

The Range of *Tajassos* and the Reasons of its Related Primary law in Islamic Jurisprudence

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Abstract

One of the fundamental concepts in the field of political *Fiqh* (Islamic jurisprudence) is *Tajassos* (spying or looking for other people's affairs) in people's privacy. The aim of this study is expressing *Tajassos* boundaries and reasons related to its primary precept which has been developed to be used in legislative parliaments and also in familiarizing the community with this forgotten prohibition. The method of this study is analytical descriptive with the focus on library studies. The author has analyzed *Tajassos* in word and expression and has also clarified some of its synonyms and related words such as privacy. The study findings suggest: Based on the arguments of Islamic jurisprudence, *Tajassos* is prohibited in both Sunni and Emamiye *Fiqh* and the principles of its prohibition have been proven by both of them. But there are some reasons based on wisdom and *Sunnah* (tradition) that permit *Tajassos* on some important issues like protecting the Islamic government. In choosing between maintaining the Islamic system and prohibition of *Tajassos* and preserving the dignity of people, the rule of more important one (*ahham*) should be obeyed. It should be noted that *ebaah* (*Tajassos* permit) in all these cases is based on necessities and it is similar to eating a dead person's flesh when there is not any other choice.

Keywords: *Tajassos*, *Fiqh*, Spy, Privacy

1. Introduction

Recognizing and exploring the legal issues and combining them with elements of time and viewing them from the perspective of time and place necessities, is essential for dynamic jurisprudence.

Discussion of *Tajassos* is also not a new phenomenon. *Tajassos* has a historical background coeval with the creation of humanity. What makes addressing the issue of *Tajassos* important is the concern of practicing religious duties for Muslims based on their recognition of responsibility. Time changing and needs development with the advancement of technology has necessarily developed the subject of many religious precepts in the area of practicality. This study wants to have a comparative search in the views of *Ja'fari* and Sunni's scholars on a new perspective through using the Qur'an and practical and spoken *Sunnah* (behavior) of *Masooms*.

Fiqh is considered as the most versatile, dynamic, and inventive of the Islamic disciplines, it is about the derivation of Law from the original revelatory sources in order to provide practical solutions for Muslims in this modern society (Picken, 2004).

1.1 The meanings of the words

1.1.1 The literal meanings

1. It is from the root of "javs" or "jasas" and *Tajassos* is *masdar solasi-mazid* made of *bab-tafa'ol* and one of its meanings is seeking.
2. If the original word is "jas" it is a medical word meaning the touching of the vessel and recognizing pulse to

warrant a health or disease.

3. Searching for the inner affairs (Ibn Manzour, 1993).
4. Searching and looking for the information and exploring the hidden affairs with the intention of doing evil and intrigue (Johari, 1989).
5. Keep track of what you have been concealed (Ansari Ghortabi, 1944).
6. Searching information for someone else (Ansari Ghortabi, 1944).
7. Discussion and curiosity about hidden parts (*awraat*) (Mohaqeq, n.d.).

1.1.2 Expressional meanings

To explain the meaning of the term *Tajassos*, it has been dealt with from two angles:

1. The expressional meanings of *Tajassos* in the jurisprudence, narrative, and interpretive texts:
In the words of commentators, this word means the same as its literal meaning, as Tabatabai under the verse 12 of Surah Hujurat states "looking for hidden flaws and secrets of people and searching for their secrets to become aware of unfavorable covert affairs"(Tabatabai, 1973).
In the language of Fuqaha (jurists), it has been used with its literal meaning. Normally, there is not an independent discussion on the subject of *Tajassos* and its various aspects in the religious books; and only on the basis of the prohibition mentioned in Surah Hujurat, jurists also have ordered its prohibition.
In the traditions, it is often the literal meaning that is meant. Of course, *Tajassos* has often been used with the meaning of investigating and interfering with the people's secrets and sometimes with the meaning of betraying and spying on the Islamic government.
2. The expressional meanings of *Tajassos* in legal texts:
The meaning of this word in legal texts is different from its meaning in Islamic religious texts. In legal texts, this word and its derivatives (which is often considered spying) mean betraying the country and in these contexts it has specific meanings such as:
 - a. Collecting and acquisition of information and documents which can be used by a foreign country against the security of another country (Garo, n.d.).
 - b. Collecting secret and classified information and documents about military affairs and defensive operations or obtaining information about political or economic conditions in the country to give them to a foreign state in exchange of money or any form of reward (Validi, 980).

