

CRIMINALIZATION OF COMMITTING (FAILED) SUICIDE AND SOME FORMS OF INTERVENTION IN COMMITTING OF THAT: IRANIAN CRIMINAL SYSTEM

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Abstract. “Suicide” is an act in which committer (usually) terminates his/her life willfully, and deliberately. This act, in fact, is a kind of “Murder” not “Death”, in which the perpetrator, and victim is a single person. All of Islamic jurists, and lawyers believe in ban of this act unanimously, and consider suicide as a deadly sin, but the main question is whether suicide’s marginal acts such as participation, assistance, and (indirect) causation, according to the criminal law’s rules (especially Iranian statutory), are considerable as “crime”, and then “punishable” or not? So, this paper tries to clarify the Iranian criminal law position on this issue, and provide justifying instruments concerned to necessity of criminalization of suicide and its marginal acts, besides to gradual, and conservative recent changes by legislator such as enacting the Article 15 (B) of cybercrimes act (2009), or Articles 295, and 379 of Islamic Penal Code (2013).

Keywords: Suicide, Sine, Crime, Haram (banned), Punishment.

Introduction. Suicide is not a coincidence, but it occurs with the purpose and the previous plan combined with desire and will of the perpetrator. For this reason, the purpose of this phenomenon in the field of law is to examine the situation in which a person deliberately kills himself/herself. Contrary to the unrestricted and unpopular murder, the title "unnatural suicide or error" is not relevant. And the victims of this incident are the only ones who are deliberately taking this action. Consequently, it can be said that certain individuals, under special circumstances, are committing suicide. For this reason, suicidal thoughts are not stagnant or static phenomena, but it can be reduced or increased over time and changes in location. From the criminal law point of view, although the classic and traditional notion of suicide was not a crime and does not have the criminal aspect of the deputy and participation in it. But the lack of clear evidence of the crime of non-committing suicide in the first place is causing the illusion that suicide and various ways of achieving it are a deliberate act and that man has absolute control over his/her body and soul and it can make it lose their life with their hands or even give it to others with various justifications (including relief from suffering from illness, etc.). Even though crime and not punishment of suicide is due to the fact that suicidal punishment is useless and unjust; it is useless because the culprit is dead, and there is no longer any more and unjust, since it does not harm the innocent people and it has no deterrent effect. But failed suicide in which suicidal survives, invitation to another suicide, desire to suicide, probation of suicide (in the form of an act of haram), pregnant mother's suicide, suicidal consequences of inheritance and similar issues, can be thought of by every lawyer in dealing with the negative consequences of this issue and, in any case, leads to a ban on this behavior. It is worth noting that in recent years, the legislator has adopted and approved various legal acts, such as Article 15 of the Computer Crime Law (approved in 2009), and in particular paragraph (b), also Articles 295 and 379 of the Islamic Penal Code (approved in 2013) by mentioning and using general and interpretable words and interpretations, he attempted to insulate the concept that different forms of suicide (apart from virtual space) and avoiding some conflicts of Jurisprudence-Legal in this field would be criminal because the main philosophy of crime in countries that are affected by moral and human rules is from Islam and other heavenly religions, supporting the violation of moral values and human dignity and establishing a balance and a universal order is a comprehensive one in the community that, without a doubt, suicide criminal exposure and the numerous and varied forms of committing it can bring the authorities to the goals above.¹

Therefore, in this excerpt, we tried to express some of the documents and movements of criminal law, the necessity of the criminalization of this behavior should be pointed out (in some ways and in situations).

Interveners and agents involved

In suicide, sometimes the person ends up in his/her life without any other person (human) interference and when the person ends up in his/her life with another person's participation. Once individuals have facilitated their occurrence or provided the means for committing them without actually involving the person in the implementation of the acts (or the

¹ It is clear that in order to justify the necessity of suicidal crime, the territory and its surroundings should be like the rights of some countries, not a kind of "Death", instead, we assume a form of "killing" or "murder" because in suicide, the killer subjected his/her life to self-assassination instead of invading another.

abandonment of the acts) of their killing and sometime the occurrence of suicide is the result of the act of someone or others who have left no solution to the suicidal person. Mischief on suicide, pretend to suicide and avoiding assistance to a person who is exposed to suicide is also one of the most diverse forms of committing this prohibited behavior.

