepted by the religion is good and what is denied is wrong" (Najafi, 1983, vol. 21: 365). This sense has also been referred to in Imam Khomeini's Tahrir al-Wasilah: "every action which is rationally and canonically mandatory must be enjoined and whatever is rationally indecent have to be forbidden. And what is desirable it should be recommended and what is indecent must be avoided" (Imam Khomeini, 1997: 463). A similar comment has been offered by Ayatollah Nuri Hamadani: "Good represents the thing which is endorsed by reason and pure nature while wrong is the other way round. Rather the latter is vicious" (Nuri Hamadani, 2000: 82).

The majority of jurists have considered reason and religion as the criteria of good and wrong. But some scholars like Ayatollah Hamadani have added the primordial sense to it. Meanwhile Allama Tabatabaei has added the collective reason and social norm (Tabatabaei, 1970, vol. 2: 262).

Here particularly in the ideas of Imam Khomeini and Allama Tabatabaei the domain and circle of good and wrong have been relatively clarified. If the criterion of good and bad is reason and religion, good certainly covers the mandatory and recommended actions while the wrong will include the prohibited and the abominable. If we take the social norm and collective reason into consideration it is natural that it will also include the social norms too. This is what constitutes criminal policy. Nevertheless, we need to take a look at the scope of enjoining good and forbidding wrong from this perspective.

As a matter of fact, criminal policy seeks to preserve social norms. Norms are the standardized patterns of human behavior in society. These patterns show the ideal and desirable behavior in society (cf. Sutudeh, 1994: 248). If we consider the values of a society to be the manifestation of the deepest shared feelings of humans in a society (Chalabi, 1996: 60), norms are the external manifestations of these social values (Salimi, Davari, 2001: 225). These are the values which will break down by crime and deviation.

In criminal policy in extended sense both crime and deviation are considered as two behaviors inconsistent with normality and normativity (Vahidi, 2010: 38). In other words, although in the equation of normativity and normality the latter are reciprocally influenced each one still has its own particular space. Normativity seeks to make a normal ideal human society while



normalite is the sympathy with common norms accepted in the society. Delinquency is considered to be distancing oneself from normativity and is in contradiction with the ideal normalite but deviation is taken to be a negligence of average norms. In modern law battle against delinquency falls within the domain of penal system but dealing with deviation lies in the domain of social control (cf. Najafi Abrandabadi, 1999: 1178).

Now this question is raised that where do stand good and wrong in relation to norms? Is good a social norm or it is a different thing from it? Does wrong appear in the form of violation of social norm in the form of crime and deviation or it is something beyond it?

To explain this issue one needs to remind that "as to the meaning of norm one needs to take two points into consideration: 'social acceptability' and 'essential or ancillary value of a behavior'". To put it otherwise, norms take form in the context of accepted social values. On the other hand, the abnormal is a behavior which is considered by all or most of the society as a bad and abominable thing and is in contradiction with the accepted values of the society; thus normal and abnormal describe the good and wrong. Thus conceived, normal and abnormal are semantically close to good and wrong. Nevertheless, there is a very significant semantic difference between good and normal on the one hand, and wrong and abnormal, on the other. To state the matter differently, good represents righteous nature and necessity of an action but it does not have any necessary link with social acceptability. By the same token, although wrong refers to the vicious content of an action it does not necessarily have any relation with social unacceptability" (Hajidehabadi, 2009: 79). Anyway, good is the accepted social norm in general sense which has its origin in rationally and canonically grounded values while wrong is the violation of this norm in the form of crime and deviation.

As to the officials in charge of this act of enjoining and forbidding one needs to pay careful attention to the relevant traditions which address the general public. In fact, this issue is a bidimensional social category in which both the enjoiner and the enjoined could be from among the general public. This is a wholly public supervision. Everyone can supervise everyone. This is a principle except in those special cases where the specific conditions of the responsibilities of the government and its particular functions are at stake.

1-2- Place of Enjoining Good and Forbidding Wrong in Holy Quran

In Holy Quran an enormous emphasis has been laid on enjoining good and forbidding wrong. The method of Holy Quran in explanation of enjoining good and forbidding wrong has been different and gradual. Insofar as the minds have been prepared first and only then the Muslims have been encouraged and warned of its negligence. Finally not only the mandatory nature of this act is highlighted rather its essential relation with Islamic creed is explained (cf. Nuri Hamadani, 2000: 28).