1.1.3 Related words and synonyms of *Tajassos*

1. *Tahassos*: The mentioned meanings for *Tajassos* are also usable for *Tahassos*. But other sayings have been stated in Tafsir Ibn-Kathir:
Tajassos is trying to get information to make seduction and *Tahassos* means getting information based on good intentions (Ibn Kathir, n.d.).
These meanings have also been accepted by Tabarsi, Neyshabouri, and Sallabi.
It seems that this saying is the superior one, because there is evidence of choosing it in the Holy Quran. About "*Tahassos*" there is an order In the Quran from the Prophet Jacob about Joseph (AS) which ratifies this claim. "O my sons go and inquire respecting Yusuf and his brother, and despair not of God's mercy; surely none despairs of God's mercy except the unbelieving people" (Q. 12:87).
2. *Jaasus* (spy): Another word which is associated with *Tajassos* and sometimes the concept of *Tajassos* is compared with this word is *spy*. "*Spy* is someone who is searching for information and investigating the affairs" (Moqri Fumi, 1984).
3. *Haasus*: It is another related word. "Hasus is someone who is searching for information like a spy but with good intentions, whereas the spy has evil intentions." (Ibn Manzour, 1993)
Other words such as; *natas*, *nahas*, *tarassod*, *As'ar*, *tahsib*, *natast*, *ayn*, and *sam'* are related words which are not discussed in this study.
4. *Harim*: Another related word with *Tajassos* is the word *harim* (privacy).
In word: Arabs have mentioned two roots for the word *harim*:
 - a. *Haram* (shrine): It has been used in the books al-Ayn, al-Mohit, Aqrab al-Mavared, and some other books for place names. For example, *haram* is used for a place that should not be touched or approached (Farahidi, 1989).

- b. *Haram (haraam)*: It means being forbidden and prohibited. According to this root of the word it means proscription and prohibition to the scope, and it is required for every individual to maintain this scope and range (Sarvari Mazandarani, 2002).

In expression: Resolution 1970 of the Council of Europe has defined privacy as " privacy issues are related to private and family life, housing and physical and mental integrity, honor, reputation and dignity of people, the refusal of making a false image of the person, non-disclosure of the irrelevant and annoying facts, non-disclosure of private images, support for non-disclosure of information that people have acquired based on trust".

According to the mentioned definitions, important and outstanding privacy cases include: personal information, people's bodies, home and private places, private communications, and people's working place.

2. Search warrant

In *Emamiye Fiqh*, people's privacy has been supported under various categories and precepts. One of these categories is the prohibition of *Tajassos* and inspection of secrets and private parts that people cover.

Herein based on the four rules of evidence (Quran, *Sunnah*, wisdom and consensus) from the perspective of *Sunnah* and *Emamiye Fiqh*, the privacy search warrant has been analyzed.

2.1 From the perspective of verses

Some noble verses about *Tajassos* have been relied on and commentators while using the words of Imams have explained and interpreted these verses and have analyzed them from different points of view and have clarified the use of them.

The verse 12 Of Surah Hujurat is the first verse about *Tajassos* which has been much discussed and is more clear comparing the other verses about *Tajassos* prohibition: "O you who believe! Avoid most of suspicion, for surely suspicion in some cases is a sin, and do not spy ..."

The style of this noble verse is stating some orders in social ethics which are as follows:

1. Avoiding suspicion against the religious brothers
2. Prevention of *Tajassos* on people's property
3. Prevention of backbiting

The main source of *Tajassos* is ill thinking and suspicion about the subject of *Tajassos*. If we avoid evil suspicion, then we will not investigate people's secrets and their imperfections remain covered. On the assumption of suspicion, if we fulfill our ill thoughts and look for people's hidden defects, then their defects are discovered and discovering people's defects is the first sin. This first sin causes another sin called "backbiting" and this second sin leads to spreading wickedness which can be considered the third sin as the result of suspicion. Suspicion has strictly been forbidden in the Quran and the guilt of this sin is not only less than the guilt of *Tajassos*, but also it is far worse than that. Therefore, it is not only the act of *Tajassos* that is disobedience to God, but also after that backbiting, slandering, and spreading of sins are also involved.

Some commentators recognize the verse as "*La Tahassasu*".

