

## **Criminalization of Aircraft Hijacking: Analyzing Elements of the Crime and practices Governing Its Punishment in Iran and International Instruments**

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**Abstract:** Because of its economic, political as well as other benefits, the issue of flight has always been of special interest to governments as a major means for travel. Thus, due to the special attention paid by governments to this quality, it has always been a good excuse for political protests or terrorist groups attacks. Following the damages incurred by such factors on various issues related to governments, they attempted to ratify some international instruments so as to launch an all-out campaign against the phenomenon of aircraft hijacking and measures against flights, which was increasingly expanding. Therefore, they signed Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, an International Convention on the Suppression of Unlawfully Seized Aircraft (signed at the Hague), and a Convention on Aircraft Hijacking and Acts Against Flight Safety. Then, they signed a Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (signed at Montréal on 23 September 1971). The above three conventions only cover civil aviation in flight and do not include these acts committed against state planes, namely, aircrafts used for military, customs, and police purposes. In addition to criminalization of aircrafts hijacking and acts against flight safety, these conventions established some regulations on the procedure of prosecution and extradition and duties of states and aircrafts captain. The Iranian legislator has also approved all three above conventions and dealt with criminalization of aircraft hijacking and acts against flight safety in statutes. Accordingly, the identification of aircraft hijacking crime and its elements on one hand, and the punishment governing it on the other hand seek to primarily provide useful tips on legal issues associated with the identification of aircraft hijacking crime.

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### **Introduction**

Farm long ago flying via aircrafts has always been considered a daunting task of great importance in the international communities. So, governments have always treated the issue of disruption in flight safety as a disruption at national security level and thus imposing very tough penalties on it. Since even minor mishaps could put the lives of some innocent people in danger, it may lead to a feeling of unsafety towards flight among the general population. Among others, given the political and economic importance of the flight, this feeling of unsafety might dissuade passengers from air travel. Increased damage to flight safety could be a sign of a state's disability in establishing peace and order in this internal environment. Further, since the issue of aircraft flight is among cases with high political and international significances, many political objections to a government would occur by disrupting its air systems. The issue of terrorism which is considered a major crime at the international level, is performed through aircraft hijacking in many cases. In the years following World War II, resorting to terrorist means to achieve political goals was intensified. Government

and non-dominant groups seeking power resort to terrorist means and create panic among the public so that they could pursue their political goals. Of the most popular terrorist acts during that year were aircraft hijacking, threatening aircraft safety, and hostage. By kidnapping ordinary people and political figures and consequently exerting pressure on the governments concerned, terrorists attempted to carry forward their political demands and achieve their goals. To deal with this problem, states signed the above mentioned conventions and there into, they considered the acts of aircraft hijacking, threatening the safety of aircrafts, and kidnapping political figures as crimes and underscored the trial and punishment of these involved in them one year after the adoption of the Hague Convention on September 23, 1971. A convention for the suppression of unlawful acts against civil aviation safety was signed in Montréal, Canada, in which some general regulations regarding offences against flight safety were introduced and the crime was completely defined in clear words. Iran's parliament approved the convention in 7/3/1359 (according to the Persian calendar). In the twenty fourth of February 1988,

protocol for the suppression of unlawful acts of violence in airports serving international civil aviation –as a supplement to the convention on the suppression of unlawful acts against civil aviation safety –was signed in Montreal, following the bombings carried out in Rome and Vienna in Dismember of the same year. this convention was approved by Iranian parliament in 22/7/1379(according to the Persian calendar). Finally, it seems important to note that instruments associated with air piracy belong to these documents which determine standards of prohibited behaviors in order to maintain the security of persons and their properties. Based on these considerations one can find out that the fundamental issue in the present study as the analysis of offences related to aircraft hijacking and investigation of these offences which might be committed by offenders on aircraft board. obviously, during this discussion. web will provide a more detailed explanation though the existing legislation and documents. In order to identify aircraft hijacking crime and its related punishment, the article content is considered in two main parts: firstly, the nature of aircraft hijacking crime as well as identification of its elements (SECTION 1), and secondly the punishment of aircraft hijacking through related individuals and bodies applicable to it (section2)are investigated.