The Lord in verses 3 and 4 of Surah al-Asr, verse 17 of Surah Luqman, and verses 157 and 199 of Surah al-Araaf has reminded the doctrine of enjoining good and forbidding wrong to Muslims in various forms.

In the verses 163-166 of Surah Araaf an allusion is made to the story of Jewish fishers in Red Sea who were killed due to their inattention to Divine Decrees of enjoining the good and forbidding wrong in order to remind the consequences of negligence in this regard.

In the verse 104 of Surah Al-e Imran, enjoining the good and forbidding wrong is reminded through the emphasis being laid with more seriousness along with using emphatic particles and imperative verbs. This verse underlies the necessity. Of course this necessity is for all not for



any specific individual. However, this does not cause its importance to be diminished because negligence of a mandatory action even in this sense holds everyone responsible (Tabtabaei, 1995).

In the verses 71 and 112 of Surah Tawbah the doctrine of enjoining good and forbidding wrong has been declared as the distinguished indices of Islamic Society.

These insistence and emphasis have also been reflected in the words of the great religious figures. It is in this spirit that Holy Prophet has considered the domination of evil people over the society to be one of the consequences of negligence of enjoining good (Saduq: 254).

In a short and telling tradition Imam Ali (peace be upon him) has considered enjoining good as the end of religion: "enjoining good and forbidding wrong as well as the implementation of divine decrees are the foundations of religion" (Al Amedi, 1987, vol. 1: 104).

Enjoining good is of specific place by Muslim scholars. However, here the words of Ghazali are very interesting: "enjoining good and forbidding wrong is the axis of religion. This is the vital thing for which the prophets have been dispatched. If this vital action is not effectively taken the prophecy will stop working and religion will collapse" (quoted from Asghari, 1999: 27).

1-3- Role of Enjoining Good in Participatory Criminal Policy

Development of the domain of enjoining good and forbidding wrong reveals the importance of this doctrine both from thematic point of view as well as the perspective of the officials in charge of its implementation. This is a comprehensive religious action which is imperative for all Muslims and covers all aspects of human collective life. All Muslim citizens are required without the consideration of their religion, sex, color, education and social situation to enjoin good and forbid the wrong. This is a comprehensive and committed participation that can provide comprehensive and appropriate answers to the deviations and distortions.

On the other hand, if criminal policy wants to be effective in practice it should enjoy such an extension and provide the ground for a comprehensive participation. "Comprehensiveness and universality is the requirement of the effectivity and functionality of a criminal policy. A criminal policy is divided into three themes of comprehensiveness in subject, comprehensiveness in the adoption of methods and comprehensiveness in the application of the sources involved in the reaction to criminal phenomenon" (Hajidehabadi, 2009: 79). Of course, this does not render the prioritization of issues and organization of answers irrelevant. Meanwhile, participatory criminal policy has become intertwined with this feature in a serious manner. The spirit of this policy and efficiency of answers to it are based on the extensive participation. In fact, "deep and comprehensive reaction to crime and deviation requires use to make use of all sources that are in some way involved with this phenomenon. For regardless of the fact that some of the sources and fields of formation and prevalence of criminal phenomenon can be traced back to the incorrect action and function of these sources, each one of them is in some sense involved in the genesis and emergence of the delinquency. Thus, we need to make use of the potential sources in the best and more effective way in response to the criminal phenomenon. Thus, it is not merely the Judiciary which is responsible for battle against the crimes rather the Executive and administrative and executive institutions as well as NGOs and each one of these social individuals even the victims must have a share in this process (Hajidehabadi, ibid). This reality has been highlighted in the establishment of enjoining the good and forbidding the wrong. This doctrine encourages Muslim citizens to be effectively and extensively involved in the continuous and effective battle against the crimes and



deviations and requires public supervision. This is why one can feasibly claim that enjoining the good and forbidding the wrong is the clearest manifestation of participatory criminal policy in Islam that can serve as a practical pattern.

2- Council:

The solution of social problems and issues through consultation and in the form of council is one of the significant doctrines of Islam. Negotiation is considered to be a rational principle of ancient social traditions. This common principle as one of the the key extensions of participatory criminal policy enjoys an ancient history. Council is one of the best means for management of collective life and handling of social phenomena. For this reason, council has been underlined in Islamic religion.

In Holy Quran there is a chapter called council and at the same time some clear decrees have been issued in this field: *"It was by that Mercy of Allah that you (Prophet Muhammad) dealt so leniently with them. Had you been harsh and hardhearted, they would have surely deserted you. Therefore, pardon them and ask forgiveness for them. Take counsel with them in the matter and when you are resolved, put your trust in Allah. Allah loves those who trust"* (Al-e Emran: 159).

