



# The Islamic Republic of Iran's Criminal Justice Policy in Relation to Intimidating Crimes

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**Abstract:** *The main feature of the intimidating crimes is that social damages and injuries such crimes inflict, and the devastating impacts they have on the social order and security, are more than the personal losses of these crimes, and the public view upon these crimes is different. In the criminal law of Iran, most of the intimidating crimes have been categorized under the frameworks of "Muharebeh" (breach of the peace especially in organized form, with or without the use of offensive weapons or firearms especially with subversive intentions) and "fasad-fil-arz" (corruption on earth). These two cases are among the jurisprudence subjects which have been entered into the Iranian Criminal Code after the Islamic Revolution and based on the requirements of the Fourth Principle of Constitution. Among the intimidating crimes, the acid throwing, serial killings, kidnapping, rape, bullying and armed robbery can be named. In such crimes, the people will be notified so soon, will forget so late, and in some cases, they never forget them. Due to the media attractiveness, the media also show considerable interest. Due to the reasons mentioned, the way the criminal justice system reacts to such crimes is much more sensitive and important, compared to the other crimes. Also, due to the effects such crimes have on distorting the public order and security, the pursuing measures will be faster and more decisive, and the punishments would be harsher. The maximum criminalization of the 'Muharebeh' and 'Fasad-fil-arz', due to their direct relation to the matter of security, is among the strategic principles of criminal and judiciary policies of Iran in the Field of Crimes Against Security. The legislator, in the process of criminalization and punishment, has tried to increase the risk of criminal acts for such crimes. The punishments for such crimes are either death or abasement. In the current study, the criminal justice policy of Islamic Republic of Iran in relation to the intimidating crimes would be evaluated and determined.*

**Keywords:** *Criminal Justice Policy, The Intimidating Crimes, Fasad-Fil-Arz, Muharebeh.*

## INTRODUCTION

Any society, in order to survive, has to confront the offenders and punish them. In the past, the punishments had merely a personal aspect, administered by the family or the tribe, i.e. the subject of the justice of "policy" was important. With the advancements of the societies and their achievement of the constitution, this constitution was initially about the political and governmental context. However, gradually it became rational and complete to the extent that it included all the aspects of law, politics, and the details of the society, and it was here that the constitution contained also the criminal policy lines. There have been several definitions for the criminal policy provided, however, any definition is within the major policies, the cohesion and consistency between the elements, and its components (Taslimi, 2000, 9).

If we consider the criminal policy to be the measures to deal with the crime, no governments have lacked a criminal policy throughout the history, since anyway, they have had a special reaction to the crime. Even the "inaction" itself is a type of criminal policy. The term "criminal policy" with a history of nearly one century,

and a major approach to the criminal phenomenon, is the basis of the different responses to the crime (Alvani, 2000, 2).

The matter of the criminal policy was evolved by the European scholars in the course of historical evolutions. Primarily, the mission of the criminal policy was merely defined within the framework of the penal and governmental responses to crime, and it was merely equal to the penal policy. This concept gradually held its comprehensive references, besides the formal and penal references, responsible for responding to the crime. The term of criminal policy was first used by Anselm von Fauerbach-the German lawyer- in 1803. He defined the criminal policy as “a set of suppressing methods by the use of which the government reacts to the crime” (Lopez & Philizula, 2000, 5).

The main feature of the intimidating crimes is that the social losses and damages of such crimes, and the devastating impacts they inflict on the social order and security, are more than the personal damages of these crimes, and the public view upon such crimes is different. The emergence of such crimes can be either organized with the political and security intentions, in order to damage the government and distort the public order and security, or with personal intentions and for taking revenge.

In this regard, Gholamloo (2011) conducted a study on the criminology of the serial killings, and Mahmoudi (2014) also conducted a study on supporting the acid throwing victims, in the penal code of Iran.

The intimidating crimes happening in Iran during the recent years, or newly happening crimes, are various. The emergence of such crimes is usually without the political and security intentions, and they have been committed with personal and revenge intentions. The organized intimidating crimes committed with political and security intentions, aiming at damaging the government and distorting the public order and security, are called “Muharebeh” and “Fasad-fil-arz” in the Iranian criminal and justice policy. These crimes will be briefly evaluated in the current study. The equality of the intimidating crimes with the ‘Muharebeh’ and ‘Fasad-fil-arz’ in a period of time, and distinguishing them in another period, and also, the necessity of division of their criminality, as well as the entrance of such crimes into the state laws, have led the researcher to find a necessity for studying these crimes. However, the main objective of the current study is to investigate the criminal and legal policy of Islamic Republic of Iran in relation to the intimidating crimes with personal and revenge intentions.