#### **First section**

Nature of aircraft hijacking crime and Identification of its Elements: we need to begin the Identification of aircraft hijacking crime by explaining its nature. Also we should see how to define this crime and what elements can be recognized for it. Next, we explain attempting to commit aircraft hijacking crime with regard to the new Islamic penal code, since many instances of aircraft hijacking crime remain in the stage of attempting to commit. A) Defining aircraft Hijacking crime and Its nature: According to the principle of legality of crime and punishment and with regard to Article 2 of the new penal code, Any conduct whether act or omission which is punishable according to law is considered a crime. Any crime must be comprehensively and appropriately defined in law so that it could be exactly applicable to instances of the existing criminal acts and there is no doubt in inclusion or exclusion of a criminal title for it. Now in the case of aircraft hijacking crime, we need to know the relation between actual instances of criminal act and the existing legal definitions. undoubtedly we must distinguish aircraft hijacking crime and offences associated with acts committed flight safety. Aircraft hijacking refers to the seizure of an aircraft, such that the invader would personally take over the plane or give orders directing it.

usually, such unlawful seizure of an aircraft is accompanied by threatening, exerting force and violence, and domination according, the crime of aircraft hijacking is defined as taking lead and control of an aircraft in flight illegally in the from of preparation of (or direct involvement in) a crime causation. Acts against flight safety may include other crimes (offences )which occur in an airplane, though, they might not relate to taking control of the aircraft in flight and could have negative effects on flight safety and protection of passenger and the crew. such acts may include murder along with creating insecurity for other passenger, assault and battery, clamoring, destruction of aircraft technical systems, destruction of aircraft, etc. thus, acts against flight safety could be a more comprehensive from of aircraft hijacking and encompass a wide range of acts such that there is an absolute logical pubic and private relationship between the two acts. Aircraft hijacking could itself security. However, due to the special. due to the special importance of this crime and widespread insecurity and disorder caused by it in aircraft system, transportation of passengers as well as in the public, it has special title to which acts against flight safety can be defined as any conduct leading to disruption in aircraft technical systems or safety of passengers and the cargo, or in please and order within the plane. Aircraft hijacking crime if defined in Article 1 of the penal code for the disruption of flight safety and sabotage of aircraft equipment and installations approved in 4/12/1349 (Persian Calendar) as follows: " Those who seize the control of a ready-to-fly Or flying aircraft by coercion intimidation, threatening, and deception or somehow make those in charge of the aircraft lose control of it, or force the airplane land at a point other than its destination are sentenced to 3-15 years imprisonment with hard labor." It seems necessary to represent other Instances of aircraft hijacking and acts Against flight safety mentioned in punishment Law.

The purpose of representing these Instances here is to further supplement the Instances which may be relevant to aircraft hijacking crime. The Islamic penal code has also applied the word "aircraft" in Articles 511 and 675 as a special emphasis in some crimes.

Article 511 provides that,"Whoever, with the intent to disrupt national security and disrupt public opinion, threatens to bomb planes, ships, and public vehicles or claim to bomb them, in addition to compensation for damages to the government and individuals, they would be sentenced to six months to two years imprisonment." So, here the intention is to disrupt national security. On the other hand, it is required that one has threatened to bomb, and if they

actually did the bombing and informed on it, not only would they be not subjected to this Article, but also they would receive a reduced sentence. The condition under which the crime is realized is that bombing or claim to bomb is with the intent to disrupt national security and disturb public opinion, rather than endangering the lives of one or more passengers of public vehicles or getting people away from the site of bombing. When referring to "planes, ships, and public vehicles, however, a question would arise as to whether the provision "general" also refers to ships and aircrafts or it is only applied to other vehicles like cars? The answer is: According to the appearance of this Article, i.e. if online public aircrafts and ships were intended, then it would be sufficient to just mention the term "vehicles"; Because of their importance, though being private and used on a private basis, they are subject to the above Article.

