Changes in Drunken Punishment and Psychological Instability Caused by Drinking or Drug Use in the Islamic Penal Code of Iran

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ABSTRACT
Any behavior, such as the verb or the abandonment of the act specified in the law for that punishment, is a crime. Crimes generally have common components that do not belong to each one. In fact, legally, in order for human behavior to be a crime, there are three pillars necessary and obligatory. The responsibility or lack of responsibility of a drunken person for the crime of committing it during drunkenness is in the field of criminal law. Therefore, it is fundamentally necessary to understand the types of crimes committed by the drunk, as the constituent parts of it. Considering the excessive use of alcohol and drugs in Iran and the harmful effects of using these materials on social life and public order, this paper examines the legal developments that have taken shape in recent years to reduce and control this problem in Iran.

Keywords: Drinking or Drug Alcohol, Drunken Punishment, Psychological Instability, Islamic Penal Code of Iran.

INTRODUCTION
Drunkenness has always been one of the defects of humanity, but alcohol addiction is a relatively new tragedy, which has led, in particular, to the abundance of micronutrient liqueurs from the extremes of drinking alcohol to alcoholic addiction(Gray, 2007; Zhao et al., 2016). From the point of view of criminal law in the old, the attention of the scientists was focused solely on the state of drunkenness and its effect on criminal responsibility, but today with the increasing number of alcohol addicts, the Criminal Code must have two points of view: one in order to combat the development of drunkenness and alcoholism, and the other in order to determine the responsibility of the drug addict and alcohol addict for the crimes committed(Clarke & Bowers, 2017; Critchlow, 1983).

Drinking alcohol, especially when done unconventionally, is considered ugly, and so all the laws have protested this way. In Iranian law, which is influenced by religious standards, there is a strong reaction to it(Asadi & Mohebzade, 2013). Drinking alcohol is sometimes criminalized regardless of whether the perpetrator is in a dangerous state. In the Islamic Penal Code, drinking a drop of alcohol is also punishable, although it does not bite and, accordingly, its aspect is superior.

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Changes in Drunken Punishment and Psychological Instability Caused by Drinking or ... to deterrence (Javaid, 2015). In Islamic law, major crimes are subject to extreme crime and a more severe reaction to it is imposed. Alcohol consumption is also a part of the same crimes and is subject to certain regulations. In this crime, the rationale of reason, which is the most valuable human capital and its differentiation from other beings, is supported (Makdisi, 1985; Matthee, 2014; Siddiqui, 1979).

The Iranian legislator has not clearly ruled out the influence of drunkenness on criminal responsibility in the former law, because although in the case of murder, Article 234 of the Islamic Penal Code (the former law) has a specific decree, and in the case of other offenses in Article 53 of the same law (Banakar, 2015). However, regardless of the apparent conflict between the two articles, the status of a person who becomes drunk for committing a crime is unclear, and there is no explicit ruling against the arbitrary and optional drunkenness (Noruzi, Rezai, Ghamari, & Ahmadi; Shams & Rahimi-Movaghar, 2009).

The Islamic Penal Code, adopted in 2013, has had many changes against the former Islamic Penal Code. Changes that evolve and eliminate many of the ambiguities of the former Islamic Penal Code. Article 307 of the new Islamic Penal Code is devoted to crimes, including killings caused by narcotic drugs, psychotropic substances, and so on, and therefore, the two laws express different provisions for the bite that the present treatise, while comparative study of this The discussion will focus on the interpretation of Articles 154 and 307 of the new law, 2013, and Articles 53 and 224 of the former law, to clarify the status of the bunker and its effect on criminal liability.

INVESTIGATION OF CRIMINAL LIABILITY FOR DRUNKENNESS OFFENSES UNDER FORMER LAW

The history of the legislative process in Iran indicates that the 1916 Penal Code does not mention drunkenness and its crimes. But by amending this law, in 1973, a bun was considered by the legislature. Article 37 of the General Penal Code of 1973 stipulates that "Drugs resulting from the voluntary use of alcohol and narcotic drugs, or the like, in general, are not forfeiture of criminal liability, and if it is proven that the use of the aforementioned substances in order to commit a crime condemns the maximum punishment (Banakar, 2015; Entessar, 1988).

Note - Whenever the use of the aforementioned materials is not intended to commit a crime and causes a total or partial disorder of the mind or the purity of the perpetrator or the will of the perpetrator during the commission of a crime, the court may, in accordance with the circumstances and circumstances, sanction a total impairment of up to two degrees And relieves a relative disorder of a degree without the minimum punitive penalty, unless otherwise provided in the law of the other ordinance.