This verse not only expresses the importance and necessity of consultation in Islamic thought which as Allama Fazlullah has suggested, can ground a healthy educational method for human society rather it highlights consultation as a means for overcoming despotism that can prevent us from error, negligence and betrayal (Fazlullah, 1999, vol. 6: 244).

Moreover, consultation has been described as one of the features of the believers: *"And those who have responded to their lord and established prayer and whose affair is [determined by] consultation among themselves, and from what We have provided them, they spend"* (Shura: 38).

Allama Tabatabaei considers this verse to be semantically close to the verse 18 of Surah Zumar. But Allama Fazlullah describes council as a practical path for reaching the truth (Fazlullah, 1999, vol. 20: 191).

It is clear that social problems are followed by social reaction. Resolution of this type of problems takes place through collaboration and consultation. This is the logic of Quran: *"Those who listen to the Word, and follow the best (meaning) in it: those are the ones whom Allah has guided, and those are the ones endowed with understanding"* (Zumar: 18).

This decree has been observed by the Holy Prophet both in action and words: "consultation is the best solution to social problems" (Havizi, 1994, vol. 1: 404).

In this regard Imam Ali has stated: "there is no support like consultation as the latter is identical with guidance" (Horre Ameli, 1970, vol. 8: 425).

Council is a comprehensive system. The scope of consultation is extensive. It both covers various individual and social issues and it is not limited to certain individuals at the same time. But it is important to note that the more sensitive is the subject of consultation the more significant and sensitive is the consultation. Thus, dealing with criminal phenomena and addressing the crimes and deviations as the most important social issue essentially requires consultation and participation.

Given the requirements of consultation based system and the aforementioned verses of Holy Quran one can state that participatory criminal policy enjoys numerous manifestations and



extensions in Quran. These extensions suggest that answering to criminal phenomena and resolution of problems through unofficial ways is endorsed and can be imitated.

3- Reconciliation [Reforming the Relations]:

One of the religious doctrines that can be considered to be a significant participatory criminal policy is the Quranic term "reconciliation". To overcome the tensions and hatred, Islam has clearly ordered the believers to reconcile between the Muslims.

Reconciliation in this context means reforming the basis of relations and strengthening the bonds and eradication of the factors of division (Shariatmadari, 1998: 662). In Quran reconciliation refers to the act of interceding between the people and eradication of corruption in social environment (Haj Seyed Javadi; Khoramshahi, 1996, vol. 2: 229). Reconciliation is a social necessity for grounding friendship based on mutual love. This is specifically important when it comes to the marriage and family (Al Bahi, 1983: 319).

The term *Eslah* Arabic for reforming and its derivations have been used in Quran for 80 times (Center for Culture and Teachings of Quran, 2006, vol. 2: 485). It is sometimes attributed to God and some other time to the servants. Most applications of this term are concerned with resolution of family conflicts, reforming last will, reforming the affairs of orphans, reconciliation. Among the most important cases of reforming one can refer to reconciling people (Center for Culture and Teachings of Quran: *ibid*).

God considers peace as absolute good (Nisa: 128). And orders the believers to keep with it: "*Believers are indeed brothers, therefore make things right among your two brothers and fear Allah, so that you will be subject to mercy*" (Alhujurat: 10). Or "*If two parties of believers fight, reform between them. If either of them is insolent against the other, fight the insolent one till they revert to the order of Allah. If they revert, reform between them with justice, and weigh with justice. Allah loves those who weigh with justice*" (*ibid*: 9).

In surah Anfal reconciliation is underlined as an act of God-wariness: "*So fear Allah, and keep straight the relations between yourselves*" (Al Anfal: 1). Here justice, reconciliation and God-wariness are interestingly aligned. This suggests that divine signs are of a kind of interrelation. It needs to be noted that reconciliation does not imply mere superficial restoration rather it requires internal and in-depth refinement of issues. In fact, it is this very notion that is valued in the words of Holy Prophet: "I inform you of something more valuable than prayer, fasting and alms. This is reconciliation of people because hatred uproots religion" (Mirzaei, 2006: 240).

This amount of emphasis shows the importance of people's participation in resolution of disputes. It is perhaps due to the importance of this role that Imam Ali has also quoted the aforementioned words of Prophet Mohammad in his last will (Nahjulbalaghah, 1993: 421).