As it was mentioned, scholars contradict on the meaning of "*Tahassos*" and "*Tajassos*". Abul-Futuh Razi comments on the verse 12 Of Surah Hujurat: common people have read "*Va la tajassasu*" with j. (Razi, 1980) Abdullah Ibn-Abbas and Aburaja' Alatarody have read it "*Va la tahassasu*" with h/ح. Another group like Akhfash has stated: The meanings of "*tajassasu*" and "*tahassasu*" are the same and there is no difference in the way of recitation. Anyway, the mooted question is what is the purpose of the prohibition of *Tajassos* in this noble verse? And who are its audience? And who should not be investigated?

Some have said: The precept is "exploring the privacy of others" and the emergence of the verse is in a way that '*Tajassos*' is *haraam*/prohibited because prohibition has been stated in the verse. (Helli, 1985) In spite of the application of the verse, some commentators have considered some issues such as intending to be aware of people's secrets and defects as the requirements of *Tajassos* prohibition. (Tabatabai, 1973) Others according to the anti-meaning of the verse believe that believers in social relationships and evaluating others should behave based on appearances and not based on *Tajassos* and what is out of sight of others.

Tabatabai defines *Tajassos* as investigation and inquiry into the affairs that people attend to remain hidden but somebody looks for them to become aware of. (Tabatabai, 1973) Also, he assumes the reason for *Tajassos* prohibition to be the very same reason for backbiting prohibition. The very same reason that has been stated for the prohibition of

backbiting in the verse "*would any of you like to eat the flesh of his brother*" has been declared in the verse 11 of Surah Hujurat as the reason for *Tajassos* prohibition because the only difference between *Tajassos* and backbiting is that backbiting is the revealing of people's defect to others –whether we have seen it ourselves or heard it from someone else- and *Tajassos* is finding information about people's defects by any means (it can be ears, eyes, or any of today communication means). But searching for people's defects is common in both of them and therefore it is not unlikely that the sentence "*would any of you like to eat the flesh of his brother*" can be extended to both of the sentences "*la tajassasu*" and "*la yaqtab bazokom baaza*" Based on this interpretation it can be said that someone who searches people's hidden affairs is eating the flesh of his dead brother like the backbiter; and this severity in prohibition of backbiting also includes *Tajassos* and this is a very considerable matter (Tabatabai, 1973).

Tabarsi has interpreted the prohibition of *Tajassos* as referring to people's defects and he explains the verse as "do not look for Muslims' defects and do not desire to disclose whatever their owners like it to remain covered" (Tabarsi, 1985).

Nasr Ibn-Muhammad stated: "*La tajassasu*" means do not discuss about the defects of your religious brothers; Ibn-Abi Hatim (d. 1419/1998) also follows Ibn-Abbas in defining *Tajassos* as the discussing about Muslims' defects and disclosing whatever they cover and getting information about their secrets (Samarqandi, n.d.).

Qortabi has said: Muslims have been prohibited from suspicion that leads to *Tajassos* and looking for a Muslim's defects.

In *Kashf al-Asrar*, Taftazani has stated that: *Tajassos* is prying into a hidden thing to make it appear. Allah says: Be satisfied (about your faithful brother) with what is unhidden and beware of what is not clear and leave it unknown. (Taftazani, 1958) Al-Baqvi for the interpretation of the verse has said that the prohibition of *Tajassos* refers to everything that people cover and they do not like it to be apparent; and trying to discover it is also forbidden, and no one has the right to search it (Al-Baqvi, n.d.).

In explaining the verse, Qortabi believes that we should consider people's external behavior as the criterion for our understanding and should not search for people's defects. No one should look for their religious brother's defect because God has covered it (Ansari Ghortabi, 1944).

Another significant verse which has a special place in this debate is the verse 19 of Surah Nur:

"Truly those who like that scandal should circulate respecting those who believe, they shall have a grievous chastisement". Although this verse does not obviously assert *Tajassos* prohibition, it prohibits spreading wickedness which is the result of surveillance and inspection; and if we believe in the prohibition of introduction to *haram* it can be said that from this verse the prohibition of spying on Muslims' defects can also be understood. According to this reasoning, if spying and *Tajassos* is not a preliminary step for spreading scandal then based on this verse it cannot be banned. For example, spying is not the case of this verse when the Islamic government has to spy on people for great expedience and for preventing the spread of wickedness.

Another verse about spying that can be referred is the verse 189 of Surah Baqarah:

"It is not righteousness that you should enter the houses at their backs, but righteousness is this that one should guard against evil". (Q. 2:189)

Although in this holy verse *Tajassos* has not explicitly forbidden as it has in the first verse, with a little consideration and based on the verse it can surely be proved that the spying is reprehensible and abominable; for God Almighty in this holy verse has denounced one of the ways that leads to the spread of wickedness and disclosure of people's imperfections. And that is the unusual way of entering into people's houses. Therefore, based on the reasons in this verse, it can be perceived that *Tajassos* and spying is a reprehensible and evil act.