However, the term "public" does not imply That they are owned by government, rather It means that they can be used by the public. Finally, it should be noted that arresting the bomber in case he/she has not threatened or claimed to do it, is subject to the Act of punishment of Disruptors in flight safety and sabotage of Aircraft Equipment and Facilities approved in 14/12/1349 (Persian Calendar) Article 687 of The Islamic penal code, and so on. Article 693 of The Islamic penal code provides That, "Whoever willfully set fire on constructions, buildings, ships, aircrafts, factories, war houses or in general any place of residence, jungle, harvest, any crops, trees, farms or gardens owned by another person, would be sentenced to 2-5 years in prison." Thus, the inclusion of the Article both in terms of type of subject property-being described as limitative- and type of destruction committed by the accused, is constrained.

**B) Material and Mental Elements of Aircraft Hijacking Crime:** Any crime has some constituent elements without which the crime occurrence would be impossible, such that each element has the key role in the occurrence of any crime.

Legal element of a crime deals with the Process of criminalization whether in area of natural crimes or in the field of artificial crimes, Leading to the criminalization of the related act or omission.

Mental element of a crime deals with Intentional element in committing the crime and discusses committing crimes in terms of The presence of will and intent or its lack in crime occurrence. Material element of a crime is like its body. Material element Intended by the legislator may be realizable from criminals. Criminals choose a particular way of committing crimes with respect to their goals, time and place of the crime, the circumstances in which a crime is committed and most importantly, their life

conditions and the environment where they have been grown and learned their ways of spending life.

The convention on crimes and some other committed Acts in Aircrafts was the first to Criminalize aircraft hijacking in the International arena.

The Article stipulates that, "when someone On board commits the acts of intervention And seizure or take control of the aircraft In flight by exerting unlawful means, force, Or threatening to use force or in case such Acts are about to occur, the contracting States would take appropriate measures to maintain or restore control of the aircraft to its lawful captain. As you see, the international community did not clearly recognize aircraft hijacking as a crime, in its first important instrument regarding acts against flight safety; Instead, it required the contracting states to restore control of the aircraft to the captain. Article 1 of the International convention for the suppression Of unlawful seizure of Aircrafts, known as The Hague Convention, provides that, "Whoever inside a flying aircraft that:"

**A) Seizes the aircraft or takes control of it Through unlawful means, exerting force or Threatening to use force, or any other Intimidation and attempts to commit the Above acts, is a criminal."**

The international legislator has developed the material element of aircraft hijacking crime in this Article and mentioned all of its instances on a general basis, due to its special significance. So it should be noted that the two only refer to an aircraft in flight, meaning that as long as the aircraft is on the ground and no action has been taken for flight, the provisions of this Article would not apply to it; Then when is the aircraft deemed in flight?

When it takes off and begins to fly to the Sky? Or when it begins to move? Or when it has not yet begun to move and it is still motionless on the ground? If in this case somebody threatens the pilot with a gun, then can we consider the situation a crime? Is the crime of aircraft hijacking formed here or not?

Paragraph 3 of the convention has clarified the issue. It deems an aircraft in flight from the time its engines begin to operate until it has completed the act of landing. This convention determines a more limited time for an aircraft in flight than that in the Hague convention stipulates that, "According to this convention, an aircraft is deemed in flight from the time the exit doors are closed after boarding passengers and loading of the packages until one of the doors is opened so that passengers could get off and packages are unloaded. However, these are not considered necessary conditions for aircraft hijacking, since the hijacker may not be technically

proficient to conduct the aircraft, rather he/she may give orders determining its direction. Taking control of the aircraft does not only refer to determination of the direction, rather if someone hijacks an aircraft-while the doors are still open and the aircraft has not yet begun to fly- and issues orders as to

