



Understanding the Rushdie Affair: Blasphemy and Extrajudicial Killing in Shi'a Islam

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Despite its multifaceted impact—on geopolitics, human rights, and ordinary lives—nearly twenty-five years on, the central impetus behind the Salman Rushdie affair remains unanalyzed.

Contrary to reflecting the whims of an individual, Ayatullah Ruhollah Khomeini's 1989 *fatwa* against the author of *The Satanic Verses*—calling on “all brave Muslims of the world” to “kill him without delay”—was derived nearly verbatim from the writings of a millennium-old religious legal tradition, of which Khomeini was a lifelong student, and which informs the crux of modern Iranian law.

In this primer, for the first time in the English language, an introduction to blasphemy—perceived insult of the Prophet Muhammad—in classical Twelver Shia Islamic law will be presented. This survey will be divided into three sections:

- i. Fatwa Roots: The development of Twelver Shia theology and jurisprudence
- ii. Classical Scholarship: A selection of classical and modern scholarly opinions (including that of Khomeini), tied into modern Iranian penal law
- iii. The Future: Legal reform in Iran, with an emphasis on the efforts of Ayatullah Yusuf Saanei

This analysis is not intended to be comprehensive (in any facet), but rather to fill gaps in the English-language, public knowledge of the topic. It is hoped that this will contribute to better understanding the contours of this historical event, and human rights abuses that continue to emanate from Iran.

Fatwa Roots: The Development of Twelver Shia Law

A man from the Hudhayl tribe used to insult the Messenger of Allah. When this reached him, he said, “Who is for this?” Two men from the Ansar stood and said, “We are, O Messenger of Allah.”

So, they set off until they reached Araba. They inquired about the man, and learned that he was herding his sheep. They caught up to him while he was in the company of his family, and his sheep, and did not greet him.

He said, “Who are you? What are your names?” They said, “Are you so-and-so, son of so-and-so?” “Yes.” They then descended upon him and struck his neck.

Muhammad ibn Muslim then said to Abu Jafar, “What is your view if someone today insults the Prophet? Is he killed?” He replied, “If you do not fear for yourself, then kill him.”ⁱ

This account, while describing an event from Muhammad's life, was imparted nearly 100 years after his death. In addition to the Koran—the direct revelation from God to Muhammad—early Muslims also sought to preserve his words and actions, as a dual source of religious law and guidance. Collectively known as the *sunnah* (lit. way), such historical accounts were eagerly sought by learned men within the burgeoning Islamic milieu—many of whom traveled vast distances to seek out the last of Muhammad's living companions, or those who had similarly learned from them. These accounts would in-turn be

passed on to successive generations in the same manner, eventually to be compiled 150-400 years after the birth of Islam, into what today are generally known as books of *hadith* (lit. report, narrative).

However, in contradistinction to the view that the sunnah—knowledge of Muhammad’s words and actions—was interspersed throughout the early Muslim community, to be scavenged and collected, other views persist. According to some schools of speculative theology that arose during this period, this knowledge was instead embodied within a living individual—an infallible guide who inherited divine prerogative to religiously and politically succeed Muhammad after his death, and could authoritatively impart his teachings. For a number of theological and political movements, such a guide could be found within the ranks of Muhammad’s own familial descendants. Today, few such minority groups remain within Islam, the Twelver Shia—concentrated in Iran, Iraq, Lebanon, Bahrain, and Pakistan—the largest among them. Accordingly, Twelver Shia theology posits a lineage of twelve *Imams* (lit. leaders), tasked with guiding the Muslim community. The last of these, the Twelfth Imam, Muhammad al-Mahdi, is thought to be alive, but in a state of *ghaybah*, or “occultation,” since 255 AH (869 CE), and will reappear at the end of the world to guide the community once more.

While the Imams were indeed historical figures whose familial status and connection to Muhammad’s legacy ensured them a level of social and scholarly repute, Twelver Shia theology postulates that they also maintained a select group of inner companions, who, like their counterparts in the general Muslim community, received accounts of Muhammad’s sunnah through their innate and inherited knowledge. By around 300 AH (912 CE), the first formative books of Twelver Shia praxis and law had developed, to this day serving as a claim to Muhammad’s intellectual inheritance.