Other verses that can be relied on for getting the primary precept of prohibition in *Tajassos* and spying are the verses 27 and 28 of Surah Nur: "O you who believe, do not enter houses other than your own houses until you have asked permission and saluted their inmates; this is better for you, that you may be mindful". (Q. 24:27-28)

"But if you do not find any one therein, then do not enter them until permission is given to you; and if it is said to you: go back, then go back; this is purer for you; and Allah is cognizant of what you do".

Also, these two verses do not explicitly prohibit *Tajassos* and spying but one of the means of spying that is entering into people's houses without their permission has been explicitly prohibited. And as it has been proved in the principles of *Fiqh*, '*nahy*' refers to '*tahrim*' (prohibition) and therefore based on the prohibition of entering into people's houses without their permission, the prohibition of *Tajassos* and spying on people's houses and behaviors can be ordered.

Another holy verse that some Fuqaha (jurists) have understood the primary precept of spying and *Tajassos* from is the verse 94 of Surah Nisa: "O you who believe, when you go to war in Allah's way, make investigation, and do not say to anyone who offers you peace: you are not a believer. Do you seek goods of this world's life? But with Allah there are abundant gains; you too were such before, then Allah conferred a benefit on you; therefore make investigation; surely

Allah is aware of what you do". (Q. 4: 94) Based on the pro-meaning of the verse, the prohibition of spying on people can be concluded; because this verse forbids investigation on people and it implies that the believers should be contented and satisfied with apparent things and do not search for internal aspects of people's actions and words.

As a result, according to these verses, spying on people's (whether believers or atheists) privacy is absolutely forbidden and breaching it requires specific reason.

2.2 In the views of traditions:

One of the reasons of precepts in Islamic religious jurisprudence is traditions (*ahadith*). Of course, the way of using these narratives is different between Shiites and other sects. Shiites only accept the Prophet and the Ahlul Bayt's (as) narratives with specific criteria but the Sunni accept the Companions (*sahabeh*) and Followers' (*tabein*) narrations as well. Investigation from the perspective of the Prophet (peace be upon him and his progeny)

1. Under the explanation of verse 12 of Surah Hujurat, Qortabi has restated the saying of the Prophet (pbuh): "Beware of the suspicion to others, because the word that is said based on suspicion and mistrust is the worst lie. Do not investigate people's overt or covert affairs (whether with good or bad intention), and do not be curious and do not disclose each other's secrets. And also do not be jealous of each other and do not backbite; be the servants of God and behave each other brotherly". (Ibn Hanbal, 1993) Expressing this narration is a social educational act which is directly related to people's dignity. The prohibition ordered by the Prophet is related to "*la tahassasu va la tajassasu*". We have been prohibited of *Tajassos* even out of good intention because spying on people's privacy leads to disclosure of defects and disgrace.
2. Majlesi has stated a long narrative about the believers' characteristics from the Prophet (peace be upon him and his progeny): "... do not enter into affairs that is not their business... and do not disclose the people's secrets ... it is a must for every Muslim and believer to try to accomplish their science and faith in every single day of their life". (Majlesi, 1981) In this expression, the Prophet has considered not investigating people's affairs as the condition of the perfection of faith; and has stated that anyone who looks for people's affairs has not a complete faith. For, those people who are engaged in people's imperfections have remained unaware of themselves and their performance.
3. While expressing ethical points to Ali (AS), the Messenger of Allah (peace be upon him and his progeny) stated: "Eight groups should not blame anyone other than themselves if they are disrespected ... those who want to be aware of people's secrets"; and beside the prohibition of *Tajassos*, He puts the blame of the consequences of *Tajassos* on the investigator and as it is clear in His narration, the least reaction of *Tajassos* is reproaching and reprimand. And people with the characteristic of *Tajassos* have not respect in the community and people allow themselves to insult them (Majlesi, 1981).
4. In *Savab al-A'mal va Eqab al-A'maal*, Saduq has stated a long narrative that a part of it is about prohibition. The Prophet forbade anyone to seek information from their neighbor's house and said: "Whoever intentionally looks at their Muslim brother's private parts and genitals rather than their own spouse, the Almighty God throws them into hell with the hypocrites; because those people in the world were constantly looking for people's imperfections". (Ibn Babuyeh, 1985) The Prophet has also promised these people the same punishment as of hypocrites; and since the punishment has been promised for major sins, therefore, *Tajassos* is certainly a major sin. According to the words of most fundamentalists, the Prophet's (PBUH) use of '*nahy*', which He forbids investigating others, confirms its prohibition.
5. Saduq has narrated from Ibn-Abbas that the Prophet (peace be upon him and his progeny) in the last sermon he gave in Medina, said: "Anyone who takes steps in searching for their brother's defects, they are stepping into hell; and God will reveal their imperfections to the public. Herein, Allah (Almighty) challenges the spies and has promised to disgrace them if they defame people". According to the intensity of this promise, the importance of the issue can be realized (Ibn Babuyeh, 1985).

