
Privacy in Islam, a sacred human right

*Dr. Atique Tahir **

ABSTRACT

‘Right to Privacy’ or the ‘Privacy of an individual’ is considered as the most important and the most basic of all the fundamental rights and liberties. It is the concern of all legal systems, civilizations, cultures and religions.

In the modern Western and legal perspectives, the right to privacy has emerged from the concept of right to life, which is considered as the basic right from which all the other rights are derived. Islam, on the other hand, considers as an independent and separate human right.

The present study is an attempt to briefly reflect and accumulate all the aspects and dimensions of the Privacy right in Islam. It is mainly concerned with the privacy of one’s home, confidential correspondence investigating someone’s financial, private and family affairs, and other such violations, Its punishment prescribed by Islam and its implications on an human society, arising out of doubts, suspicions, accusations and mistrust, in the teachings of Quran and Sunnah of the Messenger ﷺ in particular and of the Islamic jurists in general.

Keywords: Islam, Privacy, Rights, sacred, Human.

* Assistant Professor, Faculty of Shariah and Law, International Islamic University, Islamabad

In Islam ‘right to Privacy’ is considered as a basic and one of the sacred human rights. It covers all aspects of privacy, like peeping into other’s house, reading someone’s letter without permission, investigating someone’s financial, private and family affairs, etc. ⁽¹⁾

The Holy Quran honoring the sanctity of Privacy in homes states as:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتُسَلِّمُوا
عَلَىٰ أَهْلِهَا ذَلِكُمْ خَيْرٌ لَّكُمْ لَعَلَّكُمْ تَذَكَّرُونَ﴾ ⁽²⁾

“O, you who believe! do not enter houses other than your own until you have asked permission and saluted the dwellers therein; that is best for you, Allah admonishes you, so that you may heed”.

The Messenger ﷺ has gone to the extent of instructing his followers that “a man should not enter even his own house suddenly or surreptitiously. He should somehow or other inform or indicate to the dwellers of the house that he is entering the house, so that he may not see his mother, sister or daughter in a condition in which they would not like to be seen, nor would he himself like to see them in that condition”. ⁽³⁾

In the same vein it is narrated by Abdullah Ibn Masood (RA) that Allah’s Messenger ﷺ : said:

"عليكم أن تستأذنوا علي أمهاتكم وأخواتكم" ⁽⁴⁾

It is incumbent on you to take the permission (to enter into your own houses) from your mothers and sisters.

The Messenger ﷺ also said:

((الاستئذان ثلاث، فإن أذن لك، وإلا فارجع)) ⁽⁵⁾

Take permission three times and if it is not granted, then you should go back.

Peeping into the houses of other people has also been strictly prohibited, so much so that there is the saying of the Messenger that:

“If a man finds another person secretly peeping into his house, and he blinds his eye or eyes as a punishment then he cannot be called to question nor will he be liable to prosecution”.

In another Hadith the “Messenger prohibited people from reading letters of the others and warned that even if a man casts sidelong glances in order to see a letter of another person, his conduct becomes reprehensible”.⁽⁶⁾

Instructions to enter the houses of relatives and friends are given in the Quran as:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لِيَسْتَأْذِنَكُمْ الَّذِينَ مَلَكَتْ أَيْمَانُكُمْ وَالَّذِينَ لَمْ يَبْلُغُوا
الْحُلُمَ مِنْكُمْ ثَلَاثَ مَرَّاتٍ مِنْ قَبْلِ صَلَاةِ الْفَجْرِ وَحِينَ تَضَعُونَ ثِيَابَكُمْ مِنَ
الظَّهِيرَةِ وَمِنْ بَعْدِ صَلَاةِ الْعِشَاءِ ثَلَاثُ عَوْرَاتٍ لَكُمْ لَيْسَ عَلَيْكُمْ وَلَا
عَلَيْهِمْ جُنَاحٌ بَعْدَهُنَّ طَوَّافُونَ عَلَيْكُمْ بَعْضُكُمْ عَلَى بَعْضٍ كَذَلِكَ يُبَيِّنُ اللَّهُ
لَكُمْ الْآيَاتِ وَاللَّهُ عَلِيمٌ حَكِيمٌ ﴿7﴾

“O, you who believe: Let your servants and those of your children who have not yet come of age ask your permission before coming into your rooms on three occasions: before the morning prayer; at noon when you take off your clothes in the noonday heat; and after the night prayer. These are your three times of privacy. There is no sin for you or for them if they come without permission at other times than these, for; you have to visit one another for various purposes. Thus does Allah make His Commands clear to you, for He is All-Knowing, All Wise”.