4- Collaboration in Goodness:

Collaboration means association, cooperation and assurance (Tarihi, 1983). One of the wonderful teachings of Holy Quran is the emphasis on collaboration and participation in goodness. Although tribal and linguistic attachments naturally lead man towards collaboration and from this perspective collaboration is somewhat primordial (Farabi, 1982: 117), what Islam underlines is different. Islam has ordained the believers to collaborate in righteous and rational affairs and forbidden intervention and collaboration in illegitimate and unjust affairs.

Enjoining good has its origin in the deep social bond in religious thought. In Islam preservation of social consistency is considered to be an Islamic principle and a social capital. In Islamic



creed social prayers are more important than individual prayers insofar as they are known as "Allah's Rituals".

In Holy Quran collaboration has been stipulated in the following words: "*O ye who believe! Violate not the sanctity of the symbols of Allah, nor of the sacred month, nor of the animals brought for sacrifice, nor the garlands that mark out such animals, nor the people resorting to the sacred house, seeking of the bounty and good pleasure of their Lord. But when ye are clear of the sacred precincts and of pilgrim garb, ye may hunt and let not the hatred of some people in (once) shutting you out of the Sacred Mosque lead you to transgression (and hostility on your part). Help ye one another in righteousness and piety, but help ye not one another in sin and rancour: fear Allah: for Allah is strict in punishment*" (Maedah: 2).

The reality is that Islam has suggested this in the heyday of the thought of tribalism. In tribal fanaticism the limits of friendship and animosity were not observed. There was no human and moral criterion. Collaboration and revenge both did not have fair and logical basis. This is why this principle was raised in Islam in dual way. This principle has two positive and negative sides. According to this decree, it is not so that all collaboration is accepted. Rather collaboration in the path of truth and towards right affairs is intended. Allama Fazlullah believes that this verse is in line with the verse 177 of the same chapter. He contends that both verses contain the same meaning (Fazlullah, 1970, vol. 8: 25).

Anyway, it is clear that collaboration in good is considered to be a responsibility of Muslims in various aspects. One of the key occasions of collaboration is the resolution of conflicts in Islamic society and eradication of tensions in the religious society. Nevertheless, participation and collaboration of Muslims in dealing with criminal phenomena and investigation of judiciary cases are endorsed by religious doctrines. This requires effective patterns and specific responses. This is what today we refer to as participatory criminal policy. Thus, establishment of "collaboration in good" is one of the beautiful manifestations and extensions of participatory criminal policy.

5- Tawbah (Repentance):

The history of human societies has shown that crime is part of collective life. Human experiences have proven that collective life will not be void of criminal phenomena. This has a meaningful relationship with human ontology. Man is a bidimensional creature that is simultaneously able to do good and bad things. Life environment and time conditions might lead many to astray in selection of their path. This is not restricted to specific people. Everyone is exposed to error. It is natural that in such conditions part of the reality of collective life is constituted by the criminals. In such conditions it is not logical to obstruct the path to return for these people. The existence of return path keeps the light of reformation in the heart of criminals alight. Repentance is one of these paths. Repentance is one of the best religious propositions that will play a key role in participatory criminal policy. This concept has been endorsed in Islamic religion. The path of intervention and participation of criminal in the penal process has kept open.

Repentance is an extensive religious call. It includes all people as well as various themes. This can be understood from various verses: "*O ye who believe! Turn to Allah with sincere repentance: In the hope that your Lord will remove from you your ills*" (Tahrim: 8). Or "*Say: O my Servants who have transgressed against their souls! Despair not of the Mercy of God: for God forgives all sins: for He is Oft-Forgiving, Most Merciful*" (Zumar: 53).



It is important to note that repentance should be first internal, sincere and decent and secondly, it should be on time. This has been highlighted in the following two verses: "*And O ye Believers! turn ye all together towards God, that ye may attain Bliss*" (Nur: 31). As to the priority of repentance we read: "Allah accept the repentance of those who do evil in ignorance and repent soon afterwards; to them will Allah turn in mercy: For Allah is full of knowledge and wisdom" (Nisa: 17).

Repentance is so important in Quranic doctrines that beside encouragement or enjoining to repentance God is described as accepting the repentance: "*Know they not that Allah doth accept repentance from His votaries and receives their gifts of charity, and that Allah is verily He, the Oft-Returning, Most Merciful?*" (Tawbah: 104).