2.2.1.1 *Tajassos* from infallible Imams' (PBUH) views:

One of the responsibilities of the community officials is protecting people's lives and dignity. Like the Holy Prophet (peace be upon him and his progeny), the infallible Imams (peace be upon them) are also trying to build a strong fortress and give people comfort and safety. They (PBUH) have beautifully explained the issue in the light of the Quran and luminous words of the Prophet (peace be upon him and his progeny). There are a lot of narratives related to the prohibition of

Tajassos, and permission for punishing the investigator. In addition, in some narrations, it is permissible to harm or even kill the spy: even through referring to these narratives, the prohibition of *Tajassos* can be proved.

These narratives are so numerous and important that in volume 6 of Bahar al-Envar, Majlessi has opened a chapter entitled "*Tattabeo fi al-dour*" (In the role of looking) and *Tattabeo oyub al-nase efshaeha*" (Investigating people's defects is revealing) and has gathered the related narratives. Also, Koleni has opened a chapter entitled "*Man talab atrate al-momenine ouratehem*" (In search of believers' defects and privacy) in volume two of Osule Kafi. Sheikh Horr Ameli, in volume 12 of Vasael al-Shia'h, has opened the chapter of "*Tahrim ehsae atarat al-momen*" (The prohibition of believers' defects). Also, in Moshtarak al-Vasayel, Mohaqeq Nuri has allocated a chapter dealing with the way of punishing those who nose into people's privacy.

In conclusion, based on the traditions on the issue of *Tajassos* prohibition, no one has the right to nose into people's privacy and search for their secrets and if it happens, the person who has been spied has the right to harm and punish the intruder.

As a sample, some of these traditions are mentioned:

1. In a letter to Malek Ashtar, Imam Ali says: "and you should avoid and be the most hostile to someone who insists on revealing people's imperfections; ... so do not be curious of hidden people's defects and" (Nahj al-Balaqah, n.d.) In the letter, Imam (A) prohibits Malik of curiosity about the people's defects and even forbids him from making friendship with those who investigate and reveal people's imperfections; and based on the scholars principles "*Al-nahy yadal ala hormat*" the word *nahy* implies prohibition.
2. Imam Sadeq has restated from the Messenger of Allah (peace be upon him and his progeny) that: "O you who have accepted Islam just by your mouth and faith has not entered into your hearts! Do not speak ill of Muslims and do not search for their defects because everyone who searches for people's defects God will search for their faults and whoever God do this to them God will defame them even if they are in their houses ". (Koleini Raazi, n.d.) This narration refers to the prohibition of *Tajassos* and explicitly mentions the prohibition of investigating people's privacy. The word *nahy* implies prohibition so spying on Muslims whether believer or nonbeliever is absolutely forbidden.
3. In another *hadith*, looking at believers' private parts have been banned; Imam Ali (as) has been asked: "Can a believer look at believer's private parts? He said: Yes. I asked: Do you mean the genitals? He said: Not as you imagined, but I mean revealing their secrets" (Majlesi, 1981).

Looking at people's genitals is prohibited and requires atonement. As people cover their private parts by wearing clothes this means that others do not have the right to look at their private parts; doing a sin in secret also means the same. Therefore, no one has the right to spy on the privacy of others to reveal their sins and to cause people's defamation because they have covered their sins like their genitals. Therefore, based on these traditions, spying on people's secrets and their faults are forbidden. Of course, from this narrative, it becomes clear that someone who is notorious for debauchery is like the person who appears nude in the society and they cause defamation for themselves.

This noble *hadith* prohibits revealing the secrets of people and retelling the things that people do not want anyone to know them. Whether the person has revealed the secrets that becomes aware of through investigation or the secrets that a believer themselves have entrusted them with. Consequently, spying on people's secrets which has been considered the same as looking at people's genitals and also disclosing secrets are forbidden based on this noble narrative.