History, Brought Full Circle

It is within this context that the above account can best be understood. It details an exchange between the Fifth Shia Imam (a great-great grandson of Muhammad), Muhammad ibn Ali al-Baqir—also known as “Abu Jafar”—and one of his closest students. After imparting the story of Muhammad’s order to execute the man who had insulted him (the nature of which is never specified), al-Baqir is then asked a question: “What if someone today does this? Is he killed?” The response: *In lam takhaf ala nafsika faqtulhu*—“If you do not fear for yourself, then kill him.”

While al-Baqir lived in Medina, Islam’s second holiest city, the Shia were predominately situated in Kufa, modern day Iraq, and would visit him during the Hajj season to seek religious counsel. At this time, most of the Islamic world, including both Medina and Kufa, were under the rule of the Umayyad Caliphate—a government which minted currency, conducted war and diplomacy, and had a system of justice and representation which extended to the local level. By rejecting recourse to the law, al-Baqir establishes a dangerously irrational precedent: Independent of one’s state or government, and absent of any legal mechanism, execution for blasphemy is a personal duty that can be carried out anywhere.

This account would later be recorded in two of Shia Islam’s most prominent early books of hadith and legal literature: *Al-Kafi*, by Muhammad ibn Yaquub al-Kulayni (d. 329 AH/940 CE), and *Tadhib al-Ahkam*, by Muhammad ibn al-Hassan al-Tusi (d. 460 AH/1067 CE). Its content, reinforced by centuries

of scholarly commentary, would be incorporated into foundational books of religious curricula, and studied in the *hawzas* of Qom and Najaf.

The effects of al-Baqir's purported words would come full circle in 1989, in the form of a fatwa read over Radio Tehran. The proclamation by Ayatullah Ruhollah Khomeini resulted in an assault on innocent human life, material property, free society, and the livelihood of an author, the full effects of which cannot be justly covered here:

*I am informing all brave Muslims of the world that the author of The Satanic Verses, a text written, edited, and published against Islam, the Prophet of Islam, and the Koran, along with all the editors and publishers aware of its contents, are condemned to death. I call on all valiant Muslims wherever they may be in the world to kill them without delay, so that no one will dare insult the sacred beliefs of Muslims henceforth. And whoever is killed in this cause will be a martyr, God willing.*ⁱⁱ

Classical and Modern Scholarship

While the previous account should be sufficient to paint a picture of how the Twelver Shia legal canon envisions dissent, unfortunately there are many more of a similar nature.ⁱⁱⁱ However, due to the intention of this paper as a primer, rather than a comprehensive survey of religious history, it will have to suffice as the sole example from the hadith literature.

However, perhaps more pertinent to understanding Khomeini's fatwa is scholarly precedent—which, in clerical circles, plays a supporting role in legal interpretation. This section presents a survey of scholarly opinions, from some of the earliest and most prominent works of Twelver Shia law. This list will be rounded out by a selection of modern opinions, including from Khomeini's own jurisprudential work, *Tahrir al-Wasilah*. As with the majority of content in this paper, these are appearing for the first time outside their original Arabic.

Ali ibn Babawaih al-Qummi “Sheikh al-Saduq” (d. 381 AH/991 CE)

Whoever insults the Messenger of Allah, the Commander of the Faithful, or any of the Imams, his blood immediately becomes lawful (to shed).^{iv}

Ali ibn al-Hussein “Sharif al-Murtada” (d. 436 AH/1044 CE)

As for insult of the Prophet, the Twelver Shia are unanimous: Whoever insults the Prophet, a Muslim or dhimmi, he is killed...

It is related from Malik ibn Anas that whoever curses the Prophet from the Muslims is killed, and not asked to repent. And whoever curses the Prophet from the Jews or Christians is killed, unless he converts to Islam. This position from Malik corresponds to the Twelver Shia...^v

It is related from Layth ibn Saad that a Muslim who insults the Prophet is not considered, or asked to repent, but is killed in his place, and the Jew and Christian likewise. And the Twelver Shia agree with this.^{vi}

Muhammad ibn al-Hassan al-Tusi “Sheikh al-Tusi” (d. 460 AH/1067 CE)

Whoever insults the Messenger of Allah, or any of the Imams, his blood has become liable to shed, and it is lawful for whoever hears that to kill him, so long as he does not fear through his killing for himself or others. If he fears for himself, or any of the believers, injury at that time, or in the future, then he should not confront him.^{vii}

Ibn Zuhra al-Halabi (d. 585 AH/1189 CE)