## **Review of the Related Literature:**

### **The Criminal Justice Policy of Iran:**

In most of the cases, the two terms of penal policy and criminal policy are used in a similar manner, while they are different. Therefore, the terms ‘punishment’ and ‘crime’ should be defined. Lexically, punishment means retribution and penalty, and anybody who acts against the law, ethics, convention, or the customs, and commits a bad action, will be punished. However, the crime lexically means committing a sin, derived from Latin *crimen* (offense) (Jafari Langroudi, 2002, 199 & 579).

The criminal policy is a set of various penal and non-penal measures taken by the government and civil society, either directly or in participation, to confront the crime and deviation. This definition enables the governments to, based on their political and legal principles, adopt different types and models of criminal policies. The contemporary definition of criminal policy is the one provided by Prof. *Mireille Delmas-Marty*: “the criminal policy is all the measures taken by the government and society to confront the crime and deviation” (Marty, 2002, 189). The criminal policies are different from society to society, based on the procedures and beliefs of the leaders for controlling and administering the society’s affairs in terms of security, and in relation to the system and order of that society (Hosseini, 2003, 29).

The restrictive of criminal policy is based on an ancient and traditional tackling of the crime. In this thought, the penal system sufficed for combatting the crimes. In this approach, the criminal policy is: “the policies adopted to tackle crimes, which are inclusive to penal combat against a crime through the legal system. In the

restrictive concept, the criminality and the penal combat against the criminals by the government, is the most prominent form of tackling the crimes and the criminals (Hoseini, 2003, 23). The criminal policy, in the vast sense, is included in a broader realm, named the “public policy” of a country, i.e. the forces of a government at the top level, and not merely the legal organizations and the police, participate in its planning and implementation (Qiasi, 2006, 40-41).

Lazerges, defining the “criminal policy”, states that: “an ordered set of principles by the use of which, the government and the society organize the confrontation against the crime and delinquency” (Lazerges, 1996, 9). *Mireille Delmas-Marty, redefining the definition provided by Von Fauerbach*, states that: “the criminal policy is a set of procedures by the use of which, the board of society organize the responses to criminal phenomenon”. The criminal policy, in the new social defense school, has two aspects: “the scientific (theoretical) and the technical (practical) aspects (Ardabili, 2008, 122). From the practical point of view, it is a technique, as the criminality is also described as the intersection of sciences (Najafi Tavana, 2010, 46 & 87). The purposeful criminal policy, in order to obtain its goals, need efficient tools, and with regards to the tools needed for this policy, it can be divided into the legislative criminal policy, the judiciary criminal policy, and the executive criminal policy (Lazerges, 1996, 93).

The judiciary criminal policy is reflected in the restriction in courts’ decisions and functions. After the legislator implemented its criminal policy in the form of the laws, these laws and messages of the legislator are accepted and perceived in different forms (Qiasi, 2006, 29). However, in a broader sense, the criminal policy is not confined to the legal decisions and procedures, but in the legal systems such as that of Iran, the quality of legal authorities’ management, especially that of the Head of Judiciary, beside their substantial guidelines and strategies, has a considerable effect on the criminal-judicial cycle (Najafi Tavana, 2007, 17).

The criminal policy if Iran is a security-oriented one, in this security-oriented ideology, the social managers of each society, in order to satisfy the people of society, and not lose the control over it, try to respond to small and big crimes with repressive tools. As some criminologists put it, the relativity of the legislative criminal policies can be a counterpart of the relativity of the judiciary criminal policies at the time and space (Najafi Abrandabadi, 2005, 261).

#### **The Acid Throwing Crime and its Punishment in the Penal Code:**

On March 7, 1959, a single article titled “the law on acid throwing” was passed based on which “anybody who intentionally throws acid or any other chemicals, cause death, would be sentenced to death, or if they cause a permanent illness or the loss of one of the senses, they would be sentenced to the first degree criminal imprisonment, and if they cause a loss or amputation of an organ, they would be sentenced to second degree criminal imprisonment from 2 to 10 years, and if they cause any other damages, they would be sentenced to the second grade criminal imprisonment from two to five years”. Also, according to the Article 35 of the Proceedings of the General and Revolutionary Courts in the Criminal Proceedings, “in the murder cases, kidnapping, acid throwing, and Muharebeh and Fasad-fil-arz, in case of presence of enough evidence showing the realization of the accusation for the accused, the judge should issue an interim detention order and it will continue until the original sentence has been issued”.