4. Imam Baqir has said: "Searching for believers' imperfections is forbidden for the believers". He has also stated: "Whoever does spying on believers' houses, damaging their eyes is permissible for the owner of the house under spying (and there is no blame on the owner)" (Ibn Babuyeh, 1985).
5. Imam Sadeq has narrated from the Messenger of Allah (peace be upon him and his progeny) who said: "Three things is a sign of ignorance: a) Changing friends (it means that the person leaves their friend to make friendship with someone else, because it is rational to increase friends and not to lose friends) b) separation and withdrawal (from friends) without revealing the cause of it (because if the reason is mentioned they may fix the problem, or maybe this person has mistakenly suspected or doubted and expressing the cause can help solving the problem) c) investigation of irrational and unnecessary things". (Majlesi, 1981) This narrative is a guiding (not an obligation) order because changing friends, separation without declaration, and searching for useless things are not banned.
6. Imam Sadiq (AS) said: "There are three groups that are suffering in Doomsday Those who listen to people while they are unsatisfied and unhappy". (Arousi Joozi, 1994) Promising the punishment certainly implies prohibition. Fuqaha have used this narrative for prohibition of three things; because promising and intimidation

in this *hadith* refers to prohibition. (Montazeri, 1994) From these traditions, it is implied that any information that causes a believer's humiliation is the justification for spreading wickedness although the teller has not such an intention and such an act is unlawful and prohibited.

As a result, according to the traditions, the prohibition of *Tajassos* is absolutely achieved; whether it is out of good or bad intentions. The exceptions with constant evidence will also be mentioned in due course.

2.2.1.2 *Tajassos in the view of the Prophet's Companions*

There are a lot of traditions about the prohibition of *Tajassos* in Sunni sources. For example, in Sonan Beihaqi there is a chapter entitled (prohibition of *Tajassos*) and many traditions with the theme of Emamiyah traditions have been narrated. (Koleini Raazi, n.d.) For instance, it has been quoted from the Prophet (peace be upon him and his progeny) in Sahih by Moslem, Mosnad by Ahmad Ibn-Hanbal, Mosnad by Tiyalisi, and al-Dovar al-Mansuor: "...do not search for hidden and obvious affairs of people and do not be curious and do not disclose each other's secrets..." (Ibn Hanbal, 1993) In addition to the mentioned traditions, there are some narrations about the Companions' behavior which are referred to in Shiite Fiqh. Some of these narrations have been mentioned here.

1. Telling a story about *Tajassos* which happened for Salmaan Farsi, a well-respected and great companion, shows that the Companions have profusely struggled to obey the Quran's and the Prophet's (peace be upon him and his progeny) order. The behavior of each one of them as a Mujtahid (Sunnis know the Companions as Mujtahid in understanding and practicing the laws) is authorized and binding. Salmaan Farsi was the governor of the second Caliph (Omar) in Madaen. He received a letter from the Caliph to investigate and report the actions and deeds of Hazifat Ibn-Yaman who was the governor of Madaen before Salmaan. In response to the Caliph, Salmaan Farsi wrote: "Your letter reached me to ... inform you of good and evil of Hazifat Ibn-Yaman. Allah has forbidden us from this action. In the Holy Quran, Allah has said: "O you who have believed, avoid a lot of suspicion ... and do not search". (Majlesi, 1981) This story shows that Salmaan Farsi prioritizes his understanding of the Quran to understanding of the Caliph and mentions this point in his response.
2. From the Messenger of Allah (peace be upon him and his progeny), Abu-Hurairah narrates that "Having good opinion of people's conduct and behavior is a sign of worshiping God." (Ibn Hanbal, 1993) This narrative urges the believers that if they have a good opinion of other believers and do not suspect them, this act is considered as your worship; therefore, this holy narration is for prevention of suspicion which is the introduction to *Tajassos*.
3. In Mosnad, Ibn-Hanbal has stated that the Messenger of Allah (peace be upon him and his progeny) said: "I advise you to avoid suspicion of your faithful brother because the suspicion is the biggest lie." And on the following he declares that suspicion in traditions certainly means evil thinking not good thinking because thinking positively is praiseworthy. Therefore, if you suspect a believer, do not react and do not start spying on them and do not do action that would insult them. And this suspicion is subject to divine injunction as Allah said: "Do not spy" because suspicion is an internal affair and it is out of the human's control but *Tajassos* is optional (Ibn Hanbal, 1993).
4. In long words from the Prophet, Abu-Hurairah narrates that avoid bad suspicion because it is the biggest lie and do not search. (Ibn Hanbal, 1993) As it was mentioned above, *Tajassos* is searching for the people's defects. But the prohibition in this tradition of the Prophet includes the search for defects and whatever rather than defects; because if somebody searches for believers' perfections, they will inadvertently access to some of their imperfections.
5. Ahmad Ibn-Hanbal explains Ibn Mas'ud's performance encountering *Tajassos* in this quotation: the narrator says: I was with Abdullah Ibn-Mas'ud and I saw a man came while the wine was dripping from his beard. I told Ibn-Mas'ud is he such and such the person in this condition. As he cannot see this scene, Abdullah Ibn-Mas'ud said: We have been prohibited from spying on others, but if it became apparent then it can be invoked. (Ibn Hanbal, 1993) According to this narrative on the prohibition of *Tajassos* and considering the word of the Prophet who said: "Do not search for each other's hidden and secret affairs", the strength of this ban is obvious; because the person who openly does something is firstly notorious for debauchery. Secondly, looking at them is not considered as *Tajassos*.