Whoever insults the Prophet, other Prophets, or any of the Imams, he is killed. And there is no claim against the person who hears that, and kills him without the permission of the ruler. The proof for all this is the consensus of the (Twelver Shia) community.^{viii}

Ali ibn Ahmed al-Amili “Shahid al-Thani” (d. 1011 AH/1602 CE)

Whoever insults the Prophet, or any of the Imams, he is killed. And it is permissible for anyone who is made aware of it to kill him. This is even without the permission of the leader, or judge, so long as he does not fear for himself or his wealth, or a believer’s life or wealth. With these (factors present), the permissibility (of killing) is denied. This ruling also extends to (insult of) the Prophets, because their glorification and perfection is known in Islam, and their insult is apostasy. This also includes the mother of the Prophet, and his daughters, not specifically Fatima alone. And perhaps the ruling could be restricted to her alone, because there is a consensus on her purity.^{ix}

Ayatullah Ruhollah Khomeini (d. 1989 CE)

Whoever insults the Prophet—I seek refuge with Allah—it is obligatory upon whoever hears that to kill him, so long as he does not fear for his life or honor, or the life or honor of a believer. And with (these factors present), it is not permissible. And if he fears for his wealth, or the wealth of his brother (in faith), this is also permission to abandon his killing. This is not contingent upon the permission of the Imam, or his representative. And this situation is the same for whoever insults any of the Imams, and also Fatima al-Zahra. If he returns to insulting the Prophet (after the killing had been averted due to fear), then kill him, with no doubts.^x

Ayatullah Abu al-Qasim al-Khoei (d. 1992 CE)

It is obligatory to kill whoever insults the Prophet, by whoever hears it, so long as he does not fear injury upon himself, his honor, his wealth, or similar things. This extends to insult of the Imams, and insult of Fatima al-Zahra. The allowance to kill him does not rest upon the permission of the judge/legal authority.^{xi}

Ayatullah Mohammad Reza Golpaygani (d. 1993 CE)

Whoever insults the Prophet, it is permissible for whoever hears that to kill him, so long as he does not fear injury upon himself, his wealth, or others from the people of faith.^{xii}

Islamic Penal Code of Iran (*Qanun-i Mujazat-i Islami Iran*)

Article 513: Whoever insults Islamic sanctities, or any of the glorified Prophets, the Pure Imams, or her excellency Fatima al-Zahra, should be executed if it equals insult of the Prophet, and otherwise should be sentenced to imprisonment for one to five years.^{xiii}

Ayatullah Yusuf Saanei and the Case for Iranian Legal Reform

Let me declare my belief clearly. The destiny of the religion's social prestige today and tomorrow will depend on our interpretation of the religion in a manner which would not contradict freedom. Whenever in history a religion has faced freedom, it has been the religion which has sustained damage. Even if justice has contradicted freedom, justice has suffered. When the progress and construction have curtailed freedom, they have been undermined.^{xiv}

Former Iranian President Mohammad Khatami, May 1998

Despite the seemingly unambiguous pronouncements from the hadith and scholarly literature that sanction extrajudicial killing of blasphemers—there do exist arguments against carrying out the measure today. In fact, the religious case *against* Khomeini's fatwa, and in support of legal reform in Iran, is surprisingly strong.

While many voices in Iran greatly desire to do away with problematic, religiously-inspired laws—by seeking reform without regard for the religious and scholarly tradition, reformists bear the ire of “hardliners,” who in turn perceive all reform efforts as being pro-Western, and anti-Islamic. Voices of reform from within the religious tradition itself, however, are much rarer, and indeed largely the effort of a single individual: Ayatullah Yusuf Saanei.

Saanei has cemented his role as a reformer by reexamining religious issues of modern social significance, including: The equalization of “blood money” between all citizens, regardless of religion or gender; the raising of the minimum female age of marriage from 9 to 13 years; and establishing the equality of witness testimony between men and women. While Saanei takes Islamic law to the periphery of its traditional understanding, the quality of his scholarship and length of time in the hawza have helped place him squarely within the acceptability of the clerical establishment.^{xv} While none of his views have been adopted by law (the change in blood money came close, twice), the trajectory of his scholarship provides him a unique and necessary role among reform efforts in Iran.