Allah says

﴿وَالْقَوَاعِدُ مِنَ النِّسَاءِ اللَّاتِي لَا يَرْجُونَ نِكَاحًا فَلَيْسَ عَلَيْهِنَّ جُنَاحٌ
أَنْ يَضَعْنَ ثِيَابَهُنَّ غَيْرَ مُتَبَرِّجَاتٍ بِزِينَةٍ وَأَنْ يَسْتَعْفِفْنَ خَيْرٌ لَّهُنَّ﴾⁽⁸⁾

“There is no sin for such elderly women as are past the age of marriage, if they lay aside their outer garments, provided they do not wantonly display their beauty. Nevertheless, it is best for them if they behave modestly”.

There are many other ahadith of the Messenger of Allah ﷺ, wherein emphasis is on caring the privacy of others. Some of the ahadith in this regard are worth mentioning.

((يَا مَعْشَرَ مَنْ أَسْلَمَ بِلِسَانِهِ وَلَمْ يُفِضِ الْإِيمَانَ إِلَى قَلْبِهِ، لَا تُؤْذُوا
الْمُسْلِمِينَ وَلَا تُعَيِّرُوهُمْ وَلَا تَتَّبِعُوا عَوْرَاتِهِمْ، فَإِنَّهُ مَنْ تَتَّبَعَ عَوْرَةَ أَخِيهِ
الْمُسْلِمِ تَتَّبَعَ اللَّهُ عَوْرَتَهُ، وَمَنْ تَتَّبَعَ اللَّهُ عَوْرَتَهُ يَفْضَحْهُ وَلَوْ فِي جَوْفِ
رَحْلِهِ))⁽⁹⁾

“Oh people! who have accepted Islam with your tongues but whose hearts have not been reached by faith, do not misbehave with Muslims, nor revile them, nor seek out their faults; for he who seeks out the fault of his Muslim brother will have, his fault sought out by Allah, and he whose faults are sought out by Allah will be exposed by Him even though he is in the privacy of his house”.

Hazrat Abdullah bin Busr (RA) said that: “when Allah’s Messenger ﷺ

((إِذَا جَاءَ الْبَابَ يَسْتَأْذِنُ لَمْ يَسْتَقْبِلْهُ "، يَقُولُ: " يَمْشِي مَعَ الْحَائِطِ حَتَّى
يَسْتَأْذِنَ، فَيُؤَدِّنُ لَهُ، أَوْ يَنْصَرِفَ))⁽¹⁰⁾

Came to any one’s door he did not face it squarely, (but faced the right or left corner) and stand with the wall, (that

was because there were no curtains on the doors of the houses at that time) asking permission and if he got it enter (the home) otherwise left”.

Hazrat Abu Umamah (RA) narrated that Allah’s Messenger

ﷺ said:

((ثَلَاثَةٌ كُلُّهُمْ ضَامِنٌ عَلَى اللَّهِ عَزَّ وَجَلَّ: رَجُلٌ خَرَجَ غَارِبًا فِي سَبِيلِ اللَّهِ، فَهُوَ ضَامِنٌ عَلَى اللَّهِ حَتَّى يَتَوَفَّاهُ فَيُدْخِلَهُ الْجَنَّةَ، أَوْ يَرُدَّهُ بِمَا نَالَ مِنْ أَجْرٍ وَعَغِيمَةٍ، وَرَجُلٌ رَاحَ إِلَى الْمَسْجِدِ، فَهُوَ ضَامِنٌ عَلَى اللَّهِ حَتَّى يَتَوَفَّاهُ فَيُدْخِلَهُ الْجَنَّةَ، أَوْ يَرُدَّهُ بِمَا نَالَ مِنْ أَجْرٍ وَعَغِيمَةٍ، وَرَجُلٌ دَخَلَ بَيْتَهُ بِسَلَامٍ فَهُوَ ضَامِنٌ عَلَى اللَّهِ عَزَّ وَجَلَّ)). (11)

“There are three persons for whom Allah is guarantee. Allah suffices for them during their life and after their death. Their place is in Paradise. One who entered his house after having saluted, then Allah is his guarantee. One who went towards the mosque (for saying prayer), then Allah is his guarantee. One who left for Jihad in the way of Allah, then Allah is his guarantee”.