Stewardship in suicide

Although some lawyers believe that "total suicide" is not a crime, it does not have a penalty because punishment for suicide does not have a preventive effect and any legal response will cause the material and spiritual harm of his/her family and relatives.²

However, the non-punishment of suicide should not have concluded that other personal injuries, if someone personally enters their body for a particular motive (For example, a person consciously flawed a member of his body in order to escape public service duties) is not punishable, but such personal injury is a criminal offense, prohibited and punishable (Goldouzian, 2017).³

The debate is where a person attempted suicide but survived. In this assumption, is it possible to criminalize that amount of behavior?

Since the legislator has neither committed suicide nor initiated a crime, one cannot prosecute anyone who has not succeeded in ending his/her life. However, in some cases, the legislator has committed a criminal offense and may be prosecuted if the person who ended his life failed to comply with these requirements. As an example, reference is made to Article 51 of the Penal Code of the Armed Forces (Mazaheri Tehrani, 2006).

Although some people believe that because of suicidal existential missing in total suicide for legal action, the crime of not knowing suicide seems logical. However, they suggest that, given the promise of suicide in Islam, criminalizing suicide begins, at least by taking measures and measures to provide education and training in the form of clinical and para-clinical services, as well as medical and psychiatric care for a person who attempts suicide was unsuccessful, the scientific, rational, and at the same time beneficial impact on the individual and society is considered.

Committing suicide

Considering the fact that the crime is a joint act is one of the conditions for committing crime, and as we know that suicide is not a criminal act based on current criminal laws of Iran, then the verdict of committing suicide, according to its common aspect with the murder, Soul "should be searched for murder cases. The verdict of participation in the crime (which is also a part of the killing) is set forth in Article 368 of the Islamic Penal Code (approved in 2013), under the sixth chapter and to the end of Article 374. It seems that we should deal with partners in suicide on the basis of these materials, because on the one hand, any cooperation with someone committing suicide is considered a crime. The assumption of committing in suicide is conceivable in such a way that a person is holding one head of a rope that is complex to his neck and holding the other end of the rope, and the two men, by pulling two ropes, cause suicidal death [that] seems that in this hypothesis, the victim's parents could have paid him/her half the dead man's death and reprimanded him/her (Goldouzian, 2017).

Causation in suicide

Concerning the causation and the ensuing guarantee, there are two general principles in which understanding is important: first, that any action that is permitted and sanctioned by the legal (and, of course, legal) rules and regulations is liable to be wiped out. There is no penalty and no guarantee. Secondly, doing anything that is legally and licitly free from any permission or privilege (as it would be wiped out) will be responsible for the criminal offense and will be guarantor (Goldouzian, Hosseinzadeh, 2017). Regarding the necessity of the perpetrator to commit suicide, any factor that deliberately or arbitrarily distracting him/her will lead to the elimination of the title of suicide in this sense. Therefore, the causation in suicide applies in the hypothesis that it was not the perpetrator, the ruler or the taxpayer, but rather by another deception or compulsion to deliberately deprive himself/herself of life. In a more general sense, it can be said that if suicide is caused by

² "Bakariya" believes that "suicide is a crime that does not appear to be capable of giving rise to a specific punishment because it does not go away except on innocent people (suicidal relatives and relatives), or on a cold and numb sweep. If, in the latter case, the punishment for infantile annihilation does not have a greater impact on living beings, in the first case, is the execution of non-violent punishment. If they refuse to tell me that this punishment can, however, stop the man who opted to commit suicide by doing that, one who delights in the pleasures of life and hates the life of the inner world, to the point of misery. Eternity prevails over it, of course, it will not be disturbed by the idea of punishing children or their families that is far from having much effect on the mind. " (Bakariya, Caesar, The Treatise on Crime and Punishment, translated: Ardebili, Mohammad Ali, Mizan Publication, Seventh Edition, Summer 2014, pages 118 and 114)

³ Articles 59 and 33 of the Penal Code of the Armed Forces (approved on 1992) and 51 Penal Code of the Armed Forces (approved on 2003).

a cause that is more effective than stewardship, the cause will be prosecuted as a deliberate killer. But the effect of causing and recognizing that it is steady from the steward is not easily possible and it's a problem with criminal law. Suppose a chaste girl is raped and honorable, and she kills himself/herself because of her lost reputation, or that a chaste girl is caught unscathed at the mercy of an evil man. And, in order to preserve her chastity, she throws herself down from the window and dies, or drops the power cord to interact with the unwanted sexual relationship and kills herself with electricity or someone is severely injured by severe physical injuries, so that he suicides because of unbearable suffering (Mazaheri Tehrani, 2006).⁴