preventing the aircraft from flying, they can be considered hijacker, because they have gained control over the aircraft in this way. It seems that there is no difference between The case in which the aircraft hijacker Himself pulls the gun and any other ways in Which he uses force to convince the pilot Leave the control of the aircraft to him. Both cases can be considered seizure of the Aircraft. In first assumption, the pilot is Some how forced to obey the orders of the hijacker, because if he dose not obey the hijacker, the pilot himself or some passengers may lose their lives or incur physical injuries. So in this case one can say that the hijacker is responsible for aircraft flight guidance and can be considered spiritual accomplice in aircraft guidance, and thus any possible risks such as bad weather, thunder, storm, air holes, fuel shortage, and serious damages to the aircraft and its passengers could be contributed to the hijacker. It should be noted that seizure of aircrafts is required to be performed by force or threatening to use force, so that it could be subject to the provisions of the above mentioned convention. Obviously, if aircraft hijackers leave the plane but after the passengers are on board with doors still open, again some others commit threatening acts and close the doors, then the plane would be considered "in flight" at that moment and subject to the provisions of the Hague convention, since flight is deemed over when the doors are low fully opened in order for the passengers to get off the plane. The same case is when an aircraft is forced to land on the ground or even of the airport and the doors are opened, due to emergencies, performing repairs, refueling, or some legal reasons other than unloading passengers.

In this case even if the doors are not closed and the aircraft is under the seizure of unauthorized persons, the aircraft would still be considered "in flight" and thus, subject to the provisions of the Hague convention.

For the crime of aircraft hijacking to be realized, it is required that the hijacker "seize the aircraft or take control of it."

What does it mean by "taking control of the aircraft" or "seizure of aircraft"?

Seemingly, the meaning of "control" is to take the lead of an aircraft by force and intimidation.

Force is any act accompanied by harshness and acts of violence and dominance in a way that eliminate the will of pilot and passengers. Exerting

force includes the cases in which some ones power becomes dominant on another's, in a way that would eliminate exercising any authority. The meaning of exercising force is not just to use guns, rather even if the hijacker uses any means to eliminate the will of the pilot, crew, passengers, or other people on board, the element of force and dominance would be realized-for example, in cases where the hijacker pours anesthetics in their drinks, disrupts planes air circulation system, or takes measures to release the tear gas or anesthetics.

However, what is important is that somehow he/she eliminate the wills of passengers or disturb them and there by attempt to seize the aircraft or take the control over it. If the pilot changes the planes direction to another destination without informing the passengers and the crew, and there by hijack the plane, one may state that passengers intention and satisfaction has been eliminated, which is a clear example of the term "appeal to force" mentioned in part A of Article(1).

In case the hijacker does not appeal to force or threaten to exercise force, though committing a fear-provoking act in order to gain control of the aircraft, i.e threatening to activate a bomb planted on the aircraft if the direction is not changed or the aircraft is not landed, all cases of appeal to force or threatening to exercise force must have the quality of unlawfulness.

If someone appeals to force to perform a legal duty in guiding the aircraft, his act would not be considered a crime of aircraft hijacking. If a co-pilot notices that the pilot is guiding the aircraft in the wrong direction towards a mountain and makes the pilot unconscious in order to save the plane and its passengers, and then guides the plane in the right direction, his act will not be subject to the title of aircraft hijacking. Moreover, a pilot being forced to change the planes direction so as to ward off danger, though ignoring the passengers will and intention, his act is quite legal.

At the end of this section and prior to dealing with mental element of aircraft hijacking crime, it should be noted that according to paragraph 2 of Article 3 of Hague convention, this convention does not include aircrafts used for military, customs, or police purposes.

In addition, the legislator has defined material element of aircraft hijacking crime in Article(1) of the Hague convention and in addition to the acts of force, intimidation, and threatening, he has applied the element of exercising deceit and guile.

If the acts of intimidation and threatening are committed by using guns, explosives, or other dangerous materials, in case there is but one perpetrator, he/she would be sentenced to the

maximum penalty of imprisonment with hard labor between 3-15 years, and in case there are more people involved in the crime, they would be sentenced to life imprisonment with hard labor.

It should be noted that normal penalty for this crime is imprisonment with hard labor between 3-15 years.

