

# The nature and orders of crime and punishment in five religions and punishment in Iran

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**ABSTRACT:** In this paper, the nature and orders of punishment in five religions and Iran punishment have been studied. The methodology has used to perform thesis. The research method is library. The purpose to perform this paper is to study and explain the nature and orders of crime and punishment in five religious and Iran penalty. The questions are as follows: How is the nature and orders of crime and punishment in Iran's five religions? 2- How is the proportion of crime and punishment in five religions and Iran punishment? 3- Do you can percent single definition for crime concept? According to it, the nature of crime and punishment in juries prudence that often proposed as crime, requires Retribution or blood- money and the crimes that their punishment have been defined in Shariah (Islamic law) are proposed as limits and otherwise they will be punishment below the full amount prescribed by law and secondly, The principle of proportion of crime and punishment has been considered as one of principles dominant on explanation of punishment in the recent years, thirdly, we can present a single definition for crime, but can't consider it stable in all places and times simultaneously, because crime is effective concept from social realities and these realities differ at places and times.

50 far, there isn't and won't be a society without crime and all societies have one penal law.

**Keywords:** nature, orders, crime, punishment, five religions punishment.

## INTRODUCTION

In the beginning of human creation, there were crime and punishment.

### ***Noble Quran expresses story of the first error of human:***

God says Adam and his wife to rest in paradise and enjoys his abundant fruits: then he infers to a tree and alerts them to not near it that they will belong to oppressors.

Islam penal and legal system like other system and originates from culture and ritual that is based on divine science and wisdom and depends on material and need of human and is the origin of happiness, perfection and stability of it's high values and because of its eternity feature, meets the needs and hopes of each generation.

Penal system tries to design limits of each society for punishment by declaration and expression of the main dominant values and it forces people to the respect and observance of laws by threat and punishment. Thus, penal law as the criterion of determining criminal actions and guarantee of order and security and implementing equity in society provides evolution of human and society

### ***Research purposes.***

1. Study of the nature and orders of punishment in five religions and punishment in Iran
2. The preference of two legal thoughts about crime and punishment

crime in juris prudence term and from jurist views crime in juris prudence, In juries prudence dimension, crime is interpreted as punishment (penalty) is expressed as shows that both are considered as sin or bad without justification, for instance, we can infer to Quran verses.

The great jurists haven't defined crime but some researchers and scientists presented definitions.

1. Crime is socially the violation of society system, but this definition couldn't be correct absolutely, because according to the shariah, a criminal act is violator of divine rules.
2. Crime is an act that can be punished and an criminal act has descriptions:

Culpable is always an external action that this act is some times an act and some times leave of act, there fore the criminal decision isn't legarded as crime, it means the decision and belife are whatever aren't considered as crime, but the dissemination of belife may be regarded as crime concept from law.

According to article 2 of public penal code approved 1973, the crime are divided into three classes 1.crime 2.minor crime (misdemeanour) 3. Offence and according to article 8, the main criminal penalties include: 1. Execution 2) life imprisonment 3. First- class criminal imprisonment (3 to 5 years) and second- class criminal imprisonment (2 to 10).

According to Islamic penal law, Islamic punishments include limits, talio, blood- money, repimand and inhibitive punishments.

### ***Crime cinstituents***

In Iran penal law, crime has three elemeans: legal elements, material elelment and spiritual element legal crime. Legal crime means, when legislator orders or forbids act, it is considered crime and can be, punished and uncless it isn't considered as crime

### ***Material element of crime.***

It includes an act or leave that perpetrator performs by act or promise and is fobidden legally like delivering a stroke on other or refusal of paying spouse alimony or insult to other.

Material elelment means external implementation of one action- contrary to law that can be an act (like robbery, murder), leave of act refusal of doctor from curing patient and leave of obligatory donation speaking (like insulting and foul language), leave of speaking (like to refuse to restify), maintaining some objects (like unpermitted gun), life method (like vagrancy), mental status (like addiction) criminal thought can't create crime until it implements outside (public- penalty law context, 1372- 187: 184). Jurist autototions and the various hadithes indicate lach of crime in intent of committing a crime

### ***Spiritual or mental element of crime:***

This is criminal intention and ill will. Criminal intent includes the tendency to do act that law has forbidden it and to do criminal act, the intent, science and authority as mental element is the main condition.

### ***The conditions of implementation of crime repetition:***

The orders and conditions of crime repetition in article 48 of Islamic penal law are as follows:

«Everybody convicts to the inhibitive punishment by court order, if he/she commits crime after implementing order, court can intensify inhibitive punishment».

Crime in Immamate jurisprudence principally, jurists object to definition of the participation in crime by general meaning but they just disscussed the participation in murder and just explain its implementation quality.

Imam khomeini in talio book «Tahrir Alvasileh» issue 45 says:

When participation in murder implements that each party does an action that it is fatal alonely and individually, it is similar that all take him/her and fall into fire or sea.

The participation in crime in general jurisprudence sunnite jurists in their juridical book, they haven't defined the issue of participation in crime, but by various occasions, they infer to the various forms of participation in crime, their ideas differ from Immamate jurist ideas about participation. Generally what is infered from their definitions is that the participation in crime includes accessory to a crime. "according to sunnite jurists, a person who order other to murder third person, is considered the owner, orderer and agent as participators in muder, both convicte to talio, while from shiite panalty law these interpretations aren't acceptable" adjustment in Islam public penal law.Punishment nad crime legality principle in talio and blood- mony crime.

Islam used crime and penalty legality principle in talio and blood- mony crimes carefully. Crimes that are punished by talio include: deliberate murder- a physical handicop deliberately and deliberate injuring.

But the crimes that their punishment is blood- money, if the owner of talio right pardons culpable, or talio avoid according to shariah, semi- deliberate murder, faulty murder, faulty physical handicape, faulty injuring conclusions Crime word has been entered to persian vocabulary from Arabic language verbally and vowel- point (a) «ج» means cutting, picking fruit from tree and this word is a metaphor for acquiring sin, committing bad act. Oppression and it is applied for forcing unpleasant act. All over Arab word it isn't seen that used for wise and pleasant persons and crime means cutting because sin toads to interrupt divine kindness and mundane bliss from human and Guilty is criminal because he/she intrupt join- obligatory act on the other words. Crime that is a subject of common penal law, includes deliberate and faulty crimes, while sin that is an issue of legal limits and punishment by prescribed law doesn't include.

Therefore, Islamic penal law in general includes sin and crimes. The issue of common penal, law, by logical term is absolute, it means that the issue of legal penal law includes the issue of common penal law, because it not only includes sins having social mischief and deliberate and faulty crimes, but also includes sins having personal mischief: unlike the issue of common penal law that isn't included this recent type. By the obtained results we can say "yes" to this question.

Is there definition for crime? Or not we can present no definition for crime, but we can't determine it at all times and places because crime is a concept that is effected by social realities and these realities differ at various times and places.

Crimes coincide with human and social reality namely violence and trick violence and trick prevention is explained by justice feeling that belongs human. The experience shows that there isn't society without crime. All societies have penal law.

In Islamic penal juries prudence, the differences in crime dimensions, penal responsibility and punishing men and women have been considered, thus the difference between man and woman in some duties and right doesn't mean that there is discrimination between men and women. But the need of harmony between Islam law in various dimensions of social and family life is that finally conforms to physical mental and emotional ability of man and woman and creation goal. Thus, according to the status and rights of man and woman in Islam one must pay attention to Islamic law system as continuous series and avoid to view some parts in Islam teaching because leads to incorrect conceptions.

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