

Criminal Insulting Laws in Islamic Republic of Iran and Imamieh Jurisprudence

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Abstract

As crimes against persons causing physical condition or aggrieved party reaction against the offenders in the community are also, offenses against the person and dignity of people too; because these offenses are so much impairment psychological trying very hard and difficult to treat, and treatment of physical injuries and financial losses.

Can be defined as insulting, said: A crime in which the person using speech, writing, movement and gesture of humiliation and indignity caused another prestigious on. As diagnostic criteria of common insulting against crimes such as counterfeiting and accidents, etc that are expert as diagnostic criteria of. In this research we have examined the jurisprudential views of the insulting, insulting and then we have discussed from the perspective of criminal law which is insulting to the law of the examples we have cited. That are include the following: First topic: simple insulting, Second: aggravated insulting, and the third topic: insulting the Press. And should in summary said that the as diagnostic criteria of that it custom and custom insulting the judge will decide according to the law.

Keywords: Insults, Criminal Law, Defamation, Jurisprudence, Custom.

Introduction

To illustrate 'Insulting' the word "Vahn" is taken. This word means to say or get out insults and threats in moderation in speech. The word abomination refers to humiliate and destroy the opponent's dignity and emasculate (given in 2001). Legal opinion: the insulting means any act or omission of including statement, deeds, and the book that somehow affect the ways of insulting the dignity and integrity (Jaafarilangroudi, 2003). Insulting in the proper sense is: any

defamatory matter, ranging from right or wrong, done by any means that gives way to insult or to perform any act which causes damage to the custom and habits of the person's dignity is insult. Of course is also an insult to the general contains defamation. So that means certain that the crime of insulting the documents.

1) Insulting of jurisprudence views

Of what the holy lawgiver of etiquette in human society, and is considered emphasized by the use of the word is Nick and pure and mutual respect. And disobey of this rule will cause offense to another and sin is forbidden and is punishable commit it. Allah in Surah Nesa verse 148 says: "God does not like ugly flaw that someone's statement with a loud voice, tell, unless cruelty is to come to him ..." And of Tradition is also been quoted.

Imam Sadiq (AS) was asked: What should I do if someone profanity a person; the noble reply said: It is a punishment. That person asked if you tell you are lecher, what is the punishment it? Again the Imam said in reply: 'Does not flogging, but it is a punishment "(MousaviKhomeini, 2002).

And the shahide(martyr) Sani also lomee brightness as saying:

"In cases like when someone another to tell prohibited reproduction, that person another has not than Gnostics adultery. Or another thing that he is upset as though tell inferior or a dog or a pig, or saying you're lecher, or tell you're drinking wine, etc., that punishment will be committed. (Al-amoly, 1987).

2) Insulting from the perspective of criminal law

Insult with respect to the general credit of the crime or the character of the offense, is divided into the following types: "Simple insulting" and "aggravated insulting" and insulting by the "press" (Pad, 1969; Goldouzian, 2005).

In Articles 81, 162, 164 and 272 of the Penal Code general, and the wrong regulations, adopted in 1946, center for Independence Act and Article 20 lawyer and 17 to 31, 1956 draft press law and Article 31 of the Penal Code Act, passed in 1953 carrying knives and weapons and Article 334 of the Criminal Procedure Act, the army was referring to insulting and obscenities. Currently, in Chapter XV, entitled, "disrespect of persons" and "political assassination", in foreign Articles 608, 609, 517 and 514, simple and aggravated insulting and obscenities are discussed. It is anticipated that the flogging sentence and punishment for desecration by the press has also been considered (Keshavarz, 1998; Hojjati Ashrafi, 1993; Goldouzian, 2005).

First topic: simple insulting

According to Article 608, The Islamic Penal Code defined the term Insulting the people, including profanity and use of slanderous words such as "Qzf" hit no punishment to 74 lashes and fifty thousand to one million rials will be fined (Keshavarz, 1998; Hojjati Ashrafi, GH, 1993). In Law element, word insulting has multiple concepts and broad themes and comments; Because It may be something of an insult for a group or others however for others it may not be an insult, so this reason should be focused in criminal matters, the topic sentence and its specification is clear and rational. Therefore condemnation for the insulting, without stating its characteristics or examples would be invalid.

The word "cuss" in the text can be explained as: "Skipping the term 'beaten', any word ugly and vulgar and obscene, especially the desecration and humiliation is to be called cuss. Material element of the manufacturer elements and simple insulting are:

A) The act of insulting material

The verb of the material that may be insulting can include either verbal or written terms or by drawing shapes and images, or by performing certain gestures or actions that place the custom may be considered as insulting.

Therefore, whether or not a cuss word, a concept that is valid for time and social status and class parties, it is subject to change. Thus, the penalty shall be based insulting in literal or by deed, must be clearly and accurately described in the ruling court because a violation of the sentence may be vague and brief.