Based on the Article 286 of the Islamic Penal Code, the acid throwing is considered to be Fasad-fil-arz, and the criminal would be sentenced to death. This article states that: “anybody who has broadly committed crimes against the physical integrity of individuals, crimes against the internal or external security of the country, dissemination of lies, disruption to the economic system of the country, the abandonment and degradation, the spreading of toxic and dangerous microbes and the establishment of centers for corruption and prostitution, or cooperate in such crimes, in a way that it leads to severe disruption to the public order of the country, or insecurity and infliction of major damage to the physical integrity of the individuals, or the public or private property, or spread of corruption and prostitution extensively, would be considered as Mofsid-fil-arz (corrupt of the earth; one who is charged with spreading corruption) and would be sentenced to death”.

Although the conventional title of 'weapon' is not realized for 'acid', with the spread of acid throwing crime in the society, this chemical has also turned into a kind of cold weapon such as the knife, and etc. for taking revenge and retaliation, and the act of acid throwing done in the public and the eye of the people of society, affects the public opinion more than a struggle with a knife fight, and it leads to severe fears and disruptions to social security.

Article (t) of the Executive Regulation of the Arms and Military Punishment Code and the Owners of Unauthorized Arms and Ammunition enacted in 2013, about the examples of weapon use, puts the chemicals used against individuals which lead to the severe damage to others or disabling them, among the weapons and weapon use against others, and has stated that: "the chemicals, the materials used for killing, severe wounds, or disabling people through the physiological effects, used in terrorist attacks". The pros of considering the acid throwing to be *Muhareb* or *Fasad-fil-arz* believe that the acid thrower has both used a weapon against the individuals, and through doing so threatening the lives and honor of people, has caused the public fear, leading to the insecurity in the society, i.e. he has used a weapon against both individuals and the society. Therefore, this criminal is both '*Muhareb*' and '*Mofsed-fil-arz*', and for this criminal, after paying the atonement and penalty to the private claimant, in terms of public aspect of the crime, there would be no penalty for it but death, and the legislator also, in the section (b) of Article 47 of the Islamic Penal Code enacted in 2013, has made the sentence and execution of acid throwing to be non-suspendable and irrevocable, and any punishments considered for this crime would be also non-suspendable and irrevocable.

In acid throwing crime, if the victim is killed, according to the Article 205 of the Islamic Penal Code, the killer would be sentenced to death, however, if the victim loses an organ, according to the Article 273 of the Penal Code, the criminal's punishment would be the retaliation of the organ. In terms of the retaliation of victim's damaged organs in the Article 272 of the Islamic Penal Code, 5 conditions have been mentioned for organ retaliation among which, there is a condition stating that the retaliation should not lead to life loss or affect another organ, and also, it should not be more than the damage inflicted upon the victim. As for acid throwing, the eye for an eye retaliation can be executed, however, the face and other organs retaliation is not executable since the acid may spread to other members of the criminal or lead to his death, or the acid throwing may cause a damage more than the degree of the crime. In such cases, only the atonement and penalty of the crime will be paid.

According to the jurisprudential rule of "there is no loss in Islam", since the criminal has intentionally and consciously committed the acid throwing, he has actually committed a crime against himself. Therefore, it he must pay the atonement for all damages inflicted upon the victim, or it can be said that, the acid thrower not being guarantor of the material and spiritual losses inflicted upon the victim, is a loss sentence, and leads to the loss to the victim, and according to the rule of "there is no loss in Islam", the criminal must guarantee the payment of the losses, in order to prevent losses to the victim.

The confrontation of this crime still needs bravery and observance of public interest, so that by coordinating the punishment with this crime, the repetition of such horrible accidents can be prevented as much as possible (Fallah Makrani, 2012, 18). The one who puts someone in such conditions through acid throwing, would bear a punishment to the degree of a murder, and it is upon the Judiciary to prevent such crimes, and if it strengthens the preventive measures, and take actions for preventing it, we would not witness such horrible crimes throughout the country (Shambayati, 2014, 105). The damage compensation for these victim also face various problems in the grueling procedure of investigation, and due to irresponsibility of the government for compensation, in most cases, the losses of these people are not compensated, while the contrastive studies are indicative of the regulating supportive rules for compensation of the losses of these victims (Mahmoudi, 2013, 1).