In Article (2) of the above Act, the lawmaker has codified the crime of acts against flight safety: "Those who knowingly and intentionally carry objects with them on the plane for the purpose of disrupting the flight safety or committing destruction inside the aircraft or somehow put the objects on the aircraft or send them via the aircraft, or commit other acts leading to damages to the aircraft, passengers, crew, or properties there in, while be sentenced to imprisonment with hard labor between 3-15 years. If the above acts lead to manslaughter, then the perpetrator(S) would be sentenced to death."

What is not taken in to account by the lawmaker is any acts causing fear and panic among passengers or the crime. In other words, the lawmaker has not considered acts for disturbing peace and order inside the aircraft liable to criminal title.

Such acts, other than cases predicted in the Islamic penal code, lack a criminal description. Another noteworthy point is that the lawmaker has considered performing acts in the form of omission as participation in crimes: "Those being informed of the preparation of causes of a crime or arrangements for committing the crimes set forth in the Act and not announcing it to competent authorities, will be sentenced to participation in the crime".

Also, the legislator has predicted an other from of acts against flight safety in Article 3 of the civil Aviation Act, such that any act with the intent to cause danger for the aircraft or its passengers is considered a crime and the perpetrator would deserve correctional custody between six months to 3 years.

If his(her) act leads to killing or wounding, in addition to the above punishment, he(her) would be subject to the punishment determined for the crime itself. It should be noted that this Act may include all forms of acts against flight safety and the Act of punishment for disruptors in flight safety has considered a special form of act against flight.

In short, regarding mental element for the crime we should note that like all crime, in order for a crime to be contributed to someone and to punish him(her) for committing that crime, in addition to legal element based on prediction of criminal conduct (behavior) mentioned in the penal code and material element of the crime including occurrence of the crime outside, the act must originate from the will of perpetrator.

In fact, there must be a psychological association (or a willful association) between act and agent, which is called moral(or spiritual or psychological) element. For any crime to be realized, in addition to material element and a casual relationship between act and the result obtained, another element is required, which is called spiritual element.

Thus we should say that in order for this crime to occur, there must be two things: intent to commit the crime, and components of material element. It should be noted that motivation to commit the crime, if disrupting the security, could lead to realization of instances such as belligerence, rebellion, or corruption on earth

C) Attempt to commit the crime of Aircraft Hijacking

In thud new Islamic penal code (Articles 122-124), regarding attempt to commit the crime, we have: Article 122: "Whoever, with an intent to commit a crime in mind, attempts to do it, though failing to commit it due to factors outside his will, is punished as follows:

A) In crimes where the legal punishment includes deprivation of life, permanent punishment or discretionary imprisonment level 1 to 3 the perpetrator is sentenced to discretionary imprisonment level(5).

B) In crimes where the legal punishment includes mutilation or discretionary imprisonment level (4), the perpetrator will be sentenced to discretionary imprisonment level (5).

C) In crimes, their legal punishment being lashing or discretionary imprisonment level (5), the perpetrator is sentenced to discretionary imprisonment, lashings, or cash fine level(6).

**Note:** whenever the conduct (behavior) committed is directly associated with committing crime, though the accordance of crime is impossible due to material aspects the perpetrator is unaware of, the committed act is considered attempting to begin the crime.

**Article 122:** Mere intent to commit a crime or operations and measures which are but introduction of the crime, without any direct association with crime occurrence, is not considered attempting to commit the crime, and it is not punishable in this respect.

**Article 124:** whenever someone starts a criminal act and leave it in his own will, he(her) will not be prosecuted with the charge of attempting to commit that crime, however he(her) will be punished, if his(her) committed act is considered a crime.

Paragraph (A) of Article (1) of the International convention on unlawful seizure of Aircrafts has included attempting to commit aircraft hijacking crime in its provisions. Attempting to commit the

crime indicates real intent of perpetrator to perform the crime, in a way that the hijacker, already prepared all plots and stages to seize the aircraft, now is getting in to the stage of implementing the crime. In Article (1) of the Act for punishment of Disruptors in flight safety and sabotage of Aircrafts Equipment and Facilities, as well as in other Articles, there is an indication of attempting to commit the crime. For the realization of attempting to commit the crime it is required, as a general rule, that the operation of aircraft hijacking be disrupted through some factor outside the will and intent of the hijacker.

