

THE EXCITATION TYPOLOGY IN IRANIAN CRIMINAL LAW

A TIPOLOGIA DA EXCITAÇÃO NO DIREITO PENAL IRANIANO HIGHER EDUCATION

Seyyed Sajjad Jafari 1
Seyyed Sajjad Kazemi 2

Department of Law, Hamadan Branch, Islamic Azad 1
University, Hamadan, Iran. E-mail: jafarisajad@gmail.com

Assistant Professor, Malayer University, Malayer, Iran 2
Corresponding Auther. E-mail: sskazemi92@Malayeru.ac.ir

Abstract: *The material element in committing crimes denotes the intention and will of committing a crime. This intent may have been created for several reasons, one of which is to provoke another person to commit a crime. Incitement to Iran's criminal law is divided into three general categories: Incitement as a vicegerent in crime, in this kind of stimulus, by strengthening the will and establishing the intention to commit a crime on the other, provides some kind of assistance in committing a crime, which according to the law can be said to have criminal responsibility. Another type of provocation is that the motive is the main perpetrator and his crime also provokes a person to commit criminal acts which is usually considered to be a crime against public safety. This type of provocation should be criminalized in the law, and sometimes it is bound to result, and is sometimes an absolute crime. The victim's incitement reduces the criminal liability of the perpetrator of the criminal act and is even exempt from punishment as in the murder on the bed; some of the Jurisprudences have been provoked by the husband to be exempted from nemesis because of her husband's murder. This type of provocation can be realized in a variety of crimes, it seems that Islamic jurisprudence does not have the incentive to exempt or reduce punishment in sexual crimes. Unless in false accusation of adultery, the parties consider it to be the cause of the fall, because doing is actually another kind of provocation.*

Keywords: *Stimulation. Assistant to the crime. The victim excites. Spiritual element of crime. Criminal liability.*

Resumo: *O elemento material em cometer crimes denota a intenção e vontade de cometer um crime. Essa intenção pode ter sido criada por várias razões, uma das quais é provocar outra pessoa a cometer um crime. O incitamento à lei criminal do Irã é dividido em três categorias gerais: O incitamento como vice-regente no crime, neste tipo de estímulo, fortalecendo a vontade e estabelecendo a intenção de cometer um crime, por outro, fornece algum tipo de assistência para cometer um crime. , que de acordo com a lei pode ser dito ter responsabilidade criminal. Outro tipo de provocação é que o motivo é o principal perpetrador e seu crime também provoca uma pessoa a cometer atos criminosos que geralmente é considerado um crime contra a segurança pública. Este tipo de provocação deve ser criminalizado na lei, e às vezes é obrigado a resultar, e às vezes é um crime absoluto. O incitamento da vítima reduz a responsabilidade criminal do perpetrador do ato criminoso e é mesmo isento de punição como no assassinato na cama; algumas das Jurisprudências foram provocadas pelo marido para ser isentado do nêmesis por causa do assassinato de seu marido. Este tipo de provocação pode ser realizado em uma variedade de crimes, parece que a jurisprudência islâmica não tem o incentivo para isentar ou reduzir a punição em crimes sexuais. A menos que, em falsas acusações de adultério, as partes considerem ser a causa da queda, porque fazer é na verdade outro tipo de provocação.*

Palavras-chave: *Estimulação. Assistente do crime. A vítima excita. Elemento espiritual do crime. Responsabilidade criminal.*

Introduction

The provocation is one of the most widely used titles and reforms in Iran's penal system. The legislator in the Islamic Penal Code has used provocations in many positions and situations. Incitement as an independent crime, Incitement to crime victim assistant, Incitement as an impediment to criminal liability and ultimately provoked as a factor for punishment. It should be noted that stimulation is one of the many aspects worthy of examination. This term is multifaceted and can be discussed from different angles. Iran also stimulates the penal system both in provocative and stimulated. In the first place in terms of provocative to investigate the type of crime committed his criminal liability and punish and in the second place in terms of stimulation to determine whether or not he was responsible for committing an offense.

Incitement by the victim, in contrast to the stimulus from the third party, has attracted the attention of lawyers and those who commit such crimes under such provocations deserve to be exempted or punished. In justifying this, it has been mentioned that; Criminal justice requires that; the guilty person is exempted from punishment because of his opponent's mistake and some also believe, In the absence of punishment of the person stimulated or reduced by his punishment, Must disturb the attention of the steward and trigger fault.

In general, we seek to find the answer to this question; what is the point of provocation as an offense or factor of an offense in Iran's penal system? There is another important challenge and challenge to provoke about the extent to which the types of excitation are criminal responsibility. In other words, you should ask what is the status of criminal responsibility of a crime-causing steward in different provocations and in various instances? It seems that there are three types of stimuli: 1. Incitement by the deputy of the crime, which accelerates the occurrence of crime by the steward. 2. The excitation mass itself can be regarded as an independent crime And 3. Incitement by a victim of a crime that would be effective in reducing the amount of criminal liability and reducing it. In this research, we first examine the concept of stimulation and will continue to examine the typology of excitation in Iran's criminal law.

The concept of provocation

Stimulation in the word means incitement, to move and to make and in the legal term it is Recommendation Enormous encouragement and injecting criminal thoughts to make another determination to commit a certain crime. According to a lawyer, one should say: An irritant is someone who does not interfere in material acts, but the agent acts as a crime in committing a crime to different titles. In this sense, the assistant here is a moral or mental agent of crime; for this reason, some criminal systems consider crime as a crime partner.

This definition of stimulation can also be noted that states: Incitement to crime means persuading another to commit crimes on any occasion, whether by giving, promising or deceiving, or by encouraging and in general, strengthening the will of committing a crime, such as provoking a sense of grudge and revenge. Other acts such as advice and advice, counseling and prescribing that stewards are committed to committing a crime are considered as an excitation.