#### **The Serial Killings Crime and its Punishment in Law:**

By the serial killings, we mean the several killings carried out several times and with personal intentions, by a person, or persons in a group. When confronting such crimes, the criminal policy in Iran has been trivial

and populist, without recognizing the reasons behind them. In the penal populism, the dominance of the sensual atmosphere over the rational and scientific discourse, especially after the emergence of such controversial crimes, as well as their exaggerative media representation, make appropriate platforms for the emergence of populist thoughts (Najafi Abrandabadi, 2011, 42-51). Some stereotyped suppositions and misunderstandings make the correct perception of the nature of serial killings and the personality traits of the killers, as well as the reasons behind such killings, difficult (Gholamlou, 2010, 133).

The most prevalent psychological factor observed in the serial killers is the personality and sexual disorders. Therefore, the mental disorders of the serial killers must be categorized under the neuroticism. Since in most cases, the planning for the killings is required in order to escape the police, it would be easy to understand why most serial criminals (such as the serial killers) usually do not suffer a severe mental illness that may distort or disorganize their thoughts. In fact, if this introduction is accepted that the mentioned criminals usually suffer from several mental disorders (mostly of personality and sexual type) and they are considered to be mentally ill, can they evade criminal liability and punishment due to their illness? In this regard, the position of the serial killers as the mentally ill, in the penal code of Iran, as well as what has been practically adopted by the courts, and their effectiveness on the criminal liability or punishment, should be investigated.

At least, in the Iranian criminal justice history, no tried serial killers have managed to evade the liability based on their mental condition, or enjoy a milder punishment; the same procedure has been also followed in other countries. Since the serial killers mostly suffer from the mental illnesses of neurotic type (neuroticism) and mainly from the personality disorders (such as the narcissism and antisocialism) and the sexual disorders (such as the sadism and cannibalism), they are among the patients who cannot use their dementia as the criminal liability annulling factor or exemption of punishment.

If the avengers of blood of all victims require the retaliation of the serial killer, there would be no problem, and a one-time retaliation would suffice. If all the avengers of blood demand the blood money, based on the Article 257 of the Islamic Penal Code enacted in 1991, in the intentional murder, the sentence to blood money payment depends on the satisfaction of the killer. In case some of the avengers of blood demand the killer retaliation, and some other demand the blood money, the mentioned rule has been silent in this case. Some, through citing the views of some jurists, believe in the simultaneous condemnation of the murderer to both death and blood money payment, in a way that they consider the blood money to be exigible from his heritage (Elham, 1994, 107).

With the enactment of the New Islamic Penal Code in 2013, due to the new approach taken by the legislator about the *Fasad-fil-arz*, and with regards to the effects of the serial killings in the society, there is the possibility that through referring to the above article, the courts consider the serial killers to be subject to the execution punishment. The criminal title of serial killer, based on the section (a) of the Article 290 of New Islamic Penal Code, is the intentional murder, and its punishment is death, according to the Article 381 of the Islamic Penal Code. However, it might be possible to, based on the jurisprudence references, infer that serial killing is an example of *Fasad-fil-arz*, a matter whose bringing forward is possible, regarding the extensiveness- though *criticizable* – of the Article 286 of the New Islamic Penal Code, though before the enactment of the above article also, the deduction has been raised that serial killer is the same as killing by habit, whose sentence is death according to jurisprudential references (Khoei, vol.42, 74).

### **The Criminal Justice Policy in Relation to the Kidnapping Crime**

Most of the jurists do not consider it possible to realize the title of robbery for kidnapping, however, citing the religious narratives, they have also considered the punishments for robbery to be also applicable for kidnapping crime, referring to the theory of *Fasad-fil-arz* for justifying it (Hor Ameli, 1999, vol.19, 514). The title “*Fasad-fil-arz*” is a general one, which can include any corruptions, sins, and crimes, however, since some sins have a specific criminal title, it should be confined to the sins that have no specific titles, and the kidnapping is one of those sins (Mar’ashi, 2002, 43). Sheikh Toosi states in this regard: “anybody who kidnaps a free man and sell him, his hand must be cut, since such a person is *Mofsed-fil-arz*” (Sheikh Toosi, 2000, 85).

Allameh Helli differentiates among the state of selling the kidnapped person and not selling him, and believes that the mere kidnapping is only subject to Ta'zir (punishment for offenses at the discretion of the judge or ruler of the state)" (Allameh Helli, 2006, 421).

All the Shia and Sunni agree that the condition for realization of the theft is that the subject of it must be a property. Therefore, it is not possible to steal a man and consequently, the punishment of theft cannot be executed for it, and there no difference between the victim being a child or adult, in this regard.