Assisted suicide

According to available criminal law, whenever the action is not considered a crime in law, the vice chairman cannot be convinced. In the assisted suicide case, since the suicide bomber has not been declared a crime by a lawmaker, then assisted suicide is not considered a crime and lacks punishment (Validi, 2001). However, generalized assisted assimilation and adherence to the assisted theory of "metaphorical or linguistic" against a religiously, ethical, and public order is not acceptable. In some cases, the legislator has assisted in the crime as a specific crime and punishes an act that is essentially an assisted crime, not as assisted, but as an independent crime. As an example, in the Islamic Penal Code (Ta'zirat), the legislator has accepted in several materials the provision of means of committing a crime or the commission of its commission as an independent crime. Such as Articles 623 and 624 of the Islamic Penal Code (approved in 2013). In the security areas, in some cases, the legislator has independently criminalized the excitation of crime, which has been assisted in crime and they do not wait for criminal behavior that requires assistance. For example, Article 512 of the Islamic Penal Code (Ta'zirat) for the one who provokes people in order to undermine the security of the country by waging war and killing each other, regardless of whether they are murdered or looted, the punishment is one to five years in prison.⁵

Of course, in some cases, the legislator has predicted assisted behavior even beyond what the Islamic Penal Code has set. For example, in accordance with Section 6 of the Uniform Code of Conduct for Punitive Disarmament in Airplane Flight Security and Surgery in Aircraft Equipment and Facilities (approved on 4/12/1970) those who have been informed of the preparation and procurement of machinery and equipment for crime or the premises of the commission of crimes specified in this law and who do not declare the proceeding to the competent authorities shall be sentenced to death by the assistance.⁶

The Iranian legislator has not denied the independence of the assisted crime in the sense that it is independent, and not absolutely accepted it but this assisted depends on the type of crime and the conditions for its realization. But what is more important than the legal provisions that are relevant to the subject matter of the present research is Article 743 of the Islamic Penal Code (Ta'zirat).⁷

Although this legislator's action in 2009 could open the door for the criminalization of other forms and forms of suicide, but the question that could be raised in this regard is why, while basically suicide was not a crime and assisted in that way, by means of material possessions such as the donation of weapons and poison, acts of violence, provocation, encouragement, etc., are not criminalized, and their commission is not a crime. In accordance with section B, "assisted suicide" through "systems or systems of computer or data communication or data carriers "It has been criminalized, but maybe such acts have been carried out thousands of kilometers away, and the perpetrators of it will never be known?! In other words, when assisted suicide, while accepting its rational and religious beliefs, can be a crime, using these systems, why not be considered a crime without using them?

⁴ In other cases, such as "fugitive girls" who commit suicide, the judge can also escape the suspect and prosecute this suicide, which is usually fathers and mothers, charged with "child abuse". (Keykha, Hassan, Suicide in Criminal Law, Khorsandi Publications, First Printing, 2016)

⁵ The legislator has sometimes complied with this procedure in some other laws, in accordance with Article 40 of the Passport Act (approved on 10/12/1972) and Article 25 of the Press Law (approved on 22/12/1985).

⁶ The victim of "non-declaration" is sometimes seen in Iran's penal code, but the aforementioned clause is one of the most unusual and rare cases that condemns the failure to declare a crime to everyone, while in other cases, the failure to declare a crime is only a proportion. Some individuals are considered as offenses such as non-disclosure of crimes such as bribery, embezzlement, illegal seizure or fraud in government departments that are considered crimes in accordance with article 606 of the Taqiyat Law, exclusively with heads or directors or government agency officials (Mir Mohammad Sadeghi, Hossein - Izadyar, Ali, The article "Medical Aid Suicide: From Foundations of Crime to Penal Response," Phase Letter of Medical Rights, Year ninth, No. thirty-second, Spring 2015, Explanations below, No. 17, p. 198).

⁷ Article 15 of the Computer Crime Act (approved on 5/3/2009).