Saanei's apparent quest for reform also extends to blasphemy. Interestingly, the majority of his treatment on the subject comes from *Fiqh al-Thaqalayn fi Sharh Tahrir al-Wasilah*—a commentary of Khomeini's

own jurisprudential work (translated in the previous section).^{xvi} While his analysis of the subject is far from comprehensive, it represents the best attempt at reform, both from within the clerical establishment, and also in scholarly literature.

While Saanei does deconstruct and seek to contextualize both the hadith accounts and scholarly statements—legal reform through religious reinterpretation is not realistic. Rather, more broad, methodological arguments will be explored. Saanei’s contributions are clearly quoted—everything else is commentary.

Harm to Islam

Regardless of the cruelty or irrationality present in the legal literature, there is a condition that remains constant: Lack of harm. Nearly every scholar articulated that permission to exact extrajudicial justice is dependent upon a lack of harm: To life, honor, and property.

Commenting on Khomeini’s condition that killing be abandoned if it affects the “life or honor of a believer,” Saanei remarks:

This also includes the glory and honor of Islam. If killing becomes reason to accuse Islam of (having caused) distress and disquiet, then the punishment, and its law, are dropped. Islam is a religion separate from security and government. The priority is the glory of Islam, and preserving the honor and life of the believer.^{xvii}

It cannot be doubted that Khomeini’s fatwa against Rushdie—and continued human rights abuses today—have severely harmed Iran’s international standing, worldwide perception of Islam, and in many ways, the lives and livelihoods of most Iranians, not to mention the direct damage to material property and innocent human life resultant from the fatwa itself. They have served to isolate Iran, limit the mobility of its citizens, harmed its business, academic, and diplomatic interests, and turned it into a worldwide pariah. Clearly, it is from this viewpoint that the strongest religious case against punishment for blasphemy can be made. Moreover, reform from this perspective can be done without even touching or having to reevaluate the religious or scholarly tradition.

An Affront to Reason: The Victim’s Inability to Defend Himself

Elaborating slightly on the previous point, Saanei states:

The permission (to kill blasphemers) rests upon a lack of damage and harm. It is not fitting that doubts exist concerning (the condition) that there be a lack of fear and damage. This includes upon Islam and its glory—that Islam lose its sanctity and become accused of anarchy, and a lack of security and safety. Along with this is (the fact that) the victim would be unable to defend himself (from the accusations against him). How can it be ruled that he committed blasphemy, and is deserving of punishment?^{xviii}

Strangely, this logical argument receives no mention in the scholarly literature: The inability of those accused of blasphemy to defend themselves, and the pretext that allowance of extrajudicial justice can provide for murder. Indeed, it has been demonstrated that accusation of blasphemy—when carried out through the mechanism of the law, in other Muslim countries—is routinely abused to settle personal disputes. Extrajudicial punishment, no less, would run afoul of reason and rationality—qualities that are not only praised in Shia Islam, but are woven into the fabric of the cosmos:

The Fifth Imam, Muhammad al-Baqir, said: When Allah created reason, He questioned it, and then said, “Come forward,” and it came. He then said, “Go back,” and it went back. He then said, “By My honor and glory, I have not created a creation more beloved to Me than you, and I will not perfect you except in those I love. It is by you that I command, and by you that I prohibit (from sinful actions). It is by you that I will punish, and by you that I will reward.”^{xix}

Contradiction to the Koran

While both Sunni and Shia Muslims view the sunnah as a dual source of law which works in tandem with Koranic injunctions—there are hadiths which urge abandoning laws which contradict it. As most Muslims can testify, punishment for blasphemy, much less carried out extrajudicially, receives no support in the Koranic text. Most Shia Muslims today, including the vast majority of religiously literate Iranians, truly do believe Islam and human rights to be compatible, and will often employ this line of reasoning:

The Sixth Imam, Jafar al-Sadiq, reported that the Prophet gave a sermon at Mina and said: “Oh people, whatever comes to you from me that agrees with the Book of Allah, then I said it. And whatever comes to you that disagrees with the Book of Allah, I did not say it.”^{xx}

Limitations on the Implementation of *Hadd* Punishments

In Islam, two types of penal punishments exist—*hadd* (fixed) punishments, and *tazir* (discretionary) punishments. In the legal literature, discussion of blasphemy (*sabb al-nabi*) is found in sections related to *hadd* punishments—specifically, under *qadhaf*: False accusation, or slander, usually of a sexual nature. Indeed, it seems that most scholars conceived of blasphemy as a sub-category of slander. Although, given its extrajudicial perception, it has escaped more formal attempts at legal codification. Khomeini also included his discussion of blasphemy in *Tahrir al-Wasilah* under “Kitab al-Hudud”—the chapter on *hadd* punishments.