From the section 5 of the Article 26 of Regulations of Amnesty Commission and Reduction of Convicted Persons Punishment, it is clear that important instances of kidnapping cannot be subject to punishment reduction at all.

#### **Criminal Policy in Relation to Muharabeh Crime:**

In Arabic language, 'Muharebeh' means negating and looting another person, and in another sense, it is fighting and quarreling (violating the peace) (Ma'aloof, 1985). The term 'Harb' does not necessarily mean the 'fight', as the Holy Quran states about those who do not stop receiving Riba (unjust, exploitative gains made in trade or business under Islamic law): "And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged" (Al-baqarah, 279). In fact, the term 'harb' has an absolute meaning as incompatibility and struggle, and not the war and military fight, and actually, war is one of its examples. According to the narratives on this subject and consensus of the great jurists, the legal basis of Muharabeh crime is the verse 33 of the Surah Al-Maedah.

In the Sharia al-Islam, it is said that: "there is doubt in proving the sentence of Muharebeh for a person who uses a weapon, but it is weak in creating fear, however, it is similar to Muahrebeh" (Mohaqq Helli, 1983, vol.4, 180; Allameh Helli, 1903, 232; Najafi, 1981, vol.14, 569). Some other have expressed their deduction of the narratives as follows: "almost all the narratives convey the meaning that merely drawing a weapon is not enough for the realization of the title, but besides, it should also create fear and horror" (Musavi Bojnurdi, 2005 152).

Imam Khomeini states in Tahrir al-Vasilah: "the Muhareb is the one who draws a weapon and prepare for shooting in order to fear people, intending to corrupt on the earth" (Imam Khomeini, 1990, vol.2, 239). Some of the great jurists have considered the sentence of Muhareb to be subject to the realization of the crime in Dar al-Islam (Muslim regions of the world), and stated that if its fears the Muslims, its punishment would be that of Muharebeh, while from the general reasons, it can be inferred that there is no difference between Dar al-Islam and Dar al-Harb (where the Harb takes place), and what is meant is scaring anybody fearing whom is prohibited, and there is no differences between the Muslim and non-Muslim, and Dar al-Islam and Dar al-Harb (Feiz, 2000, vol.2, 96).

The Muahrebeh was first defined in the codified rules of Islamic Republic of Iran, in Articles 196 to 211 of the Law of Retaliation and the laws enacted on October 12, 1982, by the Parliamentary Commission of Justice, and its sentences were expressed. In the Islamic Penal Code enacted in 1991, the fundamental and independent section of this crime has been regulated in the Chapter 7 of the Book of Regulations, as the Muharebeh and Fasad-fil-arz, in the Articles 183 to 196.

In the New Islamic Penal Code, in the Chapter 8, the Muharebeh has been mentioned under the title of amercement, in the Articles 279 to 286. In the Article 279, Muharebeh is drawing a weapon to harm people's life, property, or honor, or fear them in a way that it leads to insecurity in the place. For realization of Muharebeh, as it is expressed in the Article 183 of Islamic Penal Code enacted in 1991, following the jurisprudential texts, presence of two fundamental bases is required: one is drawing a weapon by the Muhareb which is subject to the material basis of Muharebeh and the other is the fearing aspect which is subject to the special misconduct of the Muhareb. In terms of the psychological basis also, in addition to the necessity of presence of the willful behavior of the weapon user, the intention on fearing people is also important.

Due to this reason, the legislator, in the Article 185 of the Islamic Penal Code, states that: “the armed thief and the robber, if disrupts the security of people or the road by a gun, and creates fear and horror, is Muhareb. That is why the legislator, in Article 279 of the New Islamic Penal Code, states that: “whenever someone draws a weapon on a person or persons, with personal intentions, and his act does not have a public aspect, he would not be considered to be Muhareb”. The legislator also, following the verses and narratives on this subject, does not differentiate between the cold weapon and the firearm, and in the Note 3 of the Article 183 of Islamic Penal Code, expresses that: “there is no difference between the cold weapon and the firearm”. Thus, if a person draws a gun to another person out of personal animosity, and creates fear inside him, because this crime does not have a public aspect and does not disrupt the society’s order and security, the criminal would not be subject to the punishment of Muharebeh. However, if this action is done in a place which is the place of public commuting, even though the gun is drawn to a few specific persons, the criminal’s act would be subject to the Muharebeh’s punishment.

The material and psychological element in the Muharebeh crime are correlative, and the person must draw the weapon with the intention of creating fear and horror, and depriving people of their freedom and security, so that the he would be subject to the crime mentioned in this article. The psychological basis of this crime does not contain the intention, and it guarantees the general intention in using the weapon and special intention for fearing people, or depriving them of their security (Mortazavi, 2006, 45).