If the hijacker pulls his(her) gun and threaten the pilot and meanwhile one of the crew members manages to make him(her) unconscious with a blow, though the act of hijacking is not completed in this stage and the aircraft is not still seized by the hijacker in this stage, the hijacking operation has been disrupted in its first stage due to some factor outside the will of the hijacker. According to an Article of the above Act and the penalty mentioned there in (3-15 years) and based on 8 degrees (levels) stipulated in Article (9) of the new Islamic penal code, it is clear that aircraft hijacking crime is degree (3), which indicates that attempting to commit the crime is realizable in this crime. The punishment stipulated for attempting to commit the above crime is discretionary imprisonment (degree 4), that is more than 5 years up to 10 years.

**Section (II):** the punishment for Aircraft Hijacking Crime Through Related persons and Bodies: After explaining the rules governing the nature of aircraft hijacking crime, now its time to see what kind of punishments are predicted for this crime in order to perform criminal confrontation or in other words, criminal prevention and in the context of various bodies associated with determination of the punishment, what the situation of the hijacker would be like.

In order to determine the punishment for those committing aircraft hijacking, we can investigate rules of punishment with regard to perpetrators. Besides the principal criminal who is directly involved in committing aircraft hijacking, other people may participate in it. Here we first deal with principals, since they naturally participate in criminal elements, and then we discuss accessories to the crime of aircraft hijacking.

**A) Principals to the crime of aircraft hijacking:** Direct involvement in aircraft hijacking crime is when the perpetrator personally takes action to gain control over the aircraft, meaning that he(he) must to material element and the act required to commit the crime. There is no particular issue regarding principal, provided that all elements are accumulated

there in, since the above discussions somehow explain the issue of direct involvement in the crime.

Now we need to know who are the partners of the hijacker. First we mention the nature of participation in crime. Beyond its literal meaning, we need to know the definitions proposed for participation in the crime.

According to a proposed definition, "it is effective cooperation with an other person in committing major elements of material element of the crime."

Thus, "whenever two or more persons commit a crime in a way that each one's act is part of the cause for the realization of the crime", they are considered partners to the crime. Another definition for such participation in crimes is as follows: "any cooperation in committing a crime in which two or more people knowingly participate in the executive operation of the offence, such that each can be considered independent subject of that offence. The first issue being discussed in participation in a crime is involvement of all perpetrators in the executive operation stage of the crime; even if there is no unity of intent among them or they are not informed of the occurrence of each others acts. In the new Islamic penal code (Article 125), participation in a crime has appeared in different definitions: "Whoever participating in the executive operation of a crime together with one or more other persons and the crime is documented to their total conduct (behavior), whether or not each conduct alone is sufficient for the occurrence of the crime, whether or not the effect of their act is the same, they are considered partners to a crime and would be punished as an independent subject.

As to unintentional offences, if the crime is documented to the fault of two or more persons, the culprits are deemed partners in the crime and they would be punished as independent subjects.

**Note:** "The exercise of penalties including Hudud,

Punishment (punishment for violation of the limits ordained by Allah), Qisas (retribution), Dyad is done according to the Books II, III, and IV of the Act."

Thus, if a person goes armed to the cockpit and attempt to intimidate the Captain and at the same time another person applies force against passengers without coordinating with the first person and they jointly seize the aircraft, then they will be both considered partners in the crime for aircraft hijacking and shall be punished according to the laws of their respective countries.