However, in the hadith and legal literature, it is well established that *hadd* punishments cannot be carried out in “the land of the enemy”—that is, in lands not governed by Islamic law. In the same chapter, Khomeini states:

Hadd punishments, if they consist of lashing, are not carried out in intense heat or cold. In the winter they should be done in the middle of the day, and in the summer

at a cooler time, so as not to bring about loss or damage in excess of the intended punishment. And they are not carried out in the land of the enemy, and not in the sanctuary (of Mecca), if someone has taken refuge there.^{xxi}

Theoretically, if considered a hadd punishment, this stipulation would rule out the religious permissibility of killing blasphemers worldwide, especially in the West, as Khomeini sought to do. Indeed, the scholars featured previously lived in theocratic environments, and contextually were not addressing worldwide retribution for blasphemy. However, the finer points of religious law are often muted when filtered down to the level of reality.

Conclusion

The vast majority of Muslims are peaceful individuals who do not relate to their faith through legalisms, or classical scholarship. However, the worldview of Iran's ruling clerics is one that favors reference to this often-murky history to inform its day-to-day dealings. It is hoped that this paper serves to elucidate the historical record, prompt self-searching and questioning, and contribute to the quest for legal reform and human rights in Iran, and the broader Muslim world.

ⁱ Muhammad ibn Yaqub al-Kulayni, *Al-Kaḥfī*. Vol. 7, p. 267, #33
Muhammad ibn al-Hassan al-Tusi, *Tadhib al-Aḥkam*. Vol. 10, p. 85, #98

While this account is absent from Sunni hadith literature, it is also found in *Daim al-Islam*, a fourth-century *Ismaili* hadith collection which drew upon Sunni and Twelver Shia sources.

إن رجلا من هذيل كان يسب رسول الله صلى الله عليه وآله فيبلغ ذلك النبي صلى الله عليه وآله فقال: من لهذا، فقام رجلان من الانصار فقالا: نحن يا رسول الله فانطلقا حتى أتيا عربية فسألا عنه فإذا هو يتلقى غنمه فلحقاه بين أهله وغنمه فلم يسلمنا عليه فقال: من أنتما وما اسمكما؟ فقالا له: أنت فلان بن فلان؟ فقال: نعم، فنزلا وضربا عنقه، قال محمد بن مسلم: فقلت لابي جعفر عليه السلام: أرايت لو أن رجلا الآن سب النبي صلى الله عليه وآله أيقتل؟ قال: إن لم تخف على نفسك فاقتله

ⁱⁱ به اطلاع مسلمانان غيور سراسر جهان می رسانم مؤلف کتاب «آیات شیطانی» که علیه اسلام و پیامبر و قرآن، تنظیم و چاپ و منتشر شده است، همچنین ناشرین مطلع از محتوای آن، محکوم به اعدام می باشند. از مسلمانان غيور می خواهم تا در هر نقطه که آنان را یافتند، سریعاً آنها را اعدام نمایند تا دیگر کسی جرأت نکند به مقدسات مسلمین توهین نماید و هر کس در این راه کشته شود، شهید است ان شاء الله. ضمناً اگر کسی دسترسی به مؤلف کتاب دارد ولی خود قدرت اعدام او را ندارد، او را به مردم معرفی نماید تا به جزای اعمالش برسد

ⁱⁱⁱ In addition to blasphemy, a comprehensive analysis of freedom of speech and religion in Twelver Shia jurisprudence would also need to include apostasy (the leaving of religion, rather than its insult), the treatment of non-Muslims in the Islamic state, and envisioned relations with Muslims of other intellectual persuasions.

^{iv} *Al-Hidaya fi al-Usul wa al-Furu*, p. 295

ومن سب رسول الله (صلى الله عليه وآله وسلم) أو أمير المؤمنين (عليه السلام) أو أحد الأئمة صلوات الله عليهم فقد حل دمه من ساعته

^v Both Malik ibn Anas and Layth ibn Saad were early Muslim jurists and founders of their own schools of law.