Ata bin Yasar (RA) told that a man asked Allah’s Messenger ﷺ whether he should ask permission to go in where his mother was and he replied that he should. The man said that he lived along with her in the house, but Allah’s Messenger ﷺ replied:

((يَسْتَأْذِنُ الرَّجُلُ عَلَى وُلْدِهِ، وَأُمِّهِ - وَإِنْ كَانَتْ عَجُوزًا - وَأَخِيهِ، وَأُخْتِهِ، وَأَبِيهِ)) (12)

A man should ask permission from his son and his mother, even if she is old, his brother, his sister and his father.

Islam aims at establishing its society on clearness of conscience and mutual trust, not on doubts, suspicions, accusations

and mistrust keeping in view the evil consequences of such activities the Messenger of Allah ﷺ has forbidden seeking out the faults of others:

((مَنْ سَتَرَ عَوْرَةَ أَخِيهِ الْمُسْلِمِ، سَتَرَ اللَّهُ عَوْرَتَهُ يَوْمَ الْقِيَامَةِ، وَمَنْ كَشَفَ عَوْرَةَ أَخِيهِ الْمُسْلِمِ، كَشَفَ اللَّهُ عَوْرَتَهُ، حَتَّى يَفْضَحَهُ بِهَا فِي بَيْتِهِ)). (13)

“He who seeks out the fault of his Muslim brother will have, his fault sought out by Allah, and he whose faults are sought out by Allah will be exposed by Him even though he is in the privacy of his house”.

In another tradition of the Messenger ﷺ, concealing the secrets of others is highly commended, and the act has been compared in merit to bringing to the surface a girl buried alive.

((مَنْ رَأَى عَوْرَةَ فَسَتَرَهَا، كَانَ كَمَنْ أَحْيَا مَوْءُودَةً)). (14)

“Who came to know the secret of a person and conceals it is like who gives life to a buried girl”.

In Islam the basic assumption concerning people is that they are innocent, a mere suspicion should not be allowed to result in the accusation of an innocent person. Regarding this, the Messenger ﷺ said:

((إِيَّاكُمْ وَالظَّنَّ فَإِنَّ الظَّنَّ أَكْذَبُ الْحَدِيثِ)). (15)

Avoid suspicion, for airing suspicion is the most lying form of speech

Islam for the protection and sanctity of homes has gone to that extent that if some is peeping through someone's with the permission of the owner then if the owner hits on his eyes with a stone and as a result his eye is damaged, this will not be treated as cognizable offence.

One of the hadith of the Messenger ﷺ, narrated by Abu Hurairah (RA) speaks on the subject as:

(16) ((مَنْ أَطْلَعَ فِي دَارٍ قَوْمٍ بِغَيْرِ إِذْنِهِمْ، فَفَقَتْهُ عَيْنُهُ فَقَدْ هَدَرَتْ عَيْنُهُ))

Whosoever peeps through anyone's house without permission and his eye is damaged; the act will not be treated as cognizable.

According to Islam it is not permissible for a government to injure the integrity of private houses by searching them on the grounds that it is necessary to know the secrets of the dangerous persons. Though, to all intents and purposes, the basis of this policy is the fear and suspicion with which modern governments look at their citizens. This is exactly what Islam has called as the root cause of mischief in politics.

The Messenger ﷺ in this regard instructs the believers as:

(17) ((إِنَّ الْأَمِيرَ إِذَا ابْتَغَى الرَّيْبَةَ فِي النَّاسِ أَفْسَدَهُمْ)).

“When the ruler begins to search for the causes of dissatisfaction amongst his people, he spoils them”.

Hazrat Muawiyah (RA), a companion of the Messenger ﷺ of Islam has said that he himself heard the Messenger ﷺ saying:

(18) ((إِنَّكَ إِنْ اتَّبَعْتَ عَوْرَاتِ النَّاسِ أَفْسَدْتَهُمْ أَوْ كِدْتَ أَنْ تُفْسِدَهُمْ)).

If you try to find out the secrets of the people, then you will definitely spoil them or at least you will bring them to the verge of ruin.