The word of Ibn-Mas'ud can refer to the rule of "*Esalat al-seha*" (righteousness originality). For example, it is water not wine that is dripping from the person's hair and beard. Although he is accused of debauchery, but we also do not investigate whether it is water or wine that is dripping from his beard. This can be considered

as a sign of the Companions' understanding of the greatness in prohibition of *Tajassos*. Of course, when he says if it became apparent then it can be invoked refers to *Tajassos* permit about the person who is notorious for debauchery.

Consequently, it can be achieved from the narrations about the Companions' words and actions that they were concerned about preserving the dignity of Muslims and they considered *Tajassos* as a prohibited act and they avoided it.

2.2.2 From the perspective of wisdom:

Human's wisdom has denounced anarchy, social corruption, insecurity, and spreading wickedness and it fights for removing the disruption from people's lives. One of the things that cause insecurity and anarchy in the society is searching for people's secrets and privacy. Referring to common sense, *Tajassos* is an indecent act and every wise person accepts that *Tajassos* causes moral and psychological insecurity and ultimately it leads to scandal and defamation.

On claiming *Tajassos* prohibition, Sheikh Ansari states rational reason as well as traditional reason on the prohibition of *Tajassos* and the fact that wisdom bans publicizing people's defects. He declares: "There is no hesitation on wisdom and traditions that publicizing and spreading of what causes the believers' humiliation and loss of their social dignity is forbidden. The wise unanimously believe that searching for people's affairs which they try to hide leads to the loss of their social status." (Mehrizi, 1999)

In addition to the scholars' unanimity on the prohibition of *Tajassos*, Rakan al-Damqi claims that rational reasons also prove that no one has the right to search for the Muslims' privacy. In the following he also restates from Ghazali that referring to rational reasons proves *Tajassos* prohibition (Al-Damqi, 1985).

2.2.3 From the perspective of consensus:

According to the verses and traditions mentioned earlier, also views of the Shiite and Sunni scholars, the first principle is *Tajassos* prohibition and this prohibition is also consensus that is all Muslims consider it forbidden (Ansari, 2008).

Shia scholars have a consensus on the prohibition of *Tajassos*. Fazel Javad in his book acknowledges this fact. Of course, it is a consensus document with no authority. (Kazemi, n.d.) Some have gone further and believe in Muslims' consensus on *Tajassos* prohibition, and they consider the prohibition of *Tajassos* as axioms of religion (Najafi, 1983).

Mianji also says: *Tajassos* prohibition is unanimous, that is all Muslims consider it banned (Ahmadi Mianji, 2005).

In Tafsire al-Kashef, it has also been documented on *Tajassos* prohibition based on the Qur'an, Sunnah, consensus, and wisdom; and it has been stated that scholars have consensus that if someone while spying is hurt in the eyes even killing them is allowed (Mughniyeh, 1970).

Scholars unanimously agree that if someone wants to know the secrets of the Muslims that are forbidden for them, they should be banned; because this banning is protecting people's credit. But if they insisted on this investigation they should be sent away by throwing stones or hitting with sticks. In this case, no criminal damage is in the liability of the doer and being damaged while investigating is a waste (Najafi, 1983).