^{vi} *Al-Intisar*, pp. 480-481. Apparently, al-Murtada distinguishes between punishment for insulting, and cursing.

سب النبي ومما كان الإمامية منفردة به: القول: بأن من سب النبي (صلى الله عليه وآله) مسلماً كان أو ذمياً قتل في الحال. وخالف باقي الفقهاء في ذلك، فقال أبو حنيفة وأصحابه: من سب النبي (صلى الله عليه وآله) أو عابه، وكان مسلماً فقد صار مرتداً، وإن كان ذمياً عزر ولم يقتل. وقال ابن القاسم عن مالك من شتم النبي (صلى الله عليه وآله) من المسلمين قتل ولم يستتب، ومن شتم النبي عليه السلام من اليهود والنصارى قتل إلا أن يسلم. وهذا القول من مالك مضاه لقول الإمامية. وقال الثوري: الذمي

يعزر. وذكر عن ابن عمر أنه يقتل. وروى الوليد بن مسلم عن الأوزاعي ومالك فيمن سب رسول الله (صلى الله عليه وآله) قالوا: هي ردة يستتاب، فإن تاب نكل به وإن لم يتب قتل قالوا يضرب مائة ثم يترك حتى إذا هو برئ ضرب مائة ولم يذكرنا فرقا بين المسلم والذمي. وقال الليث في المسلم يسب النبي (عليه وآله السلام): إنه لا يناظر ولا يستتاب ويقتل مكانه، وكذلك اليهودي والنصراني وهذه موافقة للإمامية

vii *Al-Nihaya*, p. 730

ومن سب رسول الله صلى الله عليه وآله، أو واحدا من الأئمة عليهم السلام، صار دمه هدرا، وحل لمن سمع ذلك منه قتله، ما لم يخف في قتله على نفسه أو على غيره. فإن خاف على نفسه أو على بعض المؤمنين ضررا في الحال أو المستقبل، فلا يتعرض له على حال

viii *Ghunya al-Nuzu ila Ilmi al-Usul wa al-Furu*, p. 428

ويقتل من سب النبي صلى الله عليه وآله وسلم وغيره من الأنبياء أو أحد الأئمة عليهم السلام، وليس على من سمعه فسبق إلى قتله من غير استئذان لصاحب الأمر سبيل، كل ذلك بدليل إجماع الطائفة

ix *Sharh al-Luma al-Dimashqiya*, vol. 9, p. 194

وساب النبي صلى الله عليه وآله، أو أحد الأئمة عليهم السلام يقتل ويجوز قتله لكل من اطع عليه (ولو من غير إذن الإمام) أو الحاكم (ما لم يخف) القاتل (على نفسه، أو ماله، أو على مؤمن) نفسا أو مالا فينتفي الجواز، للضرر، قال الصادق عليه السلام أخبرني أبي أن رسول الله صلى الله عليه وآله قال: الناس في أموة سواء من سمع أحدا يذكرني بسوء فالواجب عليه أن يقتل من شتمني ولا يرفع إلى السلطان، والواجب على السلطان إذا رفع إليه أن يقتل من نال مني. وسئل عليه السلام عن من سمع يشتم عليا عليه السلام ويرء منه قال: فقال لي: هو والله حلال الدم. وما ألف رجل منهم برجل منكم دعه. وهو إشارة إلى خوف الضرر على بعض المؤمنين. وفي إلحاق الأنبياء عليهم السلام بذلك وجه قوي، لأن تعظيمهم وكمالهم قد علم من دين الإسلام ضرورة. فسبهم إرتداد. والحق في التحرير بالنبي صلى الله عليه وآله أمه وبنته من غير تخصيص بفاطمة صلوات الله عليها. ويمكن اختصاص الحكم بها عليها السلام، للاجماع على طهارتها

x *Tahrir al-Wasilah*, Book of Punishments (*al-Hudud*)

