

A Conflict of Analysis and Fatwa with the Ordinance on the Permission of Corporal Punishment of Wife and its Solution

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Abstract

According to the appearance of some verses, and assuming the wife disobeys, the husband has three rights including advice, separating the sleeping place, and beating. Library studies also show that, on the one hand, Emamieh and Sunni commentators and jurists have considered these rights as sequential and with the same three stages of "Prevention of Vice". On the other hand, some contemporary jurists have considered physical punishment (the third degree of prevention of vice), in areas where the Islamic government is established, as the absolute authority of the government and where it does not cause harm to the prevented person or there is no such fear. Concerning this, a cult of jurists has considered this stage permissible with the permission of the Imam or his deputy, where the fear of harm goes to the one who is prevented from vice. However, according to the subject of the third paragraph of the verse (beating), the husband is again allowed to physically punish his wife by setting limits and boundaries. The author believes that such permission leads to a conflict between the above analysis and fatwa, and the only option to resolve it is to change the addressee and hand it over to the government, as the Islamic government or a judge of a competent court.

Keywords: Husband, Corporal Punishment, Third Stage of Prevention from Vice, Government.

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