Some deem the special intention, which is fearing people, to be required for the realization of the Muharebeh, i.e. they have considered the general intention to be the use of weapon, and the special intention to be creation of fear and horror. Based on the Article 279 of the Islamic Penal Code, the same inference is confirmed that the Muhareb, in addition to the general ill will, should also have the special intention of creating fear and horror.

If a person struggles the Islamic Republic of Iran’s government in action, if he has the conditions, he can be considered as a rebel, a person who has denied to obey the Infallible Imam or the religious leader of the time, based on the jurisprudence, however, he would be by no means a Muhareb. One of the important differences of Muharebeh and rebellion is the subject of the crime. Confronting the Islamic government and state is included in the ‘rebellion’ crime, while the muharebeh is related to the disruption in the society (people) security, regardless of the fact which government is ruling. In fact, the problem is mixing the titles of rebellion and Muharebeh, since the Muhareb resorts to the weapon with the intention of creating public fear and chaos, and not with the intention of overthrowing the government and fighting against the Islamic ruler. However, the legislator, in order to revise and separate the crimes of Muharebeh and rebellion, has stated in the Article 287 of the law enacted in 2013: “a group, which based on a political theory, raise an armed rebellion against Islamic Republic of Iran, is considered to be a rebel, and in case they use weapons, its members would be sentenced to death”.

#### **The Criminal Policy in Relation to the Fasad-fil-arz Crime:**

Fasad fil-arz is any action that distorts the normal path and security, moral, or economic well-being of the society, and leads to the ruining of the system (Kadivar, 2008, 247).in other words, any behaviors, in case of prevalence, leads to the demolition of the society and social life (Golpayegani, 1992). The legal element constitutes the basis of the crime and without it, no action is a crime, and no punishment is possible without the law (Nanakar, 1997, 143). The legal element of the crime of ‘Fasad-fil-arz’ also, after numerous hem-and-haw and doubts, and after the legislator, post-Islamic Revolution, had addressed the Fasad fil-arz sporadically in some rules, without providing a specified definition, finally defined this crime in the Article 286 of Islamic Penal Code enacted in 2013.

The intention of crime committing, as long as it is not focused on the external acts, and it does not disrupt the social order, is not pursuable (Nanakar, 1997, 143). The material element of the crime cannot merely contain the behavior of the criminal, but it can be said that it has three components. First, it is the physical behavior, which, based on the definition of each crime provided by the legislator, can be an action (be it deeds or words),

or inaction. In addition, this condition might be affirmative (existential) or negative (non-existential). The third component needed for completion of the material element of the crime, is the emergence of the results specified by the legislator (Mir Mohammad Sadeghi, 2013, 23 & 25). On the other hand, the presence of the general and specific intention for realization of the crime of 'Fasad-fil-arz' is necessary, and its confirmation is possible via any circumstance and evidence.

For the examples of the Fasad-fil-arz, which is carried out through creating insecurity among people and violating their rights by actions such as: murder, destruction, rape, robbery, and etc., the sentences of the Muharebeh are also issued for such crimes and actually, they are also examples of Muharebeh. But any corruption that does not have the mentioned conditions, has apparently not been subject to the punishments assigned by the legislator, however, under other criminal titles, other than the Muharebeh, they are punishable. In the verses and narratives also, the title of Fasad-fil-arz has not been clarified as an independent subject, related to religious punishments. In the words of the jurists also, the cases introduced as Fasad-fil-arz apparently represent the mentioned examples.

Both Muharebeh and Fasad-fil-arz can be realized through disrupting the security and order of the Islamic state. These crimes can be realized, either personally or in group. There are no differences between the Muslims and non-Muslims in Muharebeh and Fasad-fil-arz. The repentance of the Muhareb and Mofsed-fil-arz before the arrest, voids the punishment. The punishment of the Mofsed and Muhareb can be one of the four punishments as deprivation, death, cutting the right and the left foot, and exile.

The most important rules which have accepted the sentence to death for Efsad (corruption) are: The Law on Confronting Narcotics, adopted in 1988; the Islamic Penal Code, adopted in 1996; the Penal Code of the persons working in the field of Audiovisual Affairs (Corrective Amendment of 2007); The Penal Code of the Armed Forces; The Law on the Intensification of the Penalties of the perpetrators of bribery, embezzlement and fraud; adopted in 1988; Law on the punishment of disrupters in the economic system of the country adopted in 1990; Law on the intensification of penalties for money counterfeit, and importers, distributors and consumers of such money, adopted in 1990.