In the book *Dayerat al-Ma'aaref*, Aameli has also claimed the consensus on the prohibition of *Tajassos* (Damush Ameli, 2002).

In *Ehya al-Olum*, Ghazali has also claimed the consensus on the prohibition of *Tajassos* (Ghazali, n.d.).

Consensus is a kind of *Lobbi* reasons and in case of uncertainty the certain part would suffice. For example, if we doubt whether the prohibition of *Tajassos* refers to all human beings or it is just for Muslims, the prohibition of searching for only Muslims should be assumed. For instance, if the main basis for the prohibition of *Tajassos* is the consensus and the person doubts whether *Tajassos* out of good intentions is also forbidden or not, then they should consider the prohibition only for *Tajassos* out of evil intentions. Of course with the evidence of the consensus, there is not any place for this discussion and it would be useless.

3. *Sireh al-Mutisharri'a* "The way based on religion"

Sireh is people or a particular group's habit of doing something. It has different categories, including: Companions *Sireh*, *Sireh* of the wise, practical *Sireh* of the people of Medinah, *Sireh al-Mutisharri'a* and.... Regarding the issue at hand, if there is no evidence other than *Sireh al-Mutisharri'a* in the verses and traditions and the evidence is the Muslims' consensus and actions on an issue, only in this way, *Sireh al-Mutisharri'a* becomes the referring source for *Fuqaha*.

Emamiyeh (Shiite Muslims) do not consider it enough but the Sunnis are independently has invoked its authority.

On the issue of *Tajassos*, there is the practical unanimity of the Prophet (peace be upon him and his progeny) and the Imams and the prohibition of *Tajassos* in his Companions' thought is a certain and undoubted matter.

4. Cases of *Tajassos* permit:

As it was mentioned, *Tajassos* of Muslims' secrets and looking for their flaws is forbidden and Islamic scholars have also expressed its prohibition.

Question: Is *Tajassos* forbidden in all kinds or does it have exceptions like some of the other prohibitions?

Answer: The above question is cleared by saying these two things:

1. In most narratives about *Tajassos*, the two factors of faith and fraternities have been focused on and their involvement in the prohibition of *Tajassos* has been referred to. Therefore, those who are against Islam and faith and spread seditions among Muslims are exception to this rule and *Tajassos* about them is permissible.
2. According to the more and most important rule, in conflicting two important matters, the more important matter is always preferred to the less important one. Therefore, where ever there are two matters of *Tajassos* prohibition and maintaining the Islamic system or preventing anarchy, maintaining the Islamic system which is the most important issue is preferred to the other issues. According to this rule, *Tajassos* is allowed for clarifying the truth, discovering the tyranny, identifying the hypocrites, knowing the way of staff dealing with clients, admission and hiring of government employees and etc.

5. Conclusion

Islam has harshly fought against the actions which poison the society and defame the people and on the other hand it has praised the actions which prevent disturbance and keep the Islamic society healthy and keep people's respect. This is confirmed by examining the evidence of two matters that the primary precept for *Tajassos* is prohibition and nobody has the right to search for people's privacy. And the intensity of this prohibition is obvious in the verses, traditions, practical way of religion, and rational behavior of Muslims that it has promised severe punishment for those who search for people's privacy. is a first principle in respect of surveillance and privacy of others who do not have the right to investigate the reasons of verses and traditions, theologians practices, in addition to being rational practice of intensive construction is Muslim, those who kill the other hidden surveillance has promised punishment.

If commands expressed in the verses 11 and 12 of Surah Hujurat about the prohibition of mockery, fault finding, bad nickname calling, bad suspicion, *Tajassos*, and backbiting is fully implemented in a community, the honor of individuals is guaranteed. No one is allowed to deride others, to find fault in somebody else, to break people's personalities by expressing ugly epithets; nobody is even permitted to suspect others or search for the people's privacy or reveal their hidden defects.

This prohibition and its exceptions are in common among *Madhahib* (sects) and the Shiite and Sunni have the same claim and reasons for its prohibition and exceptions. However, there are slight differences in the method of spying on their comments.

So the primary principle in respect of *Tajassos* is prohibition, even if the intention is good in searching for other people's affairs; and the Shiite and Sunni clerics have reached a consensus in prohibition of *Tajassos*, and expulsion and persecution of the spy, non-liability for crimes against the spy.

Therefore, searching for the people's secrets is prohibited and this prohibition is not binding. In cases that personal or social interests demand investigation, and these interests are more important than the honor and the secrets of the people, *Tajassos* is permissible and even required.

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