



# Feasibility of Changing the Punishment for Moharebeh to Ensure the Principle of Acceptability Based on a Reinterpretation of Jurisprudential Foundations

Fatemeh. Habibollahi<sup>1</sup> , Mohammad Bagher. Amerinia<sup>2\*</sup> 

<sup>1</sup> M A, Department of Criminal Law and Criminology, Yasuj Branch, Islamic Azad University, Yasuj, Iran

<sup>2</sup> Associate Professor, Department of Law, Yasuj Branch, Islamic Azad University, Yasuj, Iran

\* Corresponding author email address: mohamadamerinia@gmail.com

Received: 2025-01-06	Revised: 2025-03-01	Accepted: 2025-03-15	Published: 2025-10-05
<b>EDITOR:</b> Ghasem Eftekhari  Associate Professor, Department of Political Science, University of Tehran, Tehran, Iran. Email: eftekhari@ut.ac.ir			
<b>REVIEWER 1:</b> Mrinalini Puranik  National Health Mission, Ministry of Health and Family Welfare, India. Email: MriPuranik@gmail.com			
<b>REVIEWER 2:</b> Thanuja Kulasooriya  Department Soil Science, Faculty of Agriculture, University of Ruhuna, Mapalana, Kamburupitiya, Sri Lanka. Email: thkulasooriya@soil.ruh.ac.lk			

## 1. Round 1

### 1.1. Reviewer 1

Reviewer:

The phrase “the new world order is moving toward the unification of laws” is overly broad and vague. It would benefit from referencing specific trends in legal harmonization or international treaties for precision.

While the introduction identifies the principle of acceptability as a concern, it lacks a clearly articulated research gap. Explicitly state how this paper contributes to a novel understanding of Moharebeh within jurisprudential discourse.

The integration of both Western and Islamic jurisprudence in this section is commendable. However, references to Western democratic ideals (e.g., “democratic criminal justice system”) should be more critically analyzed in relation to the Islamic context.

The article references these penal codes effectively. However, the paper could benefit from a brief comparative analysis with similar Islamic jurisdictions (e.g., Saudi Arabia, Pakistan) to contextualize Iran’s unique approach.

In discussing “Moharebeh,” “ifsād fī al-arḍ,” and “baghy,” these are sometimes used interchangeably or in parallel. Clarify the distinctions consistently, especially when referencing Qur’anic versus statutory applications.

The argument about limiting what qualifies as a weapon is central to the paper’s thesis. However, the authors could reinforce this position by referencing international humanitarian law or penal proportionality principles.

The use of “takhīr” is insightful, but the article would benefit from clarifying the limits of judicial discretion under Iranian law. Are judges currently using this principle, or is this a proposed change?

Authors revised the manuscript and uploaded the document.

## 1.2. Reviewer 2

Reviewer:

The argument that “any coercion... contradicts human nature and the essence of Sharī‘ah” is powerful but lacks source triangulation. Consider citing additional contemporary Shi’a jurists or legal scholars to reinforce this argument.

When discussing the Qur’anic verse, the article relies heavily on historical interpretation without adequately exploring diverse exegeses. Please include more contemporary or reformist tafsir literature to enhance interpretative depth.

The claim that “Moharebeh took on a political dimension” requires support through historical jurisprudential evolution or court rulings. Cite concrete examples from Iranian case law or fatwas.

The section drawing on the Universal Declaration of Human Rights (p. 15) is well-placed. However, it would be more robust if you referenced the Cairo Declaration on Human Rights in Islam as a bridge between Islamic and international standards.

The reference to Article 610 seems underdeveloped. Expand the analysis to compare its minimum punishment with the actual harm intended or caused in typical Moharebeh cases, to strengthen the argument for proportionality.

Authors revised the manuscript and uploaded the document.

## 2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.