Perhaps the most instructive incident is one relating to the Caliph Umar (RA), which shows how strongly Islam safeguards the human right to privacy. It is related that one night, “Umar (RA) was touring the city of Madina to find out the conditions of the Muslims. Suddenly, he came across a house from where he heard a man

singing inside his house. He, suspecting some mischief, started peering into the house where he saw a woman and some wine along with the man” .On being reminded of the fact that he was violating their right of privacy he gave up his idea of punishing the man and let the man free after taking oath from him that he would live a pious life in future. ⁽¹⁹⁾

Keeping in view the above mentioned picture of right to privacy in Islam a famous Pakistani Journalist, Salahuddin, speaks as:

“Under Islamic law neither bugging devices can be fixed in private houses to tape conversations taking place behind the closed doors, nor can letters be censored in transit as is done in modern civilized states”. ⁽²⁰⁾

In Islam, it is the obligation of the state that it should make efficient arrangements for the protection of the honor and repute of the people, which is not limited; it extends to their honor, repute and privacy of homes. In this regard, Islam declares any interference or encroachment on the privacy of his life, as illegal and sinful. ⁽²¹⁾

IMPLICATIONS

The term ‘Privacy’ reflects diversity of meanings, in different context, but mainly it stands for a ‘right to seclude from others’.

Islam takes the ‘right to Privacy’ as a basic and sacred human right, inculcating and recognizing all the possible dimensions and aspects of it. Both the Quran and Sunnah of the Messenger ﷺ are replete with such references, emphasizing on its various dimensions to be implemented in true letter and spirit.

The believers in Islam are obliged to respect the privacy of others, considering it as an integral part of their faith and a religious duty.

Islam guarantees rewards and give glad tidings of Paradise for them who observe Privacy law, prescribed by Shariah.

Islam aims at establishing its society on clearness of conscience and mutual trust, without doubts, suspicions, accusations and mistrust. In Islam the basic assumption concerning people is that they are innocent, a mere suspicion should not be allowed to result in the accusation of an innocent person.

According to Islam it is not permissible for a government to injure the integrity of private houses by searching them on the grounds that it is necessary to know the secrets of the dangerous persons. Though, to all intents and purposes, the basis of this policy is the fear and suspicion with which modern governments look at their citizens. It is the obligation of the state that it should make efficient arrangements for the protection of the honor and repute of the people, which is not limited; it extends to their honor, repute and privacy of homes. In this regard, Islam declares any interference or encroachment on the privacy of his life, as illegal and sinful.

REFERENCES

1. Muhammad Ismail Memon Madani, The Islamic Commandments of Hijab, Kazi Publications, Lahore, 1998, p.32
2. Surah Al noor:27
3. Abu al-Ala Mawdoodi, Al-Tawhid, Vol.4, No.3, The Islamic Foundation, London, Rajab-Ramadan, 1407, April-June, 1987, p. 72, 73
4. See Ibn Jarir,Baihaqi and tafseer Adwa-ul –Bayan, p.352
5. Al-Bukhari , Hadith No.2153
6. Abu al-Ala Mawdoodi, Human Rights in Islam, Islamic Foundation, Leicester, UK, 2nd Edition, 1980, p.28, 267
7. Surah Al noor: 58
8. Surah Al noor: 60
9. Sunan,Al-Tirmizi,Hadith No.2005
10. Musnad Ahmad,Hadith No.17662
11. Sunan Abi- Dawd, Hadith No.2146
12. Al-Bukhari,Al Adabul Mufrid Hadith No.1062
13. Sunan Ibn Majah,Hadith No.2542
14. Sunan Abi- Dawd, Hadith No.4268
15. Al-Bukhari,Hadith No.5724
16. Sunan Abi- Dawd, Hadith No.5172
17. Sunan Abi- Dawd, Hadith No.4889
18. Sunan Abi- Dawd, Hadith No.4888
19. Abu al-Ala Mawdoodi, Tafhim-ul-Quran, Vol.5, Idara Tarjuman –ul Quran, Lahore, 1974, 30th Edition, p. 89
20. Salahuddin, Bunyadi Huquq, Idara Tarjuman –ul Quran, Lahore, 1st Edition, 1978, p.252

-
21. Abu al-Ala Mawdoodi, Al-Tawhid, Vol.4, No.3, The Islamic Foundation, London, Rajab-Ramadan, 1407, April-June, 1987, p. 72, 73; Ziaduddin Ahmad, Al-Quran Divine Book of Eternal Value, Royal Book Company Karachi, 1st Edition, 1989, p.171