Article 37 of the General Penal Code of 1973 generally did not consider the drunk to take over responsibility, but in the commentary of the same article, under the conditions that the drunk caused a total or partial disorder of the intelligence or the purity or will, he commuted to the punishment for the punishment.

It should be noted that in this substance, the drunk not only did not recognize the responsibility, but if it made the perpetrator commit suicide, it would intensify the punishment.

In the course of the legislative process, the legislator, in the law of limitations and reprisal and dyat, adopted in 1982, considered the principle of drinking malicious drinks as a crime and referred to it as one of the finest crimes. Articles 123 to 136 of the Act are devoted to this.

By changing the criminal law in 1983 and ratifying the law of sanctity, Articles 145 and 144 apply publicly to the use of alcoholic beverages and to manufacture or import, or to prepare or buy or sell or ... order and punish them was determined (Entessar, 1988).
In 1991, with the passing of the Islamic Penal Code, the legislator first imposed a punishment for drinking alcohol (Mirzaei et al., 2014); secondly, the drunk was found to be in a state of responsibility. Article 53 of this law states: "If someone has been mistreated by drinking alcohol, but it is proved that Khmer drinking has been used to commit a crime, the offender will be convicted in addition to punishing Khmer drinking the punishment that he has committed."

Also, Article 224 of the Act stated: "Drunken killing is a retaliation, unless it is proven that it has been severely damaged by the use of a wholly inappropriate drink, and has not previously been trapped for such an act, and if That his actions would disturb the society or be frightened, or the tragedy of the perpetrators or others would be a jail sentence of 3 to 10 years".

Also, the Islamic Penal Code of the Islamic Penal Code, adopted in 1975 in Article 718, considered the drunk at the time of the commission of driving offenses to impose a tightening of the punishment, and stated: "In the case of the above materials, if the motor vehicle driver or engineer is absent in the course of an offense or Has moved more than the prescribed speed, or that the motor unit is not required to be fitted in the event of a mechanical failure in the crash, or in places designated for passing on the sidewalk, or prohibited from passing through it. Driving to more than two thirds of the maximum sentence in the above materials will be convicted. The court may, in addition to the punishment, deprive the perpetrator of the right to drive or to use motor vehicles for one to five years".

In the following, we examine the impact of drunkenness on criminal liability according to the Islamic Penal Code in different types of crimes and punishments.

A. Drunken committing crimes requiring retaliation

Article 224 of the IPC deals with the deliberate murder of a drunken person. In the mediator article, the legislator, regardless of whether the original Khmer's drink from the killer area was or was forbidden, was drunk by the killer at the time of the commission of the murder, provided that the drunk did not commit, voluntarily, or not, or if it was voluntary, if To commit a crime, the subject matter of the sentence is that it is used against the notion of opposition to the substance of the matter, that the commission of the murder in this case will not be subject to retaliation. In this article, the mere fact that the perpetrator has committed a drunken offense, the prosecution of the criminal offense of committing or removing the responsibility committed and even having an effect on the punishment of the person is not considered, and the legislator has not considered the ineffectiveness of the drunk offender in describing the criminal offense of criminal liability and punishment. Nevertheless, the perpetrator of the drunk, in addition to the conditions specified in this article, is considered as a factor affecting the punishment and the use of the retaliatory penalty or retaliation for the retaliation against blood money. Therefore, from the criminal law point of view, murder of a perpetrator by a drunk, criminal and perpetrator is also a criminal responsibility and will only be effective in punishment if the community is in a state of drunkenness (Pourhosseini, 2013).

The sentence of imprisonment of between three and ten years prescribed in this article shall be devoted to a drunkard who has been qualified at the top of the article and has been exempted from the punishment of the retribution. Obviously, under the assumption that the assassin's bounty is not comprehensive in the circumstances set forth in Article 224 and is sentenced to retaliation,
the punishment for committing murder is merely a retribution for the soul, and the punishment for that offense is related to cases in which, in terms of the community of the conditions laid down in the article, the killer is due to The drunk has survived the breath of the soul. The existence of a punishable punishment confirms that from the viewpoint of the legislator, even in the best of circumstances, the drunk has failed to take responsibility and is the sole factor and the quality of the punishment.

As we said earlier, the drunken subject of article (224) is merely a drink of intense drinking (fermentation or distillation), and the phrase “totally dangerous and intended to be deprived of it” is merely an explanation for the drunkenness and has no other effect. Because if the perpetrator has not been completely arranged and his intention is not denied, the use of the title "drunk" will not be correct for him.