من سب النبي صلى الله عليه وآله والعياذ بالله وجب على سامعه قتله ما لم يخف على نفسه أو عرضه أو نفس مؤمن أو عرضه، ومعه لا يجوز، ولو خاف على ماله المعتد به أو مال أخيه كذلك جاز ترك قتله، ولا يتوقف ذلك على إذن من الإمام عليه السلام أو نائبه، وكذا الحال لو سب بعض الأئمة عليهم السلام، وفي إلحاق الصديقة الطاهرة الزهراء سلام الله عليها بهم وجه، بل لو رجع إلى سب النبي (ص) يقتل بلا إشكال

xi *Minhaj al-Salihin*, vol. 2, p. 43

يجب قتل من سب النبي (صلى الله عليه وآله) على سامعه ما لم يخف الضرر على نفسه أو عرضه أو ماله الخطير ونحو ذلك ويلحق به سب الأئمة (عليهم السلام) وسب فاطمة الزهراء عليها السلام ولا يحتاج جواز قتله إلى الإذن من الحاكم الشرعي

xii *Durr al-Mandud*, vol. 2, p. 242. In the entirety of the scholarly literature, Golpaygani's analysis of blasphemy is the longest, and most in-depth. Though, most of it is irrelevant for the purposes of this paper.

من سب النبي صلى الله عليه وآله جاز لسامعه قتله ما لم يخف الضرر على نفسه أو ماله أو غيره من أهل الإيمان

xiii Discretionary and Deterrent Punishments; Section 2 – Insult of Religious Sanctities or State Officials

هر كس به مقدسات اسلام و يا هر يك از انبيای عظام يا انمهى طاهرين (ع) يا حضرت صديقهى طاهره (س) اهاننت نمايد اگر مشمول حكم ساب النبي باشد اعدام مى شود و در غير اين صورت به حبس از يك تا پنج سال محكوم خواهد شد

xiv BBC, "Monitoring President Khatami's Anniversary Speech." <http://news.bbc.co.uk/2/hi/world/monitoring/99569.stm>

xv While this is still largely the case, Saanei was among several notable clerics who were reprimanded for their criticism of the government during the 2009 presidential elections. There are rumors that his title of Ayatullah has been stripped by a clerical council, though, this is not definitive, and he continues to meet publicly with other clerics.

xvi Revealingly, the only published volumes seem to be on the topics of divorce (*talaq*), and retribution (*qisas*)—where the discussion of blasphemy is found. Both of these areas contain multiple issues of prominence in relation to Iranian legal and social reform.

xvii *Al-Taliqat ala Tahrir al-Wasilah*, vol. 2, p. 492

أو عزّة الإسلام وشرفه، وأن يصير قتله سبباً لاثهام الإسلام بالهرج والمرج وعدم وجود الحدّ والقانون فيه وأنه دين خال عن الأمانة والحكومة، وذلك لأولوية عزّ الإسلام وحفظه على عرض المؤمن ونفسه

^{xviii} *Fiqh al-Thaqalayn fi Sharh Tahrir al-Wasilah; Kitab al-Qisas*, p. 54

ولقاعدة نفي الضرر والهرج ، بل لا ينبغي الإشكال في تقبّده بعدم الخوف على الضرر على الإسلام وعزّته أيضاً ، بتضييع حرّمته وصيرورته متهمّاً بالفوضى وعدم الأمن والأمان فيه ، وبأّنه مع كون المقتول غير قادر على الدفاع فكيف يحكم عليه بارتكابه السبّ واستحقاقه التعزير أو الحد

^{xix} Muhammad ibn Yaqub al-Kulayni, *Al-Kafi*. Vol. 1, p. 1, #1

لما خلق الله العقل تنطقه ثم قال له: أقبّل فأقبّل ثم قال له: أدبر فأدبر ثم قال: وعزّتي وجلالي ما خلقت خلقاً هو أحب إلي منك ولا أكملتك إلا فيمن أحب، أما إني إياك أمر، وإياك أنهى وإياك اعاقب، وإياك اثيب

^{xx} Ibid. Vol. 1, p. 69, #5

خطب النبي صلى الله عليه وآله بمنى فقال: أيها الناس ما جاءكم عني يوافق كتاب الله فأنا قلته وما جاءكم يخالف كتاب الله فلم أقله

^{xxi} *Tahrir al-Wasilah*, Book of Punishments (*al-Hudud*)

لا يقام الحد إذا كان جلداً في الحر الشديد ولا البرد الشديد، فيتوخى به في الشتاء وسط النهار، وفي الصيف في ساعة برده خوفاً من الهلاك أو الضرر زانداً على ما هو لازم الحد، ولا يقام في أرض العدو ولا في الحرم على من التجأ إليه، لكن يضيق عليه في المطعم والمشرب ليخرج، ولو أحدث موجب الحد في الحرم يقام على فيه