**B) Accessoriness In Aircraft Hijacking:**

Accessoriness mean any cooperation, facilitation, persuasion, encouragement, allurements, preparation the means to commit a crime, providing

ways for committing a crime, and deception, which is considered a crime without getting involved in the executive operation of the crime. When reviewing Article 126 of the new Islamic penal code, we find out that the legislator has mentioned some limitative instances for the realization of the title of accessoriness and accordingly, any indirect interference outside the aforementioned titles shall not be considered accessoriness due to the lack of legal element of the crime, and thus it would not be punishable. Instances of material element of accessoriness are: persuasion, encouragement, intimidation, allurements (buying off), deception, preparation of the means to commit a crime, offering ways of committing a crime, and facilitating the occurrence of a crime. Some lawyers have described instances of accessoriness in two general spiritual and material instances: Acts such as preparation of means and facilitation of the crime occurrence are among material instances, and others are among spiritual instances. Therefore acts done with the intent to accessoriness must be consistent with above eight instances (manifestations), otherwise they shall not be subject to the title "accessoriness". While participation in a crime is different with respect to the nature of any crime and in could be realized any how effective in the realization of the crime. In other words, if an act committed by a person is one of the instances of criminal act, then it is participation in the crime, otherwise it is considered accessoriness, provided that it is consistent with instances of accessoriness. Unity of intent between accessory and principal (main perpetrator) is essential, in other words, for accessoriness to be realized, there must be unity of will on the crime between main perpetrator and accessory, Accessory to aircraft hijacking crime may be onboard (inside) or off board (outside) the aircraft, even he (she) may collude with the hijacker and cooperate with him (her), without getting directly involved in the crime. Further, the accessory may provide guns for the hijacker, knowing their intent for hijacking, or he (she) may draw aircraft maps for the hijacker. However, the states signatory to the Hague convention are required to determine the punishment of the accessory must always be less than that of principal (main perpetrator). The main perpetrator of aircraft hijacking may fail to accomplish his (her) intent and he (she) may be stopped at the stage of attempting to commit the crime. In this case, someone with the same intent as principal (main perpetrator), who has attempted to act as the principal's accessory, will be convicted of accessoriness in attempting to aircraft hijacking. Paragraph (B) of Article (1) of the Hague convention provides that "..... acts attempting to commit it, is a criminal". According to Article (2) of the Gigue

convention, signatory states to the. Are required to prescribe severe penalties for all the criminal acts mentioned in the convention.

\*Conclusion: Aircraft hijacking crime must be distinguished from other offences associated with acts against flight safety. Aircraft hijacking can be considered as seizure of an aircraft, such that the invader personally guides the aircraft or issues orders guiding it. This form of unlawful seizure of aircraft is always along with threats, force, violence and duress, thus, aircraft hijacking crime may be defined as: taking control of an aircraft in flight unlawfully in the form of direct involvement or causation. For aircraft hijacking crime to be realized, the hijacker must seize the aircraft or take control over it. What does it mean by "taking control of an aircraft or seize it"? It seems that the phrase: taking control of an aircraft: means: taking the lead of an aircraft in such a way that it is accompanied by other intimidation. "force" is any act accompanied by violence, duress and do monition in a way that will eliminate the will of pilot or passenger. Applying force includes cases in which an individual's power becomes dominant on another's and make it impossible for him/her to exert his/her authority. According to one aircraft of the above mentioned Act, aircraft hijacking is a crime whose punishment is 3-15 years imprisonment, and based on 8 digress provided in Aircraft 19 of the new Islamic penal code, it is considered level (3) given that the penalty prescribed in Article (1) of the Act for punishing those disputing flight safety and destroying the devices and equipment on board aircrafts is 3-15 years imprisonment, its penalty is level 3, which can be commuted to level (6) NO ban has been predicted in the above mentioned Act regarding commutation (reduction) of this penalty. now is it possible or not to suspend the enforcement of the punishment for aircraft hijacking crime? In Article 47 which concerns the cases in which the suspension of there enforcement of the punishment is prohibited, there is no indication of aircraft hijacking crime. this Article provides that's, given that Aircraft hijacking is a level 3 crime and suspension is applied to level 8, then it may be subject to suspension of punishment. Another important point that should be noted regarding suspension of punishment for the hijacker is that suspension occur if only their aircraft hijacking crime is not subject to the title of War Against God or corruption on Earth

#### Reference:

1. Ashouri, mohammad (2008)" criminal procedure code, "volume (1), SAMT (organization for researching and composing university textbooks in Humanities) publications, 7<sup>th</sup> edition,