God not only is Oft-Returning in other place he expresses his love for the "repentants": "*Allah loves those who turn to Him in repentance and He loves those who cleanse themselves*" (Baqara: 222).

In order to encourage the deviated ones he give more important promise to them: "*Unless he repents, believes, and works righteous deeds, for Allah will change the evil of such persons into good, and Allah is Oft-Forgiving, Most Merciful,*" (Furqan: 70).

This is the best solution ever to the problem of criminals. They are not frustrated rather their abnormal and wrong actions are corrected under certain conditions. In this logic consciousness raising sin is better than the bliss that makes people arrogant.

Given the extensive scope of repentance one can think of the importance of the role of criminal in the penal process. This role is what the criminologists insist on it (Nobahar, ibid.) paying attention to the penitence of the criminal is the clear rational logic that is considered by many countries (Shiri, 2017: 53). Today scientific data and restorative justice endorse it too (Shiri, Ibid.)

It is natural that designing and implementation of every criminal policy will not work without an active and constructive participation. Thus, forcing the criminal to repent of his criminal action provides the ground for collaboration and participation. Voluntary participation and collaboration is an effective step towards overcoming the tension and resolution of conflict. Thus, one can say that repentance is one of the extensions and manifestations of participation in criminal policy.

CONCLUSION

By studying various verses of Holy Quran and religious doctrines, one can state as to the Quranic basis of participatory criminal policy that people's participation in various domains including the battle against deviations and criminal phenomena can be justified and enjoys a specific importance in Holy Quran. Islamic religion not only has made people sensitive towards their social problems and collective destiny many of its decrees are of social aspect. Collective nature of decrees not only shows the importance and power of society rather it also reveals the role of people before human community. Some of Islamic decrees which are of social aspect can be only implemented via collaboration and collective association. People must be sensitive towards social phenomena and take an evolutionary and progressivistic point of view for finding the best method for resolution of problems.

Moreover, Holy Quran expresses its opposition to crime and criminal actions for creation of a lofty and progressed human society free from violence and encourages people for battling with



them. In line with these, it refers to collaborative extensions and mechanisms like enjoining good and forbidding wrong, arbitration, reconciliation, collaboration in good and repentance from crimes as means for battling the crime. These cases show that according to Holy Quran, battling against crime is possible via collaboration and people's participation.

References

- Abd al-Salam, Ahmad, *Dirasat fi Mostalah*, Tunis, 1978.
- Abu al-Hamd, Abd al-Hamid, *Foundations of Politics*, Tehran, Tus, third edition, 1986.
- Al Amedi, Abd al-Wahid, *Ghurur al-Hikam and Durar al-Kalim*, Beirut: Al-Elmi Press, 1987.
- Al Bahi, Mohammad, *Moral and Ideological Concepts in Quran*, trans. Mohammad Sadeq Sajadi, Islamic Culture Press, 1983.
- Al Balbaki, Ruhi, *Al Mored*, Beirut: Dar al-Elm, 2008.
- Al Deylami, Hassan Ibn Abi Al Hassan, *Ershad Al Qulub*, vol. 1, n., 2002.
- Ansel, Mark, *Social Defense*, trans. Mohammad Ashuri and Najafi Abrandabadi, Tehran: Tehran University Press, 1996.
- Ardabili, Mohammad Ali, *General Penal Law*, vol. 1, Tehran: Mizan, 2006.
- Ashuri, Dariush, *Political Dictionary*, Tehran, Morvarid, 2007.
- Center for Culture and Doctrines of Quran, *Encyclopedia of Holy Quran*, Qom, Bustan-e Ketab, 1986.
- Chalabi, Masud, *Sociology of Order*, Tehran: Nashre Ney, 1996.
- Delmas Marti, M., *Great Systems of Criminal Policy*, trans. Hossein Ali Najafi, vol. 1, Tehran: Mizan, 2003.
- Divbandi, Mahmoud Hassan, *Kaboli Tafsir (From a Sunni Point of View)*, 6vols, Tehran: Ehsan, 2006.
- Farabi, Mohammad Ibn Mohammad, *Ideas of the People of Eutopia*, Beirut: Nasri Nader, 1982.
- Fazlullah, Mohammad Hossein, *Quranic Revelation*, 25 vols, Beirut, Dar al-Milak, 1998.
- Haji Dehabadi, Mohammad Ali, *Enjoining Good and Forbidding Wrong and Criminal Policy*, *Journal of Jurisprudence and Law*, no. 1, 2009.
- Haji Dehabadi, Mohammad Ali, *Relationship of Ethics and Criminal Policy*, MA Thesis in Criminal Law and Criminology, Mofid University, 1999.
- Hajizadeh, Mahin, Avarjeh, Muhyadin, *Social Responsibility in Holy Quran from the Point of View of Allama Tabatabaei in Al Mizan*, *Journal of Quran in the Mirror of Research*, First Year, no. 1, Spring and Summer 2014.
- Havizi, Abd Ali Ibn Jomeh, *Nur al-Thaqalayn*, five vols, Qom: Esmailian, 1995.