In the Article 286, about anybody who widely commits a crime against the physical integrity of people, it is stated that: "the crimes against the internal or external security, dissemination of the falsehoods, disturbing the economic system of the country, burning and destroying, distributing toxic and dangerous microbes and setting up centers of corruption and prostitution, or cooperates in doing so, in a way that leads to the severe disruption in general order of the country, insecurity, major damage to the physical integrity of the people or the private and public property, or the spread of corruption and prostitution in a broad range, is considered to be Mofsed-fil-arz and he would be sentenced to death".

Some of the crimes mentioned in the Article 286 of the Islamic Penal Code, which have defined the Fasad-fil-arz, leading to the fear and horror in the public opinion, other than the severe disruption in public order of the country and insecurity, are as follows: Crimes against the physical integrity of individuals; crimes against the internal or external security of the country; burning and destruction; dissemination of poisonous, microbial and dangerous substances, which have been elaborated briefly.

### **Conclusion:**

The intimidating crimes include a range of crimes that cause fear and horror in the society, and distorts the social security. The main feature of the intimidating crimes is that the social damage and harms such crimes inflict on the social security and order, and the devastating effects they have, are more than the personal harms. In the Iranian criminal law, most of the intimidating crimes are categorized under the two titles of 'Muharebeh' and 'Fasad-fil-arz', based on the creation of fear and horror, and the deprivation of the public opinion security.



There is no legal document for considering all the intimidating crimes to be Muharebeh and Fased-fil-arz, however, crimes such as acid throwing, serial killings, kidnapping, armed robbery, and rape, can lead to the fear among people, extensive disruption in the public order, creation of security, infliction of major damage, and spread of corruption in a large extent, carried out with the knowledge of effectiveness, and can be confirmed, and even be used by the foreign media and lead to the weakening of the Islamic Republic of Iran.

The emergence of such crimes, in case of identification by the judge, can be paced in the realm of crimes against the public security.

The maximum criminality is among the strategic principles of the criminal and justice policy of Iran in the field of the crimes against the security, which can be well inferred from the investigation of the related criminal laws. The particular attention of the legislator to protection and provision of the political stability and efforts for stabilizing the bases of the state has led to the criminality range to be expanded to the criminal thoughts and the primary actions on the one hand, and the former laws to be changed on the other hand.

The way of confronting such intimidating crimes by the criminal justice system is of a great importance and sensitivity, compared to other crimes, and due to the effects such crimes have on disrupting the public order and security, the pursuing actions are usually faster, harsher, and the punishment is more intense. Generally, factors such as full conformity with the Islamic jurisprudence, the preventive factor, the security, political, and social requirements of the country, the similarity between the crimes against the security and the Muharebeh, expediency, the importance of the crime, and necessity, have led the criminal justice policy of Islamic Republic of Iran to be mostly repressive and harsh when confronting the intimidating crimes, from legislative, judiciary, and executive aspects. These punishments either take the life, or are degrading and humiliating, and they are therefore against human rights standards and international conventions. Such harsh punishments can lead to higher promotion of violation in the society.

## References

1. Allameh Helli, Hassan Ibn Yusuf, Rules of Ahkam, Qom, Publication of the Society of Teachers in Qom Seminary, 2006.
2. Alvani, Mahdi and Fattah, Sharifzadeh, Policy-making Process, Allameh Tabatabai University, Tehran, Iran, 2000.
3. Ardabili, Mohammad Ali, International Criminal Law, Tehran, publishing house, First edition, 2004.
4. Elham, Gholamhossein, Investigation of Moharebeh and Corruption on earth in jurisprudence and law, Journal of Justice, No 10, 1993.
5. Fallah Makrani, Owais, 2012, Investigating the causes of acid throwing from the perspective of law and society, publishing of legal articles, Haghgostar.
6. Feyz, Alireza, Comparison and Contrast in Islamic Penal Law, Tehran, Ministry of Islamic Guidance Publications, Volume 2, Second Edition, 2000.
7. Gholamloo, Jamshid, Criminological Study of the Serial Killings, Master's Degree in Criminal Law and Criminology, Faculty of Law and Political Science, University of Tehran, 2010.
8. Golpayegani, Seyyed Mohammad Reza; Karimi Jahromi; Ali; Al-Dor al-Manfudh fi Ahakam al-Hoodid, Qom, Dar al-Qur'an al-Karim, First Ed., 1992.
9. Holy Quran, Translator: Mehdi Elahi Ghomshei, Qom, Dar Al-Quran Karim Organization, First Edition, 2012.
10. Horr Ameli, Mohammad ibn Hassan, Wasael al-Shi'a, Tehran, Amir Kabir Publishing, vol. 19, first edition, 1999.
11. Hosseini, Mohammad, Criminal Policy of Islam and Iran, Tehran, SAMT Publication, Third Edition, 2004.