In Article 224 of the Criminal Code, it is necessary to obtain a killer drunk, whether caused by drinking and drinking, or by injection into the body. It is important that the killer drunk should be as a result of fluid soiling and other forms of drunkenness arising from the use of solids or gas, such as psychotropic substances, and the like, are not included in the provisions of Article 224. Forbidden and unobtrusive use of the mind is ineffective and is not ruled out. The legislator in Article 224 of the Criminal Code, as an expression of the verdict of the exemption of a murderous drunken person, has been retribution, but the drinking drink and the moral and social barriers have prevented it from bringing the phrase to its logic. Hence the same meaning in another way in the concept of matter.

Apparently, the head of the article (224) of the Criminal Code was created in such a way that the legislator wants to say: the drunk does not have an effect on punishment (retaliation) and the effectiveness of the drunk on punishment is exceptional. The use of the word "unless" confirms this, but in fact the legislator seeks to put the killer drunk in retaliation and, for realization, it is merely a non-existent condition. The slave's condition is that the killer has not drunk to commit such an act. As a consequence of Article 224 of the Criminal Code, a killer drunk is the cause of the loss of his retaliation, unless the killer has previously drank himself for such an act, which is not exclusively excluded from this hypothesis.

B) In crimes involving blood money

What are the unintentional crimes and those intentional crimes in which there is no possibility of retribution and becoming Blood money, in other words, what are the crimes that are the legal punishment of Blood money, if committed by the perpetrator? In the jurisprudential texts, it seems that in the ruling of this issue there is no difference between voluntary and involuntary drunkenness on the one hand and the drinking of drinking water (eg, emergency drinking) and drinking from the prohibited and forbidden Khmer drinking, and in all cases of unintentional crimes (Pseudo-intentional and pure error) is responsible for paying Blood money.

The point to consider is who is responsible for the payment of Blood money in the case of pure and pessimistic misconduct? Is there a difference in the sentence between drunk and non-drunk? Due to the silence of the legislator and the lack of distinction between the ruling in the jurisprudence, it seems that the responsibility for paying the Blood money depends on the type of murder or assault (pseudo-intentional or error) committed in accordance with the general provisions of the relevant issues, as the case may be, will be. The stipulation of Article (718) of the Criminal Code and the drunk driver of a motor vehicle, emphasize the general observance of the laws of Blood money regarding a drunken man.

Regarding the Drunk Recognition Code, we've already talked about; the legislator has tired the driver of a motor vehicle to exacerbate punishment. Due to the practical necessity and the fact that drivers are drunk by road traffic officers in traffic accidents, it is suggested that the legislator
exceptionally applies to the statute of law in the case of Article 718, and those who have a percentage of alcohol being drunk in their blood while driving is too certain to be drunk. Obviously, these people in this law and with a certain definition (determination of the percentage of alcohol in the breath or blood) are thought to be drunk and their punishment is intensified. The adoption of this methodology is merely due to the ease of work and the specific characteristics of traffic offenses and in other cases, personal preference is preferable.

It should be noted that the addendum to Article 160 of the Motor Vehicle Regulations Act of 1968 stipulated that if traffic officers suspected the driver of a drunken state, stopped the vehicle and immediately reduced the amount of alcohol contained in the driver's blood by alcoholometer, they determine respiration. Whenever alcohol is greater than 50 centimeters per liter of blood, it is thought to be a drunken one. This is considered a drunken stomach and is the source of the effect. It is possible to prove the contrary to this legal norm, as in other legal emirates. Because the temple is based on overcoming and weakness, and it is not infallible.

According to the regulations, driving in drunkenness and even higher, driving following drinking alcohol, even if it was not enough to be drunk was a crime of a degree of disagreement. In some countries, a combination of the two criteria is accepted and the initial diagnosis of a drunk at the moment of arrest is carried out by the agents and with the alcoholmeter device. However, if the test is positive, the clinical diagnosis is mandatory by the physician.

C) In crimes involving Limits

One of the complaints made by the criminal lawyer is that he has pronounced drunken laws in scattered material of the Islamic Penal Code. It was desirable that the legislator explicitly and explicitly outlined the subject matter of the matter and its effect on the responsibility of the perpetrator and the punishment and set the path to different inferences and contradictions.

There are also no references to criminal liability and how to punish the perpetrators in the controversy, and this silence and ambiguity make it doubtful that the drunken offenders commit significant crimes affecting the criminal liability and punishment (Banakar, 2015).