Holy Quran.

Horre Ameli, Mohammad Ibn Hassan, Wasael al-Shia ela Tahsil Masael al-Sharia, Beirut: Dar al-Turath al-Arabi, 1968.

Hosseini, Seyed Mohammad, Criminal Policy in Islam and Islamic Republic of Iran, Tehran, Tehran University Press.

Khomeini, Ruhullah, Tahrir al-Wasilah, vol. 1, Qom, Jameh al-Moadaresin, 1997.

Koleini, Mohammad Ibn Yaqub, Usul Kafi, trans. Mahdi Ayatollahi, Tehran: Jahan Ara, 2007.

Madani, Seyed Jalal al-Din, Foundations and Outlines of Political Sciences, vol. 1, Tehran, 1995.

Martinez, Rene, History of Penal Law in Europe, trans. Reza Goodarzi Brujerdi, Tehran: Majd, 2003.

Mir Khalili, Seyed Mahmoud, Criminal Policy in Islam, Journal of Law, Vol. 40, no. 7, Autumn 2010.

Mirzaei, Ali Akbar, Nahjulfisaha, Qom, Chaf Press, 2006.

Motahari, Mortiza, Perfect Man, Qom: Sadra, 2013.

Najafi Abrandabadi, Ali Hossein, From Penal Policy to Criminal Policy, Introduction in La George Christian, An Introduction to Criminal Policy, trans. Ali Hossein Najafi Abrandabadi, Tehran; Mizan, 2003.

Najafi Abrandabadi, Ali Hossein, Debates in Criminal Sciences, Lectures in Criminal Policy, Ph.D. course Shahid Beheshti University, edited by Fatimah Qannad, 1999-2000.

Najafi, Mohammad Hassan, Jawahir al-Kalam, vol. 21, 1983.

Nobahar, Rahim, Tawbah Institution and Restorative Justice: Islamic Perspective, in Encyclopedia of Restorative Justice, Proceedings of International Congress of Restorative Justice and Crime Prevention, Tehran: Mizan, 2016.

Nuri Hamadani, Hossein, Enjoining Good and Forbidding Wrong, trans. Mohammad Eshtahardi, Qom: Daftar Tabliqat, 2000.

Pradel, Jean, History of Penal Thoughts, trans. Najafi Abrandabadi, Tehran: SAMT, First Edition, 2009.

Ragheb Esfahani, Hossein Ibn Mohammad, Damascus: 1988.

Saadi, Divan, edited by Mohammad Hassan Elmi, 1960.

Sadr Haj Seyed Javadi, Ahmad Bahadin Khormashahi, Encyclopedia of Shia, Tehran: Sahhid Saeed Mahali, 1996.

Salimi, Ali, Davari, Mohammad, Sociology of Deviation, Qom: Hawzah and University Institute, 2001.



-
- Seyed Mohammad Asghari, *Public Responsibility in the Light of Enjoining Good and Forbidding Wrong*, Tehran: Etelaat, 1999.
- Shariatmadari, Jafar, *Terminology of Nemuneh Tafsir*, Mashhad: Islamic Research Foundation, 1998.
- Shiri, Abbas, *Restorative Justice*, Tehran: Mizan, 2017.
- Sutudeh, Hedayatullah, *an Introduction of Social Pathology*, Tehran: Avaye Nur, 1994.
- Tabatabaei, Mohammad Hossein, *Al Mizan*, 20 vols, Beirut: Al Elmi Institute, 1989.
- Tarihi, Fakhr al-Din Ibn Mohammad, *Majma al-Bahrain*, Tehran, Hosseini Press, 1983.
- Vahidi, Abd al-Malik, *Criminal Policy of Afghanistan before the Children Victims of Crime in the Light of International Documents*, MA Thesis in Criminal Law and Criminology, Ahl al-Bayt University, 2010.