12. Jafari Langroudi, Mohammad Jafar, Terminology of Law, Tehran, Ganj Danesh Publication, 12<sup>th</sup> Edition, 2002.
13. Kadivar, Mohsen, Rights of Men, Tehran, Kavir Publishing, Second Edition, 2008.
14. Khoei, Abolqasem al-Musawi, The Foundations of the Al-Mannhaj Complex, Baghdad Publication Volume. 42, 2001.
15. Khomeini, Ruhollah, Tahrir al-Wasila, Qom, Dar al-Islam Press Institute, Second Edition, 2000.
16. Lazarges, Christine, An Introduction to Criminal Policy, Translation by Ali Hossein Najafi Abrandabadi, Tehran, Yalda Publication, First Edition, 1996.
17. Lopez, Gerard; Zina Filizola, Victims and Victimology of Religion, Translation by Roohoddin Kord Aliivand and Ahmad Mohammadi, Tehran, Majd Publication, 2000.
18. Ma'alouf, Lewis, Al-Munjad fil-Loqah va al-A'alam, Tehran, Ismailian Publications, Second Edition, 1985.
19. Mahmoudi, Afsaneh, Supporting Acid Throwing Victims in Iran's Criminal Justice System, Master's thesis, Tarbiat Modarres University, 2013.
20. Mar'ashi, Mohammad Hassan, New Perspectives in Criminal Law, Tehran, Mizan Publishing, Vol. 1, First Edition, 2002.
21. Marty-Delmas, Meirrele, Major Systems of Criminal Policy, Translation by Ali Hossein Najafi Abrandabadi, Tehran, Mizan Publishers, First Edition, 2002.
22. Mirmohammadsadegh, Hussein, Special Criminal Law (3): Crimes Against Security and Public Welfare, Tehran, Mizan Publishing, Vol. 24, 2013.
23. Mohaqeq Helli, Abolqasem, Sharaye-al-Islam, Beirut, Dar-al-Azwae, Volume 4, 1983.
24. Mortazavi, Sa'id, Crimes against Security and Public Welfare, Tehran, Majd Publications, First Ed., 2006.
25. Mousavi Bojnourdi, Seyyed Mohammad, Comparative jurisprudence (Criminal Division), Tehran, SAMT Publication, First Edition, 2005.
26. Najafi Abrandabadi, Ali Hossein, 2011, Introduction to the Populistic Criminal Law, Third Edition, Lazarges, Christine, An Introduction to teh Criminal Policy, Translation by Ali Hossein Najafi Abrandabadi, Second Edition, Tehran, Mizan Legal Foundation.
27. Najafi Abrandabadi, Ali Hossein; Criminal Policy; Criminal Sciences; Selection of Training Articles by the Counter Narcotics Committee. Iran and the United Nations, Vol.2, Salsebil Publishers, first edition, 2005.
28. Najafi Tavana, Ali, Conflict and Obstruction in Iranian Criminal Studies, Journal of Legal Research, No. 1, Summer 2007.
29. Najafi Tavana, Ali, Criminology, Tehran, Training and Measurement Publication, Seventh Printing, 2010.
30. Najafi, Sheikh Mohammad Hassan, known as Sahib Jawahir, Jawahir al-kalam, Beirut, Dar al-Ehya Al-Torath Al-Arabi, Vol. 41, 1981.
31. Nanakar, Mehdi, Fasad-fil-arz in jurisprudence and law, Qom, Printing House of Islamic Publications Office, First Ed., 1998.
32. Qiasi, Jalal al-Din, The Basics of Islamic Criminal Policy, Qom, Islamic Center of Science and Culture, First Edition, 2006.
33. Shambayati, Hooshang, Special Penal Law (Crimes against Public Welfare), Tehran, Majd Publications, Volume 3, Second Edition, 2014.
34. Sheikh Toosi, Mohammad Ibn Hassan, Al-Khalaf fi al-Ahkam, Qom, Bidad Publication, Second Edition, 2000.
35. Taslimi, Mohammad Saeed, Procedural Analysis of Policy- and Decision-Making, SAMT Publication, S, First Edition, 2000.