First, there can be no clear answer to this apparent contradiction, especially given that the Islamic Penal Code (approved on 2013) is in compliance with Article 15 of the Act, and the legislator has continued to act in the law of the future, and assisted suicide. The traditional methods have not been criminalized.

Secondly, it may be said that the subject matter is essentially an assisted crime as an independent crime. Therefore, since assisted in crime is a crime then suicide must also be a crime to be assisted, otherwise this does not apply.

The legislator may have predicted that if someone makes "effective provocation" to commit suicide, the perpetrator is punishable. Although they say "assisted suicide", but this term is not legally correct, it is an independent crime, that is, if the act of provoking suicide, assisted and committing in suicide is not crime, then this act of crime should be independent (Savlani, 2013). [As a result] it seems that this crime is a specific and independent crime that its fulfillment does not even require suicide (Keykha, 2016).

And since the self-help in another suicide, irrespective of the type of penis (that is, whether it was through computer or telecommunication systems or in other ways), has been abusive and, of course, is punishable and the reason that the legislator has criminalized this action is to commit it through the mentioned systems [merely] the mention of this article in the Computer Crimes Act (Mir Mohammad Sadeghi, Izadyar, 2015), apart from admitting suicide as a racial and religious practice, it shows that committing suicide through computer systems, telecommunication, or data carriers should no longer be relevant. However, this fundamental question remains that if assisted suicide is an independent, useful, and necessary crime, why is it not predicted in the Islamic Penal Code (approved on 2013)?⁸

Pretend to suicide⁹

Regarding the prohibition of suicidal ideation, which is inferred from the principle of "self-esteem and jurisprudential rules", pretending to commit suicide in the form of act "merely forbidden" and not "illegal and non-religious" can be considered worthy of crime as an independent and specific crime or, like some crimes against national security, those who do not even "start offended" as material pillars, such as Article 503 of the Islamic Penal Code (1996), are considered as offenses and punishable or not?

"Pretending to do haram" in this article does not mean pretending to commit a haram, but the perpetrator must commit "haram" in practice and in public places, and the mere premise of committing an act of haram cannot be covered by the provisions of this article. The haram to which it is pretended must be in the laws and regulations of the crime subject to be included in the first paragraph of Article 638, and if the act of committing the crime is not in the laws of the subject and the mere fact of committing it is not such as to exacerbate "public chastity" (such as Eating pork in public order) will not be subject to the provisions of this article (Barry, 2013).

The Legal Department of the Judiciary has also stated in the Advisory Opinion No. 2530/7/7/7372 that "Article 102 of the Tahitian Law (638 Islamic Penal Code 75), the Judgment has stated two things: First, pretending to be forbidden to practice that punishment, such as pretending to drink alcohol. In this case, in addition to the penalty, 74 lashes are committed against the perpetrator. Second, pretending to act haram, which does not have punishment, but harasses the general public. Its punishment is only 74 lashes, however, if the haram act does not have punishment and does not detrimental public chastity, Article 102 (638 Islamic Penal Code 75) does not include it "(Shahri, Sotoudeh Jahromi, 1996). Although not in the Islamic Penal Code nor in other laws, the definition of "publicity" has not been implemented, but it is typically referred to as "places where people, without having and requiring permission, find the right to be present at the site."¹⁰ However, if a person demonstrates in places, passages, or public places that he/she intends to commit suicide and has begun operations in this regard, then there is no suicide. It seems that the material element of crime has been realized in this regard and the perpetrator will be punishable explicitly. Although, in another perspective, according to the article referred to, the premise is that a person does the behavior that is the same act as a haram and to show its operationalization and, in a sense, committed or committed by a crime and pretending to the people that he/she has done this crime. The act committed by the perpetrator is capable of disrupting the general order of society and disrupting the order, therefore, the behavior of

⁸ Some criminal law professors such as Dr. Azmayesh believe that the non-criminalization of suicide in the Islamic Penal Code (adopted in 2013) has no particular philosophy because, since the computer crime law (and especially the issue of provocation and so on, to commit suicide through computer, telecommunication and Or data carriers) is a translation of French criminal texts, the translator has not translated the portion of the suicide that should have been entered into the legal text of our current criminal code.

⁹ "Suicide gesture"; committing suicide or other self-destructive behaviors usually to attract attention and help others without a serious intention to kill themselves.