B) Determine whether the insulting

By mentioning the word "insulting people" in Article 608 the Islamic penal code, it is meant that if the particular person is been insulted so if someone insulted or offended him, and he is not guilty then it is no crime (according to the word people in the article), (Keshavarz, 1998; Hojjatiashrafi, GH, 1993; Goldouzian, 2005).

C) The spiritual element of insulting

Consciously committing insulting by the material behavior in any way possible, then there is no longer need to prove intent to the court.

D) The penalty for insulting

To the above article, the simple commit leads to 74 lashes or a fine penalty from 50 thousand to a million Riyals and leading to discounts.

Second: aggravated insulting

During the approval of the Islamic penal code, Articles 517 and 609 of lawmakers escalated the penalty for insulting and the personal credit is noted as follows:

- 1.** Insult of country and the state governors and other officials in three branches of government.
- 2.** Political representatives of the foreign country or foreign countries.
- 3.** Insulting through the press (Goldouzian, 2005).

Of course, the standard penalty for aggravated insulting, two cases are summarized:

- 1)** The character and position of the offending.
- 2)** How committing or attempt to commit certain; the explanation is as follows:

A) Insulting the leaders in three branches of government: vice president, ministers and other public officials; Legal elements of Article 609 the Islamic penal code, which states: "Everyone, considering the one of the heads of the three branches of government officials or ministers or vice president or the parliament or members of the Guardian Council or the Assembly of Experts, or judges or tribunal members or staff calculations ministries and agencies and public enterprises and municipalities, while on duty, can cause up to three to six months in jail or up to seventy four whip lashes or a fine of fifty thousand to one million Rials will be charged".

Material element of the insulting by vulgar word spoken or written to official position of the government therefore let legislator to maintain the action and restoration of the dignity of the country and the state holders and owners that are being on duty.

Spiritual element of the crime means that the crime is intentional. The term for the offense committed under this article must know and understand the character of the insulting and its position, and it is action otherwise insulting the person will be considered ordinary. If the person is insulting to those contained in these articles, not included in the above article will be the scope of Article 608.

Punishment for insulting of those in public positions according to article 608 tasks they perform and maintain public order and the reason for the Administrative Policy is incorporated.

B) Insulting a foreign head of state or foreign country political representatives: article 517 the Islamic penal code provides: "Whoever publicly or representative of the foreign policy of Iran has entered the realm of the insulting shall be sentenced to imprisonment for three months; Provided that the country of Iran about the reciprocal being traded."

Clause: The material in this chapter is subject to a claim or demand of the state government or its political representatives or it is aggrieved party and if the request for extradition, criminal prosecution will be suspended. Material element of the act is insulting to the public and shall also be guilty of abuse in other countries. Above mentioned statement shows the spiritual element of the crime is intentional and committed to knowledge of the character of the offense that is punishable by imprisonment for one to three months. But the mass privatization of public aspect predominates (Goldouzian, 2005).

The third debate: offense through the press

To Article 1 of the Press Law passed in 1986 shows publications that regularly published with a fixed date, serial number and variety of news, criticism, social, political, economic, agricultural, cultural, religious, scientific military, artistic, athletic, and so are released. And Article 27 of the press law adopted in 1986 provides: "Everyone in a Journal who insult the Leader or authority undisputed to emulate the licenses revocation and director author of the journal article will be referred to the competent courts and will be punished."

In accordance with Article (514) the Islamic Penal Code: "Everyone to Imam Khomeini, the founder of and leader of the Islamic Republic (Salutations upon him) offensive in any manner shall be sentenced to imprisonment from six months to two years."

After any kind, personal outrage through a newspaper or magazine, or preparing papers for spreading lies or slander and insulting content will be punished of the committed action and the Director of newspapers and magazines will be exacerbated.

Conclusion

1 - Noting is necessary to examine what was, Legislators should reduce the crime aspect of private and public rights. And to maintain the honor and dignity of individuals and the community to prevent the spread of such offenses and public order, as well as of legislator, it is needed to amend the laws relating to giving more importance to the general crimes. And the other hand penalties provided by law, 74 lashes or a fine of the fifty thousand to one million Rials, the current is not enough to committed crime.

2 - It should be noted in the arbitration customs, time and place of insult, insulted personality and his self is greatly affected. For example, it may be insulting words or behavior at that time and other time it will not be insult. Or motion of thumb does not constitute insult but insult in the West. Also, if the teacher tells the students are lazy or stupid to the father of the child or youth protest in front of parents, it is not considered insult. Therefore it's not rude to any criminal insult, even if the intent is humiliation.

3- After any kind, personal outrage through a newspaper or magazine, or preparing papers for spreading lies or slander and insulting content will be punished of the committed action and the Director of newspapers and magazines will be exacerbated.

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