I do not think that stimulation is explicit because some individuals may, due to this weapon, use a variety of indirect stimuli to commit a crime and cause the burden of criminal responsibility only to be committed and on the other hand, in crimes that provoke a crime as independent, it cannot be held responsible for the criminal responsibility. For example, when someone encourages another person to kill third parties and he explicitly invites him to this action we can call him a crime motive but if the stimulation is done in an unobtrusive way he cannot be responsible for the stimulus, for example, when he publishes a false news about a third party and assigns some acts to him, he causes the killer to be persuaded to commit an assassination, and treats the third person as deserving of death however, although the stimulus was not explicit, it has been effective enough and it can give rise to criminal responsibility, even if third-party assignments are in accordance with reality. On the other hand, there is no need for individual stimulation and target a certain number but in the example above, when the stimulant knows that the publication of this news may encourage a person to be murdered As a result; his actions will be subject to excitation. Of course, it should not be forgotten that because stimulation may have different effects in different individuals, then one should consider a certain criterion. This is because, given the provocative misconduct, he

can be punished or considered as a crime victim.

It seems that provocation should be a factor in strengthening the will of the perpetrator or, in other words, the creation of will on the commitment of mass. Since the motive does not affect the crime and the criminal responsibility. Therefore, an excitation that changes the motive of a crime or creates a specific motive for a crime cannot be ineffective because it stimulates will, which is the most important factor in the spiritual element. In my opinion, every action that can create the will to commit a crime in the offender or that he created any will that has a negative effect can be regarded as an excuse for criminal law and if this provocation is in the form of the provision of tools and equipment for crime or other material facilities it should be considered as part of the crime or other titles which can even have other criminal offenses.

Persuasion is also a stimulus. Persuading the word of relief (meaning passion, desire and wish) it is to take pleasure in another in doing something in any manner, including description, or image of a criminal act. Therefore, if someone in another person has created such a desire for committing a perpetrator, he can be punished as deputy. Of course, the means used to persuade the result is ineffective; it should be noted that the influence and influence of persuading is less than stimulation, because the stimulation is: To motivate and persuade the steward or partners to commit a crime, while encouraging only the desire and interest in committing a crime in the steward or the partners.

Excitement does not exactly coincide with stimulation because in the stimulation there may be a new will and yet, in the discussion, it is encouraging to speak of decisiveness of the crime for committing a criminal act, and this determination can lead to a crime. In fact, the encouraging is a low level of incitement and can be considered as one of the sanctions.

Different types of provocation in Iran's criminal law

It seems that the stimulus should be classified into three categories: Incitement as deputy in crime, Stimulation as an independent crime and incitement by innocent people that could establish a criminal liability for a victim and at least reduce the criminal liability of the offender. Each of these types of stimulation can exist in the rules and of course visible. But it should be checked that each one is in a special category and the effect of provocation in the punishment and the criminal responsibility of the perpetrator, the victim of the crime and the deputy judge.

Incitement as deputy in crime

All instances of provocation can be the case for the assistant to the crime. It seems that in order to determine which provocation under such circumstances could lead to the deputy in the crime the deputy must first determine the crime and the conditions for its realization and then, it is discussed which provocation is considered as a deputy in a crime.

The deputy of the offense is one who, without being involved in the execution of a crime attributable to the steward, deliberately facilitated the commission of the offense or prompted the steward to commit it. The crime deputy does not directly interfere in the occurrence of crime, but interferes indirectly, but for the criminal conduct of the perpetrator and the persecutor, they have direct involvement in the crime.

According to the wording of Article 126 of the new Islamic Penal Code, in order to realize a victim of crime,

The unity of intention and priority between the conduct of the deputy and the commission of the crime is a condition; that is, the person must have knowledge and intention and know that he assumes the commission of a crime by another also, one must know between his verb and the result of a criminal act, there is a causal relationship, and the deputy chooses for this criminal act. In stimulation, the same condition is needed to enable us to take the stimulus as a crime deputy. Otherwise, one cannot come to the conclusion that provocation can be considered as a deputy in the crime. In other words, any incitement to commit a crime cannot be the title of deputy in the crime and there must be circumstances that we will briefly refer to below.

The existence of unity of criminal intention between the driver and the perpetrator of crime for the realization of a crime victim

In principle, between the act of the persecutor (s) and the actions of the deputy of the crime of unity, the criminal intention is to rule. That is, the vice-president will ask the same result as if he had already asked the prosecutor himself or herself at the same time. Therefore, the necessity of this unity is that the deputy must have deliberately and guilty of the perpetrator; also, in general, between the deputy's actions and the behavior of the steward should be prioritized or closely related. Simply put: there is a moment between the steward and the deputy, the previous collusion, or a momentary conspiracy to commit a certain crime. That the role of the deputy is not a direct entry into the material acts of the crime of any quantity, but through stimulation, encouragement or provision of means and facilitating the occurrence of a crime, etc., which is ancillary and subordinate. In addition, if the principal criminal offense is more severely punishable than the deputy has intended, the deputy will be sentenced to a deputy's sentencing for a weaker crime. The question that arises in this regard is whether the vice may be conceived in unpardonable crimes? In response to this question, we can propose two theories, which are, of course, written by legal writers, and we will only discuss them and then criticize them:

First comment: There is the possibility of realizing this type of deputy in crime an example of this has been raised by a lawyer. A driver who is impressed by the encouragement and encouragement of his friend sitting next to his hand injuries or slain a violated speed, he is a prosecutor for prosecution or murder, and his friend can be prosecuted and sentenced as deputy. In such a case, it is seen that the deputy assembles all the components of the crime. According to article 126 of the Islamic Penal Code, which states that the deputy's case has been made, it can be said that this example has the capability to act as an assistant in an unintentional crime. In this regard, the Iranian Supreme Court voted 2764, issued by Branch 5 in 1938, to accept this view.

Second comment: The view that the majority of lawyers believe in, suggests that there is no possibility for the vicegerent to be prosecuted for unintentional crimes, due to the intent not to commit a criminal offense and the intent of unity.

When we talk about unity. The deputy is solely responsible for the offenses in which the intention and the will to realize the crime is in the criminal responsibility and what he did not intend or did not anticipate cannot be accountable to him. For example, when (a), triggers (b) to be beat and incidentally, this beating would lead to the murder of (b) In this case, it should be assumed that the deputy is only in the attack because there was no intention of murder unless stimulation is in a way or situation in a way that provokes the prediction It's a murder will occur and in this case, there will be unity of intent between these people. On the other hand, if the stimulus provokes an individual to provoke an attack on another person, that term may include a deputy in any crime that has been committed.

Therefore, in order to provoke a victim of crime and to provoke a crime victim, the following conditions must be proven:

- An irritant should have a criminal intention it should also be precisely inferred from his provocative act that he committed the crime or whether the intended target for stimulus was predictable.
- The second point is that the stimulus must be committed at the same time as the original crime or at least before the crime is committed. This means that provocation after a crime cannot be considered as a vice president. This instance of the vicegerent is one that cannot be realized in any way after the crime occurred.
- The third point is that general provocation with a positive material action can be committed and it cannot be imagined that provocation will be realized as a material negative verb. For example, when an act of incitement to murder is said, it has to be expressed in words or words, in order to provoke a killer and is never a negative act of provocation.

Stimulation as an independent crime

After reviewing the provocation as a means to help and assist the perpetrator of the offense,

the vice president's title, it is necessary to consider provocation as an independent crime. It is not always the case that incitement affects the perpetrator of the crime at the root of the crime, but sometimes the stimulus is so effective that it fully forms the psychic element and in some ways, it cannot be said to be an auxiliary factor, but a major factor in committing a crime. As we know, provocation can be considered as a major crime and an independent crime that has been committed in the criminal law. In other words, provocation should be anticipated as an independent crime otherwise, it can only be said that provocation can be considered as a crime victim and a victim of crime. A definite criterion cannot be a trigger for an independent crime in other words, it should be said that the provocation is a time independent crime that is foreseen in the law in other cases, provocation, as effective as a crime, is only accepted as a crime victim.

Stimulating suicide in the electronic environment

Suicide in Iran's penal code is not a crime; of course, suicide must be criminalized because if this action results in a result, then the possibility of the perpetrator's punishment will be ruled out. Suicide provoking is also not considered a crime as a vicegerent, given that suicide itself is not a crime. However, it should be said that the crime of suicide and deputy is ruled out. But the legislator, given that in the electronic and virtual space sometimes there is something happening that leads to a person committing suicide and provoking him to do so. The crime of committing suicide has become an independent crime but this independent crime must be enforced in the area of cyberspace and the Internet in order to be punishable and otherwise, as we have said, we cannot speak of suicidal punishment not as a deputy, nor as an independent crime. It seems reasonable to think of provoking suicide as an independent crime because the damage to this action is less than stewardship in killing, what is the difference between triggering someone else to commit third-party murder or provoking him to murder himself. The result is one and its corrupt sequences also seem to be the same and even suicide can cause more damage to the person in the future and put his relatives in an inappropriate condition. We will now go to the computer crime laws that are in place.

The legislator, with the adoption of the computer crime law in 2009, has criminalized suicide instigation. In accordance with this law, in order to provoke suicide, crime should be committed exclusively through computer systems, telecommunications, and data carriers. Instigating suicide, the way and method of suicide is not relevant. The incitement to suicide through cyberspace is not bound to result. Regarding the invitation to suicide, it should also be noted that the invitation is in the next stage of provoking suicide. If the invitation is conditional, it will still be a crime. Similarly, returning from an invitation to commit suicide cannot lead to a crime. With regard to the punishment of the crime of provoking suicide in cyberspace, Article 15 of the computer crime law of 1388, which provides: Anyone through computer or telecommunication systems or data carriers, Invokes individuals to commit crimes of inferiority or abuse or abuse, suicide or sexual deviance or violence, provoke or persuade or threaten or invite or deceive Facilitate or train the manner of committing or using them, sentenced to imprisonment from 91 days to 1 year, or a fine of 5 million rials to 20 million rials, or both, punishable.

It is not known why committing suicide through electronic communications is a crime and other types of provocation have not been criminalized in the law. It is not logical to convince us to commit suicide with a non-electronic tool in the real world. It seems that the real impact of this suicide will be much higher. Perhaps the reason for this was the neglect of the legislature and it may be said that cyber space has not been well controlled in recent years, and that's why the topic is cached in cyberspace. However, this crime cannot be spread into real space and any provocation to commit suicide is an independent crime because it is in conflict with the principle of the legality of crime and punishment.

The invitation to any one should be effective first and this should be a measure of personal effectiveness and not a kind of standard, In other words, one has to say that an invitation to commit suicide has been made about him and his circumstances. A person who has a mental illness and has a suicidal decision she can be provoked by a simple invitation to commit suicide But a person who has a lot of hope for life in fact, the invitation to commit suicide must be well thought out and more effective in order to be able to say that the invitation to commit suicide has taken place. Second,

the call to suicide must be conscious that is, the stimulant knows that his action provokes suicide. For example, when someone teaches someone how to use a drug and also states that drug abuse will lead to death. It cannot be said that this point provokes suicide he should have been aware of this issue.

Considering the penalties for the crime of provoking suicide in cyberspace, which includes imprisonment, cash penalty, or both, and the law of the country in the 46th article, one could consider suspending the execution of the penalty for the crime of provoking suicide in cyberspace.

It should be kept in mind that provoking suicide by assimilation will be different in suicide. Suicidal instigation is when it comes to teaching suicide or inviting to suicide and motivating but if someone is causing another suicide as if raping a woman or child would cause her mental and physical discomfort and that person will do the same must cause him to commit suicide. Although this is not a criminal offense but the actions that this person has committed has led to suicide and, of course, many of these behaviors could be a criminal offense and because of the harmful result the judge can act rigorously in determining his punishment. Some countries encourage and excite and regard any form of suicide as a crime and imprisonment for it but since in Iran's laws, suicide is not a crime therefore, there is no penalty for the cause.

Incitement or Seduction of People to War and Kill each other (Article 512 of the Islamic Penal Code)

Article 512 of the Penal Code states that: "Anyone who lures or provokes people to sabotage the country in order to undermine the security of the country, regardless of whether they are murdered or robbed, will be sentenced to one to five years' imprisonment." There are several conditions in this article for realizing the crime of incitement to war and murder:

1. Intent and purpose of the stimulus must disturb the security of the country. In other words, it should be said: If, for example, the person intends to create a hustle and bustle for hobbies or to achieve his or her goal, such as theft or any other illegal or unauthorized purpose and with this motive, provoke people to war and kill does not fall within the scope of this article and will be punished as a deputy in actions that may lead to murder or beatings and the like.
2. The crime of provoking murder and massacre is not a mass crime and is not bound to a particular outcome. This means that there is no need for war and killing and it only acts that it can be subject to this crime Regardless of the result that has been created and of course if there is a murder or a murder or destruction happens it can be said that he will also be convicted of a crime victim of such crimes it is not logical for someone who has killed hundreds of people with this provocation to only be sentenced to 5 years in prison.

The psychological element of this crime is: General misconduct, committing intentional acts, provoking and seducing people into war and killing each other and the specific misconduct of crime means the intent to disturb the security of the country. Sometimes you may commit an offense for another reason do not intend to disturb the security of the country and with the intention of profit making or other purposes if this is not the case, then the matter is not covered by the provisions of this article incitement is one of the elements of deputy in crime but the legislator has appointed an independent penalty in this case. Offense this article is a crime against the security of the country Which according to the Code of Criminal Procedure, it is the jurisdiction of the Islamic Revolutionary Courts.

Voting No. 1749-2293 / 277 The Second Branch of the Supreme Court states: "Article 70 (Article 512 of the Islamic Penal Code) It is the subject of: the one who provokes and seduces people to war and kill and the community because of dissatisfaction with the parliamentary elections assuming that it leads to murder, it does not include the material. "

In the Note to this article, repentance is referred to as an impunity punishment:

In cases where the accused received repentance before reaching the system, he shall not be subject to the provisions of (508) and (509) and (512).

Advisory Opinion No. 3611/7 - 1986/8/16 The Judiciary Law Office states in this regard:

“Recognizing repentance with the judge and if it is established, it will be canceled before the offense is established it does not matter whether it is the ruling of the ruler or not, in the crimes against the country’s security and the crimes that fall within the jurisdiction of the Islamic Revolutionary Tribunal.”

Incitement of combatants to sin, escape, submission or non-execution of military duties

Article 504 of the Islamic Penal Code states; “Anyone who fights combatants or persons who somehow serve the armed forces will provoke effective incitement to sin, escape, surrender, or failure to perform military duties it is an enemy if it intends to overthrow the government or defeat its forces against the enemy otherwise, if his actions are effective, he will be sentenced to two to ten years’ imprisonment, otherwise he will be sentenced to six months to three years’ imprisonment.”

As can be deduced from this article it must be said that occasionally, excitation can result in a crime of hostility. The crime of hostility to crimes constitutes an offense against the security of the country for which there are various examples. In fact, the hostility in accordance with this article is to provoke guilt and escape and surrender or non-execution of military tasks which is aimed at overthrowing the government or defeating its own forces. It seems that such crimes should be considered absolute. It is stated in the following article that if these measures are effective, a penalty of two to ten years’ imprisonment and, if not, a lower penalty and the opposite is that if it intends to overthrow and defeat its own forces, it should be said that this kind of provocation can be considered hostile, although it does not lead to a result. Therefore, the enemy’s penalties and judgments should be analyzed and analyzed.

Therefore, provoking the escape and sinning of the forces of intent to overthrow the government or defeat the forces of self can lead to one of the feuds of hostility because it is an independent crime that is considered as hostility, although it does not have weapons and intimidation. But the legislator does not make this kind of provocation less than horrifying.

Incitement to commit acts of anti-security by the press (Clause 5 of Article 6 of the Press Law)

The press is one of the tools that can play an important role in shaping public opinion and guiding them and provoking these thoughts and populations. For this category of activities, there are specific and general rules in a variety of ways that limit the freedom of such media to some degree, or limit their activities to their activities. It would seem that such a rule of law is such as to limit some of the activities of the press. Limitations such as the inability to publish some of the content and the limitations of not creating some of the things that can be triggered and published by some of the content. The press has the ability to make great moves in the positive and negative aspects. For this reason, there is a special issue called press offenses.

The press offenses are: cases that are punishable by the press and other ordinary laws and the press and the director or the owner of the offense (Mortazavi, 2004, 41). The history of the separation of the press offenses from ordinary crimes and its special proceedings were followed by the adoption of the first law of the press in 1286. The main reasons for this separation should be one in the heightened pressure on the press due to the intrinsic and destructive power of this mass media and the other pay for the press because of respect for the principle of freedom of speech and the press (Sufi Abadi, 2004, 171).

Article 6 of the press law states that: “Publications are freed, except in the case of violations of the principles and principles of Islam and of the general rights specified in this chapter. 5. Encouraging individuals and groups to commit acts against the security, dignity and interests of the Islamic Republic of Iran inside or outside the country. “

Such are the general titles and therefore there is the possibility of any abuse as well as their perception. Courts can have any implications and it will be difficult to defend the rights of the press.

Incitement to corruption and prostitution and crimes against chastity or sexual deviations

This crime has been criminalized in two legal cases: A) Section B of Article 15 of the Computer Crime Act: “Anyone who commits the following acts through computer or telecommunication systems or data carriers shall be punished in the following order: ... B) if he deceives individuals for the commission of offenses that violate the principles of chastity or the use of narcotic drugs or psychotropic substances, or suicide or sexual deviations or acts of violence, or facilitate or train the manner of committing or using them, between nine and one days to one year, or a fine of five to twenty million rials, or both, will be punished. “

Article 693 of the Islamic Penal Code: “The following persons shall be sentenced to one to ten years’ imprisonment and, in addition to the sentence specified in clause (a), the relevant place shall be temporarily closed to the court:

- A) Someone who has a center of corruption or prostitution;
- B) Who encourages or encourages people to commit corruption or prostitution.

Note - If the above act is the same as the law, in addition to the punishment, the sentence is also condemned. “The two legal articles point out that provocation to acts of deprivation of sexual integrity can be regarded as an independent crime. These crimes can also be fulfilled in the deputy’s office, which means that the deputy may also be conceived in acts of deprivation of chastity, and in some cases it can be described as an independent crime. Of course, you must first outline acts of chaos and then stimulate the relationship.

Sexual deviations and debauched acts of chastity appear to be crimes that could have a great deal of harm in the community and those who incite these crimes are usually aware of this type of work and that’s why the materials mentioned in these articles do not refer to the motive and purpose of provocation. Pornography is one of the concepts and criminal offenses related to the provocation of chaos.

Perhaps the provocation to commit acts contrary to chastity can be a subset of pornography that has been criminalized in various forms in computer crimes and the Islamic Penal Code.

Other instances of provocation as an independent crime

Incitement in various laws has been considered an independent crime. In the sense that any act that leads to provocation in these laws can be regarded as an independent crime. This category of crimes can be in the domain of intellectual property rights or related to electoral laws that are in the field of political and security crime.

A: Encourage and encourage violations of intellectual property rights (Article 1 of the Law on the Protection of the Rights of Computer Software Producers and Article 74 of the Electronic Commerce Law)

B: Dissemination of any content to incite, encourage, or threaten people to buy and sell votes, vote with fake identity cards and other identity cards, forgery of securities bills, vote more than once and other methods of vote fraud and counting (Law on elections to the Islamic Consultative Assembly, the Presidential Election Law and Article 126 of the Islamic Penal Code).

C: Publishing any content to encourage people to sanction or reduce participation in elections, unprovoked protest rallies, strikes, sit-ins, unreasonable claims to stop elections or any action that might disturb the election process. (Paragraph 7 of article 33 of the presidential election law and clause 5 of article 6 and article 25 of the press law).

Stimulated by the victim

Incitement is divided into two types by which of the factors of crime are: Incitement by a victim or deputy and incitement by a victim or victim of a crime. It has to be said that sometimes this crime has provoked that the perpetrator is provoking a crime. Stimulation may be done in a variety of ways, either consciously or unknowingly. For example, a woman who tries to capture men by her behavior and movement is actually provoking a chaotic practice. A person who opens the door of his car, incite the robber to steal, and in other words, he can do some kind of assistance in the creation of a criminal instrument. Similarly, in criminal laws, such provocations have sometimes

been punishable as minor qualities in the perpetrators and even as criminal liability for the victim at some point.

There is a kind of catastrophic stimulation known as animal trapping. Perhaps for the legislator or the security forces and the judiciary there is no option but a way to detect the crime and arrest some of the criminals, in this case, it is possible to justify the actions of the agents, and their incitement is not described as criminal and the behavior of the main follower who was trapped is entirely due to his will, especially when this criminal act is repeated for a number of times and the criminal state of the perpetrator trapped is quite obvious.

What makes the police officer do not have a criminal code and is not considered a crime victim is that; The agents prefer the consideration of interest and social order to individual rights. Of course, this conflict and this discussion can be very challenging.

In some cases, the police officer provokes the person to commit a crime against him. In this case, if the offense is one of the crimes in which the dissatisfaction and deception of the victim are considered as elements of the crime, in principle, a crime is not enforced until the subject of liability is committed because in such cases, the police officer submits himself with satisfaction to the crime, which leads to the loss of material or legal material (Baheri, 2002, 261).

It seems that in all such provocations that the victim does not have a real crime victim, that is, it was not surprised, not deceived, nor was it unaware, we cannot condone crime because the material element of mass and the properties of the crime have not materialized. For this reason, it should be said that any livestock breeding cannot be legitimate and cause the crime to be committed and that the parent is responsible for the criminal offense any trapping cannot be used because some of its methods, as well as some types of crimes in it, cannot attribute committing a crime to the steward like the examples that were mentioned about scams and kidnappings.

Wherever there is a victim, it can be said that provocation by him can also be effective in the occurrence of crime. This leads to crime being dealt with in many respects. In this section, we categorize crimes into three categories because the excitation by the victim of crime in each of these crimes can be different: Sexual crimes in the Islamic Penal Code include some degree of punishment and punishment in some cases it contains many legal provisions which, of course, is due to the incitement by the victim of crime. Crimes against property, which in these crimes, the legislator of 2014 has tried to take into, account the victim's crime and even in jurisprudential sources, this provocation appears to have entered the law of punishment and ultimately it should raise crimes against physical integrity in these crimes, excitation by the victim of crime can be significant. In other crimes such as crimes against public safety and crimes that are public, we can less speak of incitement by the victim because the victim of crime in these crimes is usually not recognizable or, if it is identified, we cannot prove and determine its role in the crime. These are the issues that make it possible to ignore these crimes as crime victims of course; excitation by victim may be carried out by the community and systems that exist in the community. In other words, sometimes an inefficient economic or cultural system can induce perpetrators to commit some crimes.

Stimulated by a victim of sexual crimes

In sexual crimes, due to the fact that there is a two-way relationship in this crime and in fact the crime issue is a human being as a result, his incitement is clearly evident in the occurrence of a crime contrary to other crimes, such as robbery, the damage to the property of the victim is a crime. In other words, in these crimes, we can say that it is directly the crime or victim of a human being and his physical integrity. For example, in adultery, the victim is the crime of a person who can play a significant role in the crime, and even result in the criminal liability of the perpetrator to coerce or instigate one another.

Stimulated by the victim in false accusation of adultery

The punishment of the guilty party (slanderer) is that he is struck by eighty. As we read in the Holy Qur'an: "Those who accuse women of chaste chastity to adultery, then they will not receive four witnesses, give them eighty shards, and never accept testimony from them, and these are indeed evil and disobedient" (Surah Nour, v. 4).

Perhaps an example that we can bring to the excuse by the victim in the Islamic Penal Code is the “C” of Article 261 of the Islamic Penal Code, which has caused the surrender of both sides to cause a fall. The reason for this is an irritation caused by a slander by one of the perpetrators in the other, and this provocation as a minor factor causes the limit to be flogged. Clause “e” of Article 261 of the Criminal Code stipulates: “Whenever two people surrender to one another, whether their slander is the same or different, the limit is set aside, and each one is sentenced to 74 lashes.” Of course, the application of qualitative qualifications in crimes of retaliation is limited, in some cases; Because Article 38 is laconic punishment. Of course, in order to pay attention to the role of stimulation by the innocent, it was better to note “c” of the above article, so that anyone who begins to slander at first slander, and someone who surrenders to one another, is sentenced to flogging.

Stimulated by a victim in adultery, sodomy, gayness, homosexuality

Sexual crimes are such that sexual relations are established in different ways; it seems that it can play an important role in the issue of provocation by the victim in these crimes. This leads to a change in the amount of punishment and type of crime in the case when the victim provoked the crime to be active or at least satisfactory. In fact, the role of each of the parties in these crimes can be in a way that can change the title of crime and the amount and type of punishment in different ways. None of these crimes can be clearly and clearly identified as a victim because the issue of victimization is due to the fact that the sexual relationship is bi-directional and may be considered with the consent of the parties.

Article 224 provides that: Adultery with hatred and retaliation by profligate causes execution of profligate and Clause 2 of Article 224 extends and completes the sentence: “When someone with an adolescent woman who is not satisfied with adultery is anesthetized, slept or drunk, she is treated with adultery. In adultery, this sentence is also valid in adultery by deceiving a young girl or by kidnapping, threatening or scaring the woman, although he may be subjected to it. “The same thing indicates that if the parties are satisfied with the crime no one can speak of a victim and both parties should be both criminal and victim of crime who, with the role played by this act, have actually caused: In principle, the crime is different and the death penalty for one of the parties who is severely punished is to beat one hundred whips and this is due to the role that, for example, has occurred in the offense.

Article 234 of the Criminal Code also raises a question regarding sodomy: “The sodomy limit for an agent, in the case of hatred, reluctance or possession of marital conditions, is executed and, otherwise, one hundred lashes. The sodomy limit for the object in any case (being or not marital) is execution. “Therefore, the sodomy rate can be reduced to a hundred flies if there is a provocative role for one party and a lack of reluctance. However, this stimulation has been ignored in the gayness, homosexuality and the reluctance or consent of the parties will not play a role.

One of the most important issues regarding sexual crimes is the incitement of women who are victims of such crimes. The crimes that have devastating effects on life, as well as the future of this class of society. Especially in the Islamic and traditional societies, due to the culture of chastity and chastity that exists, we can say that the victims of these crimes will be very harmful. Now, what should be seen as the excitation of these crimes by these perpetrators? Is the Islamic Penal Code instigated by these perpetrators in the occurrence of sexual offenses? In the 2013 Penal Code, it seems that there is no provision in the Penal Code that expresses the incitement of women victimized in sexual crimes, except in cases of adultery or murder.

Situational prevention theorists consider the preventive methods to eliminate or reduce the attractiveness of stimulating devices, as well as to eliminate the factors that provoke or encourage the criminal (Saffari, 2009, 295).

From the point of view of the early scientism, some individuals or targets create a special attraction for the perpetrators who are criminological described as potential victims. Thus, the victim is always one of the elements of the pre-criminal situation. The provocative and seductive behavior and discretion of women may provide a good basis for committing sexual offenses against them. In addition, as crime targets, they play a decisive role in passing from thought to criminal action and the actualization of criminal thought. They also have biological characteristics, their social status,

and the relationship they have with the perpetrators, in their selection by the perpetrators. For this reason, it is essential to recognize the factors that women themselves are effective in creating and the causes of their crime, which can help prevent their crime in the field of sexual crimes (Javan Jafari Bojnourdi and Shahidi, 2014, 41).

These factors all suggest that there may be some factors that may be attributed to delinquent women who increase or facilitate the commission of a victim of adultery. It seems that the legislator should pay attention to all these issues. It is also necessary to reconsider the amount of punishment and also the type of crime in relation to the issues raised and while the legislator, without regard to any of the most important provocations for women victimized, has been raised in the views of great criminologists it only mentions some limitations in punishment for the crime of adultery and while this seems to be a major revision of the issue and the role of the victim is fully considered.

Stimulated by the victim in crimes against physical integrity

Crimes against the physical integrity of individuals that have been discussed in criminal law as "crimes"; It is one of the most important crimes that target the right to life and the principle of immunity from acts of aggression and has always been the most severely punished in criminal law. The result is a physical injury that results in death (murder), which is the most serious criminal consequence. Sometimes, it also leads to milder results in the form of interruptions or deficiencies and the loss of its benefits, as a crime around it.

Stimulated by the victim in legitimate defense

One of the most important issues that can be raised in the area of incitement by the victim in the crime of crimes against the physical integrity of individuals is the question of legitimate defense. This in fact indicates that: In case someone injures someone to defend themselves in this case, the victim of the legitimate defense will suffer this loss due to the actions he has already suffered and it can be said that he has played an active role in crime, which makes it possible to reduce the punishment of the perpetrator or to absolve the perpetrator to a legitimate defense of punishment.

According to article 156 of the Islamic Penal Code: Whenever a person acts as a crime in defending his / her self, worship, honor, property or liberty, or another, against any current or imminent aggression or imminent danger, observing the defense process. In the event of association, the following conditions are not punishable: (A) the conduct of the offense is necessary to eliminate an aggression or danger. (B) Documentary defense is reasonable or rational. (C) Risk and rape did not occur due to conscious action or rape and another defense. (D) It is not practicable to resort to government forces without a dead end, or their intervention in the prevention of rape and danger will not be effective.

Note 1: Defending the ego, honor, wisdom, property and other freedoms if it is permitted: He is one of the defending proxies, or is responsible for defending him to be defending or incapable of defending or requesting assistance, or in a situation in which he cannot be sought. Note 2) if the principle of defense is true, but the observance of its conditions is not established, the attacker shall prove the non-observance of the conditions of defense. Note 3) In the case of legitimate defense, the death is also void except for defense against the mad invasion, which is paid from Treasury.

In crimes against the physical integrity of individuals, in fact, excitation by the victim in the occurrence of crime or the change in the title of a criminal offense and the change in the determination of punishment is obvious especially in legitimate defense, which is in fact a very precarious situation as a result, this situation can be one of the most important factors in this regard. The victim of a crime may occasionally be considered as the leading cause of crime, with provocative behaviors, such as what was said about homicide.

Stimulated by the victim and the perpetrator's exemption from retribution

Article 630 of the Islamic Penal Code is one of the few materials in which the legislators have considered the role of provocation from the victim in the persecutor's punishment and this has led to the exemption of the steward. According to Article 630 of the Islamic Governmental Law:

whenever a man seeks his wife adultery with a felonious man and knowledge of compliance wife, can kill them at the same time, and only kill the man if the woman is dissatisfied.

But in the General Penal Code of Iran, in 1304, in relation to murder in the context of Article 179, the following was approved:

“If a husband considers a woman to be a barbarian in a subterranean bed or as a being in a bed, and commit murder or assassination of one or both of them, they shall be exempted from punishment. Whenever she sees her daughter or sister with a barbarian man and is not in fact interested in couples between them and will commit murder, she will be sentenced to a month to six months short term imprisonment and if it is committed or multiplied in the last section of this article, it will be sentenced to a short term imprisonment of eleven days to two months. “

In addition to the murder of a woman, the death penalty for her sister and daughter was also allowed in a very mild punishment. According to some jurists, this article was adapted before paragraph 2 of article 324 of the French Penal Code. The article states: “Whenever a husband finds his wife in a mansion that usually lives together with a man who is adulterating and committing the murder of one or both of them, he will enjoy a legal exemption (Article 326).”

Various analyzes of this article are presented some consider it as an excuse for excitement and they consider the exemption from punishment. Some also consider it as an instance of law. Even if this is an exemption from the law, it is necessary to answer this question why the legislator has prescribed a murder in such a situation? In other words, what is the nature of the lawmaker's permission to commit murder? Seeing husband's marriage always and in all cultures is one of the main motives in the crime of murder. However, there are significant differences regarding the impact on punishment. In Iran's law, this article can well be interpreted in the form of defamation-induced defamation.

In the statement of the grounds for the death sentence and the fact that the husband is exempted from the punishment for the murder of his wife and barbarian man, a number of opinions have been presented by the scholars, which are one of the most important reasons that are relevant to our subject and this is in fact a psychological stimulus committed by the victims of the crime.

In my opinion, though, there are other reasons for this and stated that: It is possible to defend the latitude and honor of perpetrators of the reasons for this murder license but it seems to be said that in this case, for the purpose of stimulation and the state of the nerve for the perpetrator of the murder and this agent has been created by profligate and adulteress, as a result, it should be said that this is in fact due to the role that victims have had in the subject and the same is not the reason why killing is not responsible for the killer's criminal responsibility. In fact, the role of these people in the realization of murder is very obvious both in terms of law and in terms of motivation and the like.

Incitement is one of the most important factors affecting crime and is one of the criteria that determine the role of the victim in crime occurrence and it can be said that no factor of this size can be effective in committing a crime by the perpetrator and of course the amount of this stimulation and grading will certainly be different. Although the legislator has referred to this in general and in article 38 but it does not take into account all types of crime and in only a few cases, such as killing Assassin and the like, based on the jurisprudence, he has paid attention to the subject and yet, the realization of crime in a context can be as a result of victimization provocation. Article 38 has accepted the issue of crimes against prison, but has not specifically mentioned incitement to delinquency in fines and nemesis and this may be due to the sanctity of these penalties, which does not allow the legislator to create conditions for these crimes. This is, however, very effective in many delinquent crimes, especially crimes committed in the sexual sphere. How can a man who has been sexually abused by a woman's sexual intercourse be punished like a person who has committed a crime without this provocation?

In the case of retaliation, it should also be noted that the instigation of the victim should be investigated in determining the punishment and in assessing the criminal liability of the perpetrator. Certainly, when a person commits an offense in a conflict and in a dispute that may have been initiated by the victim, it must be different from the one he committed with the previous intentional acts and decisions. That is why the legislator did not pay attention to this issue. Of course, it may be

due to the jurisprudential principles that exist in this regard and do not allow this determination.

Conclusion

In the commission of crimes, the three elements of law, material and spiritual should be established in order to establish a criminal liability for the commission of a crime and issue a punishment. The spiritual element implies that the perpetrator committed the crime of intention and intention to commit a crime and is guilty of committing the crime. There are various forms of blame and various examples can be made. On the other hand, some people involved in committing a crime do not directly enter the material element and are not considered a crime partner. These people are involved in the commission of the will and will to commit a crime, and by acts such as incitement and encouragement of the perpetrators of crime, they are considered as assistant offenders and sometimes as independent offenders. In fact, provocation to commit crime is a kind of strengthening of will and intention to commit a crime.

Such acts of provocation may play a role in various forms of crime, and commit it under various titles such as the deputy of the offender or the perpetrator or victim. However, in our study of the types of stimuli we have achieved the following results: Incitement to criminal law is divided into three categories:

1. The incitement that leads to the creation and reinforcement of will and intention is usually referred to as an irritant called assistant victim and assistant. This type of incitement also makes the crime victim a criminal responsibility, but does not affect the reduction of criminal liability and the amount of punishment of the perpetrator. The deputy in the crime will also be punished according to the rules of deputy.
2. Sometimes provocation to commit a crime is an independent crime itself. The need for this is that the arousal has been criminalized in the law and is considered as an independent crime. In other words, the provocation of time is considered as an independent crime that has been criminalized And the basis of this crime is that the act of provocation is the main factor in committing the next crime and has many harmful effects as even a stimulus is sometimes known as an enemy and the punishment for this offense is determined.
3. Incitement is not always carried out by a criminal or criminal who consists in whole of the deputy of the offender and the perpetrator or the crime partners, but is sometimes triggered by the victim. The incitement of the victim is carried out in such a way that he is committing an act that provokes the perpetrator to commit crimes such as those described in Shari 'a as "murdered in the bed." Murder on the bed is due to the incitement of the victim or the victim. This provocation sometimes even disqualifies the perpetrator from committing the murder.
4. The victim's provocation is possible in various crimes, and each of these crimes can be punished and even different in nature due to the incitement of the victim. For example, when defending a person in a legitimate defense, he is guilty of an incitement that the other person has committed against him, such as taking a weapon against him and forced to commit a crime to defend him. In this case, the nature of the act of crime becomes a legitimate defense, and thus there will be no punishment for the perpetrator.
5. In sexual crimes, considering that in Islamic jurisprudence there has been a great deal of attention to this type of crime, and in various forms of crime, It seems that the role of the victim, especially women, has not been taken into consideration in these crimes. Victims of women act and behave and type of cover, and what is seen as a vignette and tone, provokes others and causes sexual offenses. These types of provocations have been ignored in the commission of sexual crimes.
6. The legislator, with the adoption of the computer crime law in 2009, has criminalized suicide instigation. In accordance with this law, in order to provoke suicide, crime should be committed exclusively through computer systems, telecommunications, and data carriers. The suicidal method and method of provoking is not relevant. It is not known why the legislator has only criminalized the provocation to suicide through cyberspace,

and has not paid any attention to other methods of suicide provocation.

7. The press is one of the tools that can play a role in shaping public opinion and guiding them and provoking these thoughts and populations. For this category of activities, there are specific and general rules in a variety of ways that limit the freedom of such media to some degree, or limit their activities to their activities. Incitement in this way can have a lot of effect, so the legislator has paid special attention to crime-inducing excitation as an independent crime.
8. The most important example is to provoke the victim in sexual crimes related to slander: In the Islamic Penal Code, the term "E", Article 261, condemns the parties to the ceasefire. The reason for this is the stimulus that is created on the part of one of the wizards in the other, and this provocation as a factor contributes to the conversion of the limit into punishment.

References

- Ardebili, Mohammad Ali. (2002). General Penal Law, Tehran: Publishing of Times, Fourth Edition.
- Baheri, Mohammad. (2001). General Penal Law, Tehran, Majd Publications.
- Emdouzian, Iraj. (2010). General Penal Code, Tehran.
- Jafari Bojnourdi, Abdolreza and Shaheedeh Farhad. (2014). The role of victimized women in committing sexual offenses (based on Iranian criminal laws and laws) Criminal law research, Volume 2. Number 7.
- Larjae, Jean. (2003). French Criminal Procedure, Hassan Kashfi Esmailzadeh translation, First edition, Tehran, Ganj Danesh.
- Mortazavi, Saeed. (2004). Press Freedom, Tehran, International Publishing Company.
- Nourbakh, Reza. (2003). General criminal law, Tehran: Dad Afarin publication.
- Safari, Ali. (2009). Theoretical Foundations of Prevention of Crime, Journal of Legal Research, No. 34 33.
- Sanei, Parviz. (1995). General Penal Law, Tehran: Ganj Danesh Publications.
- Sufi Abadi, Mahmoud. (2004). Review and comparison of the new jury law, Koonan Monthly, Year 47, November and December 2004, No. 53.
- Walidi, Mohammad Saleh. (2003). General Penal Code, Tehran: Khorshid Publishing.