Regardless of the fact that Article 53 of the Criminal Code is apparently devoted to punishable offenses and deterrent punishments, it is not applicable and invoked in the controversy, but the use of the word "crime" in the article, and the unity of philosophy and the foundations of hadiths in narratives that exempt the killer from impunity, and that murder does not have a specific character, and the sentence of the exemption has the capacity to extend the commission of a crime, it can be deduced that the drunkenness or luck and the like even if they are intended to commit such a crime There is no crime, it will cause the perpetrator to fall.

Since the legislator generally considered "reason" and "power" as a condition of punishment in the context of the limits, and we said that the drunk also causes dementia or discretion, the above interpretation seems correct, but in any case, the legislator the solution will be ambiguity.

D) In crimes involving Ta'zir and Deterrent punishment

The legislator, who has used the term "drunk" in Article 53 of the Criminal Code, has without any mention of the phrase, has in fact issued a bribe sentence for punishable punishments and punishments. It is true that the "being without will" is a general term, and individuals may be arrogant for a variety of reasons, but mentioning the basis of this article, "Drinking ", is an indication that the legislator has been "drunk" (Enayat, 2017). Since the abandonment of the bun, it was a matter of necessity, was definitely assumed, the fact that the drinking of Khmer is exactly equivalent to a drunken one. In article 53 of the Islamic Penal Code, the legislator has also called
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for the use of words and negative expressions to emphasize the criminal liability of a drunken person. In reality, however, the opposite of the meaning of the term has a more meaningful and meaningful meaning than the meaning of the material, and the legislator, with a certain elegance, has ruled out the impunity of a drunk person from Keeper, without mentioning the word "drunk", despite the above circumstances.

About Drum In some cases, drunkenness is not only recognized as a criminal offense, but also a matter of intensifying punishment. Article 718 of the Islamic Penal Code of 1976 states: "In the case of the above materials, whenever a motor vehicle driver or engineer has been drunk at the time of the crime. . . A maximum of two thirds of the maximum sentence prescribed in the above materials will be convicted. The court may, in addition to the punishment, forbid the perpetrator to enjoy the right to drive or to use motor vehicles for one to five years. . . ».

COMPARATIVE STUDY OF CRIMINAL RESPONSIBILITY FOR DRUNKEN CRIMES IN ACCORDANCE WITH ISLAMIC PENAL CODE APPROVED IN 2013 AND ITS ADAPTATION TO THE FORMER LAW

A. Drunken committing crimes requiring retaliation

The punishment or criminal liability imposed by the legislator for committing crimes and intentional murder is originally retribution, but it is not always the case, that is, the mere commission of a deliberate killing does not lead to retaliation, but other circumstances also require that, if this is not the case, retaliation is not possible. The commission of crimes or intentional drunken murders is one of the cases in which retribution is abandoned (Nezhad & Hiydari, 2015).

In this speech, we consider the comparative analysis of the criminal liability of bribes under current and past Islamic law, in the previous speech about the former law and the article on the criminal liability of crimes due to drunkenness. In this passage, Article 224 of the Criminal Code, former with Article 307 of the Criminal Code, which deals with the commission of bribery, is examined in terms of criminal liability.

Article 307 of the Criminal Code, as in the present article, as well as Article 224 of the Criminal Code of the former State, committing crimes and intentional murder in a state of drunkenness and mental imbalance, if it is proven, the perpetrator has generally been arrogant and has fallen from retaliation. Knows Of course, Article 307 of the present Criminal Code, in addition to a drunk or drunken drinker, also includes psychological misconduct due to the use of narcotics and psychotropic substances or dry drunkenness.

Article 307 of the present Criminal Code, like Article 224 of the Criminal Code, also refers to the fact that the assassination of an assassin is necessary, that is to say, it must be proved that the assassin has committed a crime while drunk and that the type of liquid is dirty and Other types of inhale are not in the judgment of this article.

In accordance with Article 307 of the present Code, in both cases, it is a drunken crime and intentional mental imbalance.

1. Your person has already been drunk for committing a crime.

That is, if he committed a crime for murder and then committed a murder in the form of a drunken man and a state of affairs, because the intention of the crime was at the time of committing it, and the condition for the symmetry of the material and psychological elements was realized, The criminal responsibility of the perpetrator is deliberate and condemns both the punishment of drinking Khmer and the punishment of self-murder (Banakar, 2015).

This case is comparatively similar to Article 224 of the Criminal Code.

2. Although he did not intend to commit murder in a drunken state, he knew that drunkenness and psychological imbalance typically led to the perpetration of that crime.
The commission of a verb is typically deadly, even without the intention of murder, to condemn the perpetrator to deliberate murder.

Since, according to Article 307 of the Criminal Code, the perpetrator has committed the perpetrator even if he knows that his actions typically cause the crime or the like to be committed by him.

However, if the perpetrator is drunk for acts such as rape or beatings, but in the event of a deliberate bombardment, he cannot be condemned to deliberate murder because he has committed acts such as rape or assault. You cannot be like murder.

However, in Article 224 of the Criminal Code, the mere fact that he was predicted and suspected that he might be killed by a drunk must not suffice to condemn him to a deliberate murder if he committed a murder, it can be considered pseudo-intentional.

Article 307 of the Criminal Code, as in the present article, as well as Article 224 of the Criminal Code, will condemn a drunken person to a term of imprisonment of 3 to 10 years in the event of a fall in retaliation.

The other distinction between Article 307 of the Criminal Code and the current Article 224 of the Criminal Code is that the legislator, in Article 224 of the Criminal Code, has considered the punishment of the perpetrator of retributive punishment to be incompatible with all circumstances, and the least mention of the responsibility of the drone killer is not to pay the blood money. However, the legislator has remedied this objection in Article 307 of the present Code, and obliges the perpetrator to pay the indemnity, in case of aggregate conditions for the retaliation, and explicitly stated in the article (Enayat, 2017). Of course, before the new law was passed, judges would have solved this problem by resorting to jurisprudence if they were faced with this, and the perpetrator was required to pay the blood money.

B. In crimes involving blood money
A comparative review of the criminal liability of those crimes that are blood-strayed and potentially punishable by the perpetrator is in accordance with current and past Islamic penal codes:

In accordance with Article 448 of the present Criminal Code: "The blessed blood is a certain property prescribed in the holy religion due to an unlawful crime on the soul, a member or an interest, or a deliberate crime in cases where there is no retaliation."

According to the former and current law, criminal responsibility is imposed on all inhuman offenses (pessimistic, pure error) to pay the price of blood to a drunk.

For example, Article 718 of the Criminal Code, which relates to offenses caused by driving violations, the legislator has imposed a motor vehicle driver's drunkenness and, in the case of a drunken crime, remains subject to the general rules of blood.

C. In crimes involving Limits
As in the former Islamic Penal Code, the reference to criminal liability and how to punish the perpetrator is discussed in the controversy about the term, and only in the case of the grounds for arbitrariness and the terms of limitation, the current Penal Code of the Islamic Republic of Iran is the same.

The only difference that the current law has in relation to the former law is in the second book (limits), in Chapter 5, the title of the Prophet, which is a new title in the current Islamic Penal Code, and has not been mentioned in the previous law. In Article 263 of the present Criminal Code, "if the accused submits that his statements are from reluctance, negligence, inaccuracy or in
the state of drunkenness or anger or libel or irrespective of the meanings of words or quotations from another, it is not a sublime.” It can be seen that the offender's crime is one of the most serious offenses that if the accused has been committing a drunken offense, it is no longer an alibi and does not result in a punishment.

D. In crimes involving Ta’zir and Deterrent punishment

Since the fifth book (Ta'zirat and punishments) of the current Islamic Penal Code has been adapted from the Ta'zirat law of 1976 and is in accordance with the previous law, the influence of drunken offenders on the punishment and deterrence punishment and the criminal liability of a drunk person in the current Islamic Penal Code Conforms to the provisions of the former Islamic Penal Code (Asadi & Mohebzade, 2013; Nezhad & Hiydari, 2015). Therefore, according to the general rules of the drunk, the factors justify the criminality, and therefore the perpetrator of the crime of ta'zir by the drunken person, because of the lack of an effective psychological element, forgives the perpetrator of the criminal responsibility.

CONCLUSION

Out of the issues discussed and the comparative study of the Islamic Penal Code of the Islamic Penal Code of 2013, regarding drunkenness and psychological imbalances caused by drinking alcohol and the use of narcotics and psychotropic substances, it is concluded that, contrary to Article 53 of the Criminal Code In the past, which was only limited to drunken or drunken drinking, in February 2013, this objection was resolved and included both drunken and drunken drunken drugs from drugs and psychotropic substances It turns around.

REFERENCES


Noruzi, N., Rezai, M., Ghamari, F., & Ahmadi, A. H. A Study on the Crimes Caused By Alcohol, Narcotic and Psychoactive Drugs Abuse in Iran.