2. Ashuri, mohammad and fathi, mohammad, Javad, An Evaluation the rules Governing mitigating factors in the Iranian law, “ quarterly Journal of Law, Journal of faculty of low and political science, volume (39) NO (2), summer (2009).
3. Asghari, Abdol reza and Sarmadi Valeh, Ali, social prevention of crime in the Iranian Fifth development plan “ quarterly journal of criminal law doctrines, years (2), No 4, fall and Winter (2012).
4. Aghaei Janatmakan, Hossein, “ public criminal law, “ volume2, Jangal publications, 2<sup>nd</sup> edition, (2003).
5. Aghaei Janatmakan, Hossein, “ international criminal law,” Jungle publications, 3<sup>rd</sup> edition, (2003).
6. Ardabili, Mohammad Ali “, public criminal law, “ Mizzen publications, tehran, 8<sup>th</sup> edition, (2005)
7. Ardabili, mohammad Ali, “ public criminal law, “Volume(2), mizzen publication, Tehran, 7<sup>th</sup> edition, (2007).
8. Afrasiabi, mohammad Esmaeil “public criminal law, “ furrows publications, Volume (1), 1<sup>st</sup> edition, (1998).
9. Jafari langeroudi, Mohammad Jafar, “ law terminology”, tehran, Ganja-E-Danesh publication, 15<sup>th</sup> edition, (2005).
10. Zeraat, Abase, “public criminal law”, Tehran, Qognous (phoenix)publications, Volume (1), 2<sup>nd</sup> edition, (2007)
11. Shambinati, Hooshang, “ public criminal law”, tehran, Zhoobin publications in collaboration with majd publications, Volume (1), 12<sup>th</sup> edition, (2005).
12. Shokri, Reza And Grader, Cyrus, “ the Islamic penal code in current law discipline, “ mohajer publications, 6<sup>th</sup> edition, (2005).
13. Shams Nateri, Mohammad Ebrahim, “ the Islamic penal code (IPC)\_ in current law discipline, “ volume(1), Mizzen publications, 1th edition, (2014).
14. Ali Abadi, Abdol Hossein, “ Criminal law, “ tehran, Bank Melli Iran (national Bank of Iran ) Publications, Volume (3), (1985).
15. Goldpouzian, Iraj,” private criminal law, “ Tehran University publications, 11<sup>th</sup> edition, (2007).
16. Goldouzian, Iraj, “ requirements of public criminal law, “ tehran, Mizzen publications, 12<sup>th</sup> edition, (2005).
17. Goldouzian, Iraj, “ An Introduction to the Islamic penal code, “ Majd publications, 4<sup>th</sup> edition, (2004)
18. Moradi, Hassan, “ participation and Accessoriness in crime “, Mizan publications, its edition (1994).
19. Mohseni, Morteza, “ A review of public criminal law”. A course in public criminal law, Volume (1), Iran’s National university publications, Bitra publications.
20. Moghtader, Hooshang, “ public international law, “ Iranian international research and training center publications, 20<sup>th</sup> edition, (2012).
21. Mir mohammad Sadeqi, Hossein, “ offences Against security of the state and public tranquility “, Mizan publications, 8<sup>th</sup> edition, (2007).
22. validi, Mohammad saleh, “ requirements of public criminal law”, Tehran, Jangle publications, (2009).
23. the Judiciaries department of Education, “ Juridical Explanation of Accessoriness and comparing it with Statutes, “ A series of legal-Juridical studies, Jangle publication, 1<sup>st</sup> edition, (2009).
24. Noorbaha, Reza, “ Mitigation of punishment, “ Journal of legal research, No (33-34), (2001).
25. Noorbaha, Reza, “ the Area of public criminal law, “ Ganj-E-Danesh publications, 28<sup>th</sup> edition, (2010).
26. Noorbaha, Reza, “ A look At the, Islamic Penal code, “ Mizan publications, 2<sup>nd</sup> edition, (2004)
27. Niazpour Amir Hossein, “ Criminal procedure code by consensus, “ Mizan publications, 1<sup>st</sup> edition, (2011).

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