¹⁰ [Also] the purpose of the "passageways" is from the street, the street, the passage and the field, whether it is either within or outside the city, and on the other hand, the presence or absence of witnesses during the commission of the crime is not a condition. (Pad, Ebrahim, Special Criminal Law, Tehran University Press, First Printing, 1973, p. 368).

the perpetrator can be considered compatible with Article 618 of the Law of Sanctity. Otherwise, considering different perspectives and the existence of doubts and observance of the principle of "Dermatology", also the application of the interpretation of this clause, suicidal person cannot be punished.

Conclusions:

1- The Study of the Structural Fundamentals of Crime in Islamic Penal Law, an indication of religious sovereignty such as "inviting", "provocation", "encouragement", "persuasion", "threat", etc., to commit suicide and, as a result, possible to enter into the field of criminal law. Of course, such an action will ultimately require, as with all areas of criminal law, a microfinance, elegance of action, and a high degree of precision in the formulation of comprehensive regulations and barriers.

2- Regarding the importance and danger of some criminal behavior without material persecution in the commission of criminal acts, the legislator has recognized some of the cases assisted in crime as an independent crime. In this way, without paying attention to the main crime, crime assistance who merely causes the crime to occur through incitement, persuasion, threat, deception, deception and deception, facilitating the occurrence of crime, providing the means or providing a crime, as prosecuting and punishing, as a steward of a particular crime that suicide, with justification of the meaning in the section of crime, can be such specific cases that the legislature has departed from the principle of being wholeness.

Suggestions:

With a view to the teachings of the criminal policy of Islam, it can be acknowledged that the category of crime and sin is interspersed, while in the presence of the general relationship and the absolute between these two dominant components of the propositions which are religiously guilty, are fit to criminal description. Accordingly, identification of cases that are considered guilty (including suicide and attempted to do so) and the non-occurrence and prevention of suicide can be effective in contributing to the prevention of suicide and consequently the reduction of the sin arising from this act (in the general sense) and the resulting crime (in the specific sense). Given that in current criminal law, suicide is not a crime and, according to the assisted theory of metaphor, it is not possible to help an individual end his life and start it as a crime and punishable and since this view provokes the idea that the crime of not committing suicide and, consequently, assisted and beginning to commit suicide is a recognition of the right to own one's possessions over his body and soul, therefore, it is suggested to declare with regard to the sanctions on committing suicide in the sacred Islamic law and the negative attitude of public opinion to that behavior of the meaning as a crime. On the one hand, the criminalization of suicide is consistent with the principles of criminality (such as the principle of harm or loss, legal paternalism, legal morality and human dignity), and on the other hand relies on solid religious principles (such as the principle of respect for fame, respect for blood Muslims and Ta'zir are forbidden acts). Moreover, the prediction of a similar crime in Article 743 of the Islamic Penal Code (Ta'zirat 1996, Article 15 of the Penal Code of Computerized Crimes of 2009) is itself a proof of this claim. As a result, it is suggested that the legislator, or by virtue of a specific law (in cases where "medical assisted suicide", "provocation, encouragement or encouragement of suicide", "arbitrary suicide" and "causation in suicide" Predicting the substance of the "Crimes Against Children and Persons" in the Islamic Penal Code (Ta'zirat 1996) is to act as a criminal offense. It is necessary for the government to establish centers of intervention in the suicide crisis in centers such as the Ministry of Health, Medical Education or the Welfare Organization and it is not unattained from the capacities and potential of NGOs that if a person decides to commit suicide, he/she will be able to take the necessary protection measures because of the fact that the actions of such centers are aimed at creating a person's mental health and lack of Suicide attempts have been effective and can be of great help in significantly reducing the frequency of suicide. In order to prevent suicide while taking into account the capacities in Iran's criminal system, in particular paragraph (B) of Article 15 of the Computer Crimes Act (adopted in 2009) and other existing laws, it is possible to filter (block) sites that are assigned They have to "suicide education" and related issues. With regard to preventable suicide, some of the preventive ways are: strengthening religious belief attention to God and resurrection, and life after death, attention and providing livelihood for people, establishing moral understanding among family members and respecting each other, respect for parents and affection for children, committing in mass works such as healthy and at the same time entertaining games, marriage, going to campus, pilgrimage holy places succinate and travel with relatives, friends and trusted people, bypassing the long and far-reaching desires and enhancing the sense of realism, not comparing financial and livelihood with others, especially with those who are materially